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## Minority groups: fraternity incidents.

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*Minutes  
Groups -  
Fraternity  
Sororities*

Release: Immediately

11/11/88

James L. Hoyt (608) 263-4080; Mary K. Rouse (608) 263-5702

## UW-MADISON COMMISSION TO STUDY FUTURE OF FRATERNITIES AND SORORITIES

MADISON--Formation of a Commission on the Future of Fraternities and Sororities at the University of Wisconsin-Madison was announced Friday (Nov. 11) by Chancellor Donna E. Shalala and Robert H. Bock, chairman of the University Committee.

The commission's charge is to conduct a comprehensive review of the goals and activities of Greek organizations as they relate to the mission and priorities of the UW-Madison, Shalala said.

Chaired by James L. Hoyt, director of the School of Journalism and Mass Communications, the commission will grapple with two particularly difficult questions:

\*What can be done by the university and its Greek organizations to eliminate incidents of racism and sexism?

\*What is the role of alcohol and other drugs in misconduct by fraternities and sororities?

Fraternities and sororities have experienced renewed growth over the last five years, both nationwide and locally. There are about 50 fraternities and sororities affiliated with the university, and they serve more than 3,100 students (about 10 percent of the undergraduates).

In the midst of this growth, some of these organizations have been the sources of offensive behavior, including incidents of racism, sexual



harassment, vandalism and alcohol abuse, Shalala said. "Not all fraternities and sororities have been involved in these incidents, but a few have been involved too often."

In that context, Shalala approached the University Committee, the leadership arm of the Faculty Senate, about three weeks ago to discuss the need for a formal review of Greek organizations at UW-Madison.

"Academic progress cannot be separated from social growth and development through the undergraduate collegiate experience," Shalala said. "Just as we demand excellence inside the classroom, we need to pay attention to the quality of life of our students outside the classroom," she said.

Hoyt's 13-member commission will include four students, three academic staff members, three faculty and three community members. More than half of them have been or are members of fraternities or sororities. The panel has been asked to submit its findings by April 15, 1989.

Shalala emphasized that "if these social organizations are to continue to play a role at the UW-Madison, they must reinforce the essential educational values of the University."

The commission has been asked to explore the relationship between the university and its Greek organizations and to consider whether residential fraternities and sororities should be treated differently from non-residential Greek organizations.

At UW-Madison fraternities and sororities come under the umbrellas of the Interfraternity Council, the Panhellenic Association or the Black Greek Panhellenic Association.

The commission will examine the governance structure of these umbrella organizations, and will consider the roles of Greek alumni, faculty and staff in Greek campus life.

Other questions the commission will consider include:



\* Are the current "rushing" and pledge induction practices and procedures appropriate for this university?

\* Do the national organizations or local chapters have rules or codes of conduct, and if so, are they enforced?

\* What contributions do fraternities and sororities make to the campus and community environment?

Shalala noted that each of the Greek organizations affiliated with the university has "a unique history with significant differences. At the same time, there serve a common purpose to make a large and complex university seem smaller by providing social, philanthropic and leadership opportunities for member."

The Wisconsin Student Association has been asked to name four students to the commission. Two of the four already have been identified: Andrew Bohman, president of the Interfraternity Council; and Kate Raftery, president of the Panhellenic Association.

In addition to Hoyt, the faculty members on the commission are Law School Professor Margo Melli, and Sociology Professor Jack Ladinsky. Three academic staff members are Elaine Davis of the School of Business; Elena Meyer of the Dean of Students Office and Steve Myrah, a member of the Academic Staff Executive Committee who is with the Office of Student Financial Services.

Community members of the commission are: Ron Barnes, general manager of Madison Metro; James Huber, an attorney with Foley and Lardner; and Carol Skornicka, a Madison attorney who serves as a Wisconsin Union trustee.

###

Susan Trebach (608) 262-9406



*M. G. ...  
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...*

From the University of Wisconsin-Madison / News Service, Bascom Hall, 500 Lincoln Drive, Madison 53706 / Telephone: 608/262-3571

Release: Immediately

11/15/88

CONTACT: Rana S. Mookherjee 262-1081

## STUDENT COMMITTEE SAYS FIRST AMENDMENT PREVENTS ACTION AGAINST ZBT

MADISON--A mock "slave auction" conducted by the ZBT fraternity was "offensive" and "in extremely bad taste," but did not violate any university rules, the student-led committee investigating the incident announced Monday (Nov. 14) at University of Wisconsin-Madison.

Moreover, First Amendment concerns prevent the university from fashioning rules of conduct that could address such situations, according to the Committee on Student Organizations. The committee's announcement that it would not take the ZBT matter to Student Court drew a loud, angry response from about 40 students attending the afternoon press conference in the Memorial Union's Play Circle Theater.

The committee's announcement of its decision was accompanied by a Wisconsin Student Association statement that the fraternity was no longer welcome on campus. At the press conference WSA Co-president Margaret McCormick read a letter requesting action against the fraternity by the ZBT national office in New York.

UW-Madison Chancellor Donna E. Shalala, meanwhile, pledged that the university "will not give up" the fight against racism on campus.

"Some may feel that this recent incident and the protests it engendered prove a lack of progress in making this campus a place where all people are welcomed and respected," Shalala said in a prepared statement. "I believe the



Add 1--ZBT action

opposite is true.

"In fact, what it means is that insensitive behavior that has been taken for granted for many years is now unacceptable, and that we are, at least, willing to confront it."

Rana S. Mookherjee, chairperson of the 12-member Committee on Student Organizations, said a videotape of the incident had been reviewed by the panel on Sunday.

Ten committee members (all those present for the vote) then concluded that the incident showed "no intent to violate the university's rule against discrimination on the basis of race," Mookherjee said.

"Further, we know of no other university rule that would prohibit the conduct in question, and if there were such a rule, it would violate the First Amendment to the U.S. Constitution," he added.

He said the finding marked the end of the formal university disciplinary process.

Mookherjee's statement was met with jeers and shouts of "Who paid you?"

One committee member, Michele Goodwin, of the Black Student Union, said she disagreed with the panel's ruling. The slave auction was "demeaning" and "sexist" and should face university sanctions, she said.

Another black committee member, Libby Edwards, said she had not found the tape to be demeaning. When that drew an angry response from several students, Edwards replied: "When I came to this campus, I was harassed. I know how it feels, so don't you sit there and tell me ... that I think this is some kind of joke."

Solomon Ashby, a senior at UW-Madison, said many minority students felt "pushed to the wall" after waiting for a stronger university response to the ZBT incident.

"There must be something we can do," he said. "But don't patronize me,



Add 2--ZBT action

because my dignity is at stake and my safety is at stake."

Phillip Certain, associate vice chancellor for Academic Affairs, said the university "condemned" the slave auction and "would not stop dealing" with racism.

"We will also do everything we can to protect free speech," he said.

Peter Chen, a leader of the campus Minority Coalition, which organized a protest last week that climaxed inside Bascom Hall, called the committee ruling "a weak and ineffective response." Minority students were underrepresented on the panel, he said.

The committee is made up of four black students, four white students, one Hispanic academic staff member, one white faculty member, and one Asian American student, according to Dean of Students Mary Rouse.

The panel was set up in August as part of a student disciplinary process adopted by the WSA to address misconduct by student organizations.

###

-- Chuck Nowlen (608) 262-0930



*M. J. ...*

Release: Immediately

11/17/88

CONTACT: Donna E. Shalala (608) 262-9946

## SHALALA SAYS "SECOND WAVE" OF CIVIL RIGHTS BATTLES IS BEING FOUGHT

By Chuck Nowlen  
University News Service

MADISON--Racial troubles at University of Wisconsin-Madison and other college campuses are part of a "second wave" of civil rights battles being fought in America, Chancellor Donna E. Shalala said Wednesday (Nov. 16).

In the 1960s and 1970s, civil rights activists battled successfully against blatant discrimination in employment, access to education and other areas, Shalala said at a luncheon press conference.

An October mock "slave auction" staged by the Zeta Beta Tau fraternity at UW-Madison was an example of more subtle discrimination that might have been overlooked only a few years ago, she added.

"In some ways, we must see this as a sign of progress," Shalala said of the public outcry after the ZBT incident. "In fact, the events that have taken place demonstrate that we have a generation of minority students who simply won't put up with what their parents might have had to put up with.

"We will no longer exclude what other generations would have called 'the small things.'"

Shalala added that a new generation of university leaders has emerged who "learned something from the '60s and '70s," and will confront racism rather than try to hide it.

"We will make faster progress," she predicted. "But that doesn't mean it



will be without pain. There will be great debates about how we get there, but in the end we're all trying to achieve the same thing."

Shalala called for "a time of healing" on campus, adding that she sensed "genuine remorse" on the part of the ZBT fraternity, which publicly apologized for the incident this week and agreed to participate in race relations workshops and other community services.

The formal disciplinary process against the fraternity was halted after a student-dominated Committee on Student Organizations found that the "slave auction" was protected by the First Amendment. But, "in many ways, they lost the case in the court of public opinion," Shalala said of the fraternity.

When asked whether the ZBT incident might hurt recruitment of minority students and faculty, Shalala said: "People ought to pick a campus that provides a first-rate education, and one and that will not shove these issues under the rug. This, obviously, is one of those places."

On other issues, Shalala said she was "generally pleased" with the Board of Regents' proposed 1989-91 UW System budget because it includes two top UW-Madison priorities: faculty catch-up pay and library improvement.

Shalala also vowed to press for further improvements in the quality of undergraduate education at UW-Madison. However, she rejected the contention by Milwaukee author Charles Sykes that teaching in the nation's universities is being underemphasized by faculty members who also do research.

"If large numbers of Wisconsin students really believed they'd never see a faculty member, they wouldn't be telling their friends to come here," she said.

###

-- Chuck Nowlen (608) 262-0930



Scheub, Hunter, Howard, UAC: FYI from Mary Rouse

University of Illinois  
at Urbana-Champaign

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*Minutes groups -  
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MAY 20 1988

CHAMPAIGN, Ill. — The University of Illinois has imposed a  
*Dean of Students*

wide-ranging list of sanctions on the local chapter of Acacia Fraternity for its members' disruptions of University of Wisconsin classes, the U. of I. Board of Fraternity Affairs announced today (May 11).

The board, the U. of I. body with authority for fraternity-organization discipline, ordered sanctions that included suspension of social and athletic activities, expulsion from the fraternity of three people and suspension of two more, extensive public-service work, comprehensive educational programs, and strict oversight by a supervisory committee and a new, live-in adviser.

Separate investigations by the U. of I. Dean of Students Office, the University of Wisconsin's police department and Dean of Students Office, and the Acacia Fraternity's local corporate board established that on Friday, April 8, Acacia members — including 19 U. of I. students in Madison as part of a pledge walk-out and one or two Wisconsin students — disrupted five classes on the University of Wisconsin campus.

The classes disrupted were in mathematics, advertising, Scandinavian studies, African storytelling and African poetry. The disruptions ranged from shouting to "stink bombs" in the poetry class, and a verbal and physical confrontation with an instructor in the storytelling class.

The U. of I. Board of Fraternity Affairs offered no conclusion on the students' motivation beyond saying that "the chapter had established an environment which supported and encouraged the classroom disruptions." Dean of Students William L. Riley said that investigations had uncovered no racial comments or specifically racial actions in the Wisconsin classrooms.

(MORE — Acacia Sanctions)



"The board took action on those things that it saw as violations of university and fraternity standards," Riley said. "There was nothing that indicated there was any organizational racial motivation."

The University of Wisconsin on Thursday suspended its Acacia chapter for one year from registered student organization status. The sanction, imposed explicitly because the fraternity had lied about its knowledge of and participation in the incidents, removed the fraternity from intramural sports, membership in the Intrafraternity Council and access to university mailing labels and facilities.

"The actions taken by our Board of Fraternity Affairs are significantly more severe than those taken at Wisconsin, both because of the Illinois chapter's culpability and because the University of Illinois, by structure, has more involvement with and responsibility for its fraternity system than Wisconsin," Riley said. "The U. of I. board's sanctions are stronger and its required public service and education programs are clearly more rehabilitative."

Sanctions imposed by the U. of I. against its Acacia chapter included:

– **Chapter activities.** The chapter will be barred from all social activities during the 1988-89 school year, with the exceptions of Dads Day, Moms Day and Homecoming. It is banned from participating as an organization in campus recreational sports.

– **Expulsion and suspension of individuals from the fraternity.** The board accepted and incorporated into its ruling the fraternity's expulsion of three persons – the pledge who was involved in an altercation with a professor and who admitted making a racist statement in a campus bar, and two actives with significant involvement in encouraging the class disruptions.

(MORE – Acacia Sanctions)



Two additional actives with significant involvement in encouraging the disruptions are suspended from membership for the 1988 fall semester. The suspension bars them from all fraternity activities, including living in or taking meals at the chapter house.

– **Public service.** The chapter as a whole will complete at least two substantial public service projects during the 1988-89 school year, one of which shall involve education of the chapter on improving relations with minority students.

Each pledge in the class shall perform at least 20 hours of public service during the 1988 fall semester.

Individual members of the fraternity shall do additional public service in relation to their degree of culpability for the events on the Madison campus. Six persons were assigned 75 hours each of such work during the fall semester; remaining members who disrupted classes are to do 40 hours each; two pledges are assigned an additional 20 hours each.

– **Supervision of the fraternity chapter.** The chapter's corporation board, in coordination with the Board of Fraternity Affairs, is to appoint a supervisory committee to oversee and advise the chapter for one year. It shall include at least one each of a tenured faculty member, member of the Board of Fraternity Affairs, representative of the Dean of Students Office, female faculty or staff member, and local alumnus.

The committee will be asked to make monthly progress reports to the Board of Fraternity Affairs.

In addition, a live-in adviser, who is a college graduate and not affiliated with the chapter, will be required, effective in August.



– **Chapter education.** A retreat of the entire chapter will be held before the opening of the fall semester. In addition, weekly membership education sessions will be required. Topics are to include Acacia's role in the university, fraternity system, academics and extra-curricular activities; academic and study skills; substance abuse; cultural affairs; leadership skills; respect for women; and cross-cultural understanding.

– **Pledge activities.** Pledge walkout is to be suspended indefinitely, and initiation of the pledge class to be postponed at least one semester, taking place no earlier than Dec. 1. In addition, a chapter task force is to develop an extensive pledge education program, to be approved by the Board of Fraternity Affairs and implemented by the 1988 fall semester.

– **Apologies.** Chapter officers and the individuals involved in classroom disruptions will make personal, private apologies to appropriate University of Wisconsin faculty and staff.

– **Resumption of activities.** The chapter will be allowed to participate in both formal and informal rush on the grounds that it is the best way to provide new leadership for the fraternity.

– **Review of progress.** No later than Dec. 1, progress of the chapter will be reviewed jointly by members of the Board of Fraternity Affairs, the chapter's Corporation Board, the full Supervisory Committee, the International office of Acacia and the chapter's executive committee. "Over the next year, the review of the chapter's progress will determine whether or not this university is interested in continuing its relationship with the chapter," the board said.



– **Withheld sanctions.** The board stated that it believed the only sanctions it had not invoked were removal of the chapter's certified housing status and revocation of the chapter's charter by the international office. "We have withheld those sanctions but the undergrads and alumni should be aware of this as future activities are planned and conducted," the board said.

The Board of Fraternity Affairs – which includes faculty, alumni, campus administrators and students – acted after considering reports by the U. of I. Dean of Students Office and the fraternity chapter's corporate board. The chapter's corporate board made recommendations, many of which were incorporated into the final actions.

Information on individual behavior of U. of I. students in the matter is being referred to the Urbana-Champaign Senate Subcommittee on Undergraduate Student Conduct, Riley said. That body has authority to determine individual responsibility and impose sanctions on individual students.

In addition, the Dane County (Wis.) District Attorney's Office has filed misdemeanor charges against six U. of I. students involved in the disruptions and other events of the weekend, which included theft of a fire extinguisher and papier mache polar bear from University of Wisconsin property, and two arrests related to drinking.

-ts-



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CHAMPAIGN, Ill. — A special task force of a dozen University of Illinois students and staff members will study ways to channel student volunteer efforts into community service.

"This group's mission includes a thorough review of the efforts of students to serve the local community and of community needs that could, potentially, be met by our students," said Stanley Levy, vice chancellor for student affairs.

Serving on the task force are U. of I. students Emily Harris, 900 S. Randolph St., Macomb; Susan Katula, 209 W. Willow, Lombard; Michael McGuire, 21 Fields East, Champaign; Tom Mitchell, 631 Illinois Ave., Murphysboro; Michael O'Gorman, 955 S. 10th Ave., Kankakee; Kelle Reczek, 506 S. Fourth St., Champaign; and Lori Tecktiel, 6422 N. Spaulding, Lincolnwood.

The task force is chaired by Hank Walter, assistant to the vice chancellor for student affairs, and also includes Laura Diekhoff, assistant director of housing; Mark Johnson, director of University YMCA; Jan Lenz, assistant dean of students; Yukiko Llewellyn, assistant dean of students; and Tom Morgan, assistant to the dean of students.

The study was prompted by a gradual shift in student interest, which now leans toward "becoming involved," Levy said. Potential projects range from working in community centers, to helping with reading classes in elementary schools, to repairing the homes of the elderly and needy, he said.

Walter said the task force plans to complete its study and report its findings and recommendations by this fall.

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CHAMPAIGN, Ill. — The University of Illinois Dean of Students Office has completed and forwarded its report on disruptions of University of Wisconsin classes by members of the U. of I. chapter of Acacia Fraternity.

The Board of Fraternity Affairs, which has the authority for fraternity organization discipline, will consider that report, as well as one by the fraternity corporation board, and reach findings before the end of the semester, said William L. Riley, dean of students.

Riley's office headed the U. of I. investigation into the affair, which centered on disruptions of five classes at the University of Wisconsin at Madison by members of the U. of I. chapter of the Acacia Fraternity.

While two of the five classes were in the department of African languages and literature, investigations at the U. of I. and at Wisconsin found that no racial statements or specifically racial incidents had occurred in the classrooms, Riley said. One or more racial slurs were issued in a Madison campus-area bar after the incidents, he said.

(MORE — Acacia)



Cooperation and communication among the U. of I. Dean of Students Office, the University of Wisconsin Police and Dean of Students Office and the Acacia Fraternity's local corporate board – all of whom conducted separate investigations – have established the following facts, Riley said:

– On Friday, April 8, five Wisconsin classes were disrupted.

– A total of 19 U. of I students and one or two Wisconsin students, all members of the Acacia Fraternity, were involved in some parts of the disruptions. Members of the U. of I. Acacia chapter were in Madison as part of their pledge walk-out, in which pledges and some active members travel to their fraternity's chapter at another school. Past Acacia walkouts also have involved class disruptions on other campuses.

– That Friday morning, a mathematics and an advertising class each experienced some minimal disruption. In a Scandinavian studies class, a U. of I. student requested permission to speak to the class and, after receiving it, did so in a somewhat disruptive manner; a verbal confrontation between the Illinois student and Wisconsin students resulted. An African storytelling class, which had been divided into three sections for an exam, had two of them disrupted by loud conversations by U. of I. students. One of the sections also saw a verbal and physical confrontation between a U. of I. student and a Wisconsin faculty member concerning the student's possessions.

– That Friday afternoon, several "stink bombs" of a sulfur compound were set off in an African poetry class, and some verbal confrontation occurred between Illinois and Wisconsin students.



– One U. of I. student stole from Wisconsin facilities a fire extinguisher and a papier mache bear.

– On the evening of Saturday, April 9, a verbal confrontation took place between a Wisconsin student and one or more U. of I. students in which at least one racial slur was uttered by at least one U. of I. student.

– Two U. of I. students were arrested while in Madison, one on a charge of underage drinking, the other on a charge of public drunkenness.

The U. of I. Board of Fraternity Affairs – which includes faculty, alumni, campus administrators and students – is the body empowered to rule on sanctions against the fraternity chapter, Riley said.

Actions already taken by the Acacia Fraternity itself include its suspension by the Acacia national council pending a final decision, control of the chapter taken over by its corporate board, expulsion of one member, temporary suspension of 19 other members, withdrawal from spring rush and cancellation of all social activities for an indefinite period.

Information on individual behavior of U. of I. students in the matter will be referred to the Urbana-Champaign Senate Subcommittee on Undergraduate Student Conduct, Riley said. That body has authority to determine individual responsibility and impose sanctions on individual students.

The University of Wisconsin said that its Dean of Students Office has completed its investigation and is to announce findings soon. In addition, that campus's police have forwarded results of their investigation to the Dane County District Attorney's Office, with action there also expected soon.

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*Minority groups - frat incident*

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(MORE - Acacia)



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*Minutes  
Group -  
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included*

Release: Immediately

5/5/88

## UW-MADISON SUSPENDS FRATERNITY FOR OBSTRUCTING INVESTIGATION

MADISON--The University of Wisconsin-Madison chapter of the Acacia fraternity has been suspended for one year as a registered student organization, effective immediately, because its officers obstructed a university investigation, Chancellor Donna E. Shalala announced Thursday.

Fraternity officers interfered with the university's investigation of April 8 class disruptions by lying to university administrators about their organization's involvement in the incident, Shalala said.

"An official investigation of the University of Wisconsin-Madison must be treated with the utmost seriousness by every member of its community," Shalala said. "The University can function only if it can rely on what it is told by members of its community -- students, faculty and staff."

The Dean of Students Office has been investigating the disruption of five university class sessions on April 8, which involved Acacia fraternity students from the University of Illinois and one Acacia student from UW-Madison.

The Deans' investigation, done in tandem with a criminal investigation by the UW-Madison Police and Security Division, was meant to determine to what extent, if at all, UW-Madison students or organizations had participated in the incident.

-more-



Acacia decision -- add one

When first questioned about the incident on April 13, UW-Madison Acacia representatives told Dean of Students Mary Rouse and Associate Dean Roger Howard that none of their chapter's members were involved.

Six days after their initial denial, the fraternity's officers met with Dean Rouse and told her they had lied about the chapter's awareness of and involvement in the incident, acknowledging that their members had known about the disruptions soon after they had occurred.

A subsequent hearing on the issue of the fraternity's obstruction of the Deans' investigation was held on April 29 before Associate Vice Chancellor Phillip Certain. He concluded that "the UW-Madison chapter of Acacia, acting through its officers, engaged in student organization misconduct by lying to the Dean of Students in the course of an official University investigation into the April 8 classroom disruptions, and that the officers did so after being advised of the consequences to the fraternity of doing so."

Following a May 5 morning meeting with representatives of the Madison Acacia chapter, Chancellor Shalala announced the fraternity's suspension for one year.

The one-year suspension of the fraternity means that the Acacia chapter, as a student organization, will lose the following privileges:

- Use of the UW-Madison name in connection with the fraternity.
- Access to university student mailing labels.
- Access to university facilities.
- Participation in the University Recreational Sports Program under the Acacia name.
- Participation in other university registered student organizations as an official member such as the Interfraternity Council.

###

Susan Trebach (608) 262-9406



STATEMENT BY UW-MADISON CHANCELLOR DONNA E. SHALALA  
DISCIPLINE OF MADISON CHAPTER OF ACACIA FRATERNITY  
MAY 5, 1988

*Minutes  
Group  
First  
President*

Today, I am suspending the University of Wisconsin-Madison chapter of the Acacia fraternity as a registered student organization for one year as a consequence of its obstruction of a University investigation.

An official investigation of the University of Wisconsin-Madison must be treated with the utmost seriousness by every member of its community. The University must be able to conduct its fact finding without obstruction. The University can function only if it can rely on what it is told by members of its community -- students, faculty and staff. In this case, the issues under investigation -- racism and classroom disruptions -- were fundamentally important to the integrity of the University. This University is deeply committed to a community in which all students, faculty and staff may freely engage in academic expression and debate issues in our classrooms, unthreatened by discrimination, disruption or harassment in any form or under any guise. Obstruction of a fact-finding effort related to these issues, therefore, must be dealt with severely.

On April 8, five University class sessions (three in African literature, one in Math and one in Scandinavian literature) were disrupted. As information about these incidents came to light through reports from faculty members and students involved, and the press, the University initiated two investigations -- one with the Police and Security Division, the results of which were turned over to the District Attorney's Office on April 27, and the second by the Dean of Students Office. The Deans' investigation was to determine to what extent, if at all, UW-Madison students or organizations were involved in these incidents.



The Acacia fraternity was immediately implicated and, therefore, senior university officials asked the fraternity, through its officers, for any relevant information. Dean of Students Mary Rouse and Associate Dean Roger Howard met with three Acacia officers on April 13. Because of the need for complete and accurate information about this serious incident, Dean Howard specifically warned the fraternity's officers that their failure to respond truthfully and fully would be grounds for university discipline of the fraternity as a student organization.

The Acacia representatives told the Deans on April 13 that the disruptions were caused by Acacia chapter members from the University of Illinois, and that none of the Madison chapter members was involved. The Deans were told that the Madison chapter members had not even known about the disruptions until some time after they occurred. The Acacia chapter president submitted a written statement confirming these findings to the Dean of Students Office the following day, April 14.

The Deans relied on this information in their effort to complete their investigation of the incident. The University needed the fraternity's cooperation to determine how and why certain classes were selected for disruption and whether, in fact, the participants had any racist intent in these disruptions. In addition, the effort to answer these questions were complicated by the hundreds of miles that separated the alleged participants from the investigation.

On April 19, six days after their initial denials, the fraternity's officers met with Deans Rouse and told her they had lied about their



own fraternity's involvement in the incident. They acknowledged that the fraternity's members had known about the disruptions soon after they occurred. They reported that one member of their fraternity had participated in the disruptions, and that the officers knew this when they first met with the Deans.

On April 21, Dean Rouse informed the fraternity that she was considering serious disciplinary action because its officers had lied to her, thereby obstructing the investigation.

A formal hearing on this issue, chaired by Associate Vice Chancellor Phillip Certain, was held on April 29. The fraternity received a copy of his hearing report on May 2. Associate Vice Chancellor Certain concluded that "the UW-Madison chapter of Acacia, acting through its officers, engaged in student organization misconduct by lying to the Dean of Students in the course of an official University investigation into the April 8 classroom disruptions, and that the officers did so after being advised of the consequences to the fraternity of doing so."

This morning, I met with representatives of the fraternity to discuss the hearing report and the serious disciplinary action proposed by the Dean. No new information came to light in this meeting, and I am, therefore, taking action to suspend the UW-Madison Acacia chapter.

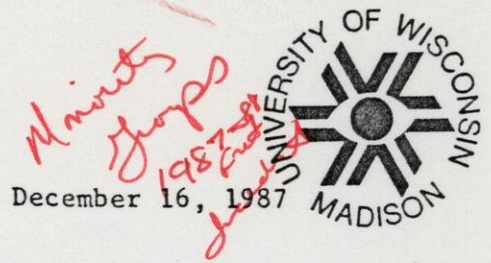
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University News Service

19 Bascom Hall  
500 Lincoln Drive  
Madison, Wisconsin 53706

December 16, 1987



STATEMENT BY ACTING CHANCELLOR BERNARD C. COHEN

I have received and reviewed the December 14, 1987 report of Professor Frank Tuerkheimer, the independent investigator who was asked to look into incidents occurring inside and outside the Zeta Beta Tau fraternity house the night of October 29 and the early morning of October 30, 1987.

The report provides thorough and useful documentation of an unfortunate incident that has been the subject of considerable speculation and hearsay. I want to thank Professor Tuerkheimer for accepting this assignment. By providing us with a dispassionate factual record, he has performed a great service to all of us in the University.

On the basis of the facts which are reported by Professor Tuerkheimer, several conclusions are inescapable: (1) there was a violation of University student disciplinary rules by two students; (2) the acts of the students involved in the incidents cannot be attributed to their fraternities; and (3) racial and religious epithets were spoken by at least two students in a setting that is also notable because of excessive alcohol consumption.

The Tuerkheimer report concludes that Andrew Falci, a member of Phi Gamma Delta, hit two members of the Zeta Beta Tau fraternity without justification, causing them injury. The rules of the Board of Regents provide that a student who engages in "intentional conduct which constitutes a serious danger to the personal safety of other members of the University community," is subject to discipline. The Dean of Students will, therefore, initiate due process disciplinary proceedings against him. You will note in the Tuerkheimer report that Mr. Falci refused to appear and testify before Professor Tuerkheimer, who was empowered as an "investigating officer" under the Regent rules. The Dean of Students will initiate a separate disciplinary charge against him for conduct that obstructed or seriously impaired a university-authorized activity, Professor Tuerkheimer's investigation, in violation of another Regent rule of student conduct.

The report also concludes that a member of the ZBT fraternity, Robert Melsher, during the first altercation outside the ZBT house, kicked Alasdair Cripps as he was being held on the ground. The Dean of Students will initiate disciplinary proceedings against him for this conduct.

The Tuerkheimer report concludes that Alasdair Cripps did make anti-Semitic remarks at the ZBT party, and it also concludes that Andrew Falci directed a racial epithet at a Black member of ZBT. This conduct is reprehensible, but it does not violate any student conduct rule of the Board of Regents. Therefore there is no basis for University discipline. I will have more to say about this in a moment.

Professor Tuerkheimer also was asked to determine whether the individuals involved in the incidents of October 29-30 acted in their individual capacities or as representatives of their fraternities. While there was



misconduct by members of both fraternities, he concluded that no one acted on behalf of his fraternity or pursuant to any fraternity conspiracy or policy. Thus, we conclude there is no basis for pursuing University discipline against either fraternity.

The report makes it clear to me that the temporary suspension of Phi Gamma Delta, which was imposed on the afternoon of October 30, and lifted a week later, was not justified. I now apologize to Phi Gamma Delta for that precipitous action.

After the fraternity incident, the City's Affirmative Action Officer claimed that Dean of Students Mary Rouse had prior knowledge that the members of Phi Gamma Delta were planning an incident at the ZBT fraternity, and that she failed to intercede to prevent it. Professor Tuerkheimer was asked to expand his inquiry to include this allegation. As you can see, he concludes this was not a premeditated incident, and that there is no factual basis for the claim against Dean Rouse. While Dean Rouse was the intended victim of this accusation, I cannot help but conclude that the real victim is the public credibility of the accuser.

Anyone who reads the Tuerkheimer report cannot fail to realize the central role that excessive use of alcohol played in the incidents. Alcohol abuse does not excuse the conduct of those involved, but it does go a long way to explaining how the incidents of October 29-30 started, how they got out of hand, and especially, how judgment, common sense, and ordinary decency were disabled.

Let me return to the subject of racial and religious epithets. The report reveals that there is an unfortunate and perhaps reflexive undercurrent of prejudice among some of our students. Obviously, we have a great deal to do to make sure that on the campus and in the larger society, all our citizens are treated with respect and dignity.

I am sure the realization that student disciplinary rules do not prohibit racial and religious epithets will stimulate debate about whether such a rule should be adopted, and if so, what form it should take. I welcome such a discussion: at least it may increase awareness of the great injury such utterances have on minority members of our community and how they undermine the diverse, multi-cultural University community to which we aspire. But to focus only on what the University should do ignores what each of us, as private individuals, also must do.

Some would say that those who make racially and religiously demeaning remarks have a First Amendment right to do so. I would respond that the rest of us have a First Amendment right to say how repugnant we find their conduct to be. I believe that each of us as private individuals has a right--even a duty--to confront those who demean the race or religion of another, to tell them that we will not accept such verbal conduct, and to refuse to associate with them if they persist. Our duty is to do more than passively overlook such conduct.

To that end, I condemn the verbal conduct of these students, and call upon them to make a public apology to those who were the object of their thoughtless and demeaning remarks.



REPORT TO ACTING CHANCELLOR BERNARD COHEN

FROM FRANK TUERKHEIMER

DECEMBER 14, 1987

*Minutes  
Group  
12/17/87  
Fraternity  
Group*

I. INTRODUCTION

On November 4, 1987 you appointed me to act as a special independent fact-finder with respect to two incidents at the ZBT fraternity on the evening of October 29-30, 1987. Specifically, I was asked to develop as thorough a chronology as possible regarding what occurred, who was involved, and whether any acts that may have occurred were committed by persons in their individual capacity or in a representative capacity. Subsequently I was asked, by your counsel, Michael Liethen, on your behalf, to expand the inquiry to determine whether the Dean of Students, Mary Rouse, had advance knowledge of a planned incident and failed to act to stop it. This report is submitted pursuant to these requests.

To gather the facts, I interviewed those fraternity members with first hand knowledge of the events in the presence of a court reporter to assure that I would have an accurate record of what was said. This has produced about 40 transcripts. I also interviewed additional witnesses, read the police reports, interview reports and in general, attempted to pursue whatever leads I thought might prove productive. I was at all times



mindful of your desire that the investigation proceed as expeditiously as possible and of the general value to the University community of an investigation that did not go on forever. Michael Liethen, has been of great assistance to me in helping to expedite the investigation.

One additional observation is in order by way of introduction. The responsibilities given to me were assigned in a context where questions of racism on campus, broadly defined, are current issues in the University community. My mandate, however, was not to deal with those larger questions, however intertwined those questions may be with the incidents that raised it. Therefore, the focus of this report is of necessity exceedingly narrow. Essentially I have delved in great detail into two incidents the night of October 29-30, incidents which together may have taken 15-20 minutes. Whatever implications of racism on campus may be drawn from the report, I leave to others. I intend no statement on it, one way or the other.

Finally, you should know that I have received broad cooperation from the two entities involved -- the Phi Gamma Delta and Zeta Beta Tau fraternities -- and such cooperation was essential to my ability to prepare this report within the relatively quick period in which you wanted it. Of the two individuals arrested, Alasdair Cripps has testified voluntarily, and without preconditions. Andrew Falci has refused to testify.



## II. THE FIRST INCIDENT

### A. The Party

Towards the end of the evening of October 29, 1987, the ZBT fraternity at 614 Langdon Street had a party with the Sigma Delta Tau sorority, a party which began at around 10:30-11:00. Beer and soft-drinks were served at the party.

The party was evidently to be a closed party and ZBT officers made some effort at restricting the party to ZBT and SDT members and their specifically invited guests. These efforts began to break down, however, around bar closing time, 12:30-1:00 a.m., and there is no question that persons who were not within the limited category of ZBT, SDT members and specifically invited guests were at the party. By 1:00 a.m. or shortly thereafter, at least six members<sup>1</sup> of Phi Gamma Delta were at the party and their entry, with one exception, was uneventful.<sup>2</sup>

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1. The word "members" as used throughout this report is used to connote both persons belonging to a fraternity, a sorority or their pledges.
  2. When PGD members Rob Medved and Trevor Claybaugh tried to enter the party, Medved said he had been at the Kollege Klub, referring to it as the KKK by slurring the second K into a third. It is not clear whether this reference to "KKK" was an effort at supposed humor or a slurring of letters incident to an overindulgence of beer prior to coming to the party. Whatever its cause, the reference to the KKK caused the person working the door to refuse admission to Medved and Claybaugh. They returned shortly after, however, and had no trouble getting in. While Medved's reference to the KKK was discussed subsequently by ZBT members, there does not appear to be any causal link between it and what happened later.



The six PGD members who were at the party were Andrew Cripps, Les Birbaum, Trevor Claybaugh, Rob Medved, Chris Coury and Thad Carlson. During the half hour to hour they were there they mingled freely with the crowd and such mingling included conversations with ZBT members. This open presence of PGD members at the party is significant for several reasons. First, it establishes clearly that whatever the scope of the party at its inception, the scope was not effectively limited.

More important, it suggests strongly that there was no significant animosity between the two fraternities that antedated October 29, 1987. This works both ways: it shows that PGD members did not feel constrained at attending a ZBT party and it shows that the presence of PGD persons at the party did not by itself antagonize ZBT members. Certainly the mere presence of PGD members was not a reason to ask them to leave or worse, to start a fight. There is no dispute that until the incident with Cripps, discussed below, none of the PGD members, whose presence was open and uneventful, was asked to leave.

Essentially, the six PGD members present at the party were grouped into three pairs. Coury and Carlson were together, Medved and Claybaugh and Birbaum and Cripps. At one point, however, Birbaum and Cripps were split up, Cripps apparently went to the front porch to look for Birbaum, and when he did not find him there, he returned to the party. At this point, it is important to review Cripps' evening, a review taken largely from his own testimony.



Cripps, a senior at UW, had been a member of PGD since January, 1985. After dinner he attended a Humorology practice but only briefly since he had to finish the third of three papers due around this time. After that was done and around 8:30 he met several friends including his roommate, Andrew Falci, and they went to El Sombrero where he had two beers and a Long Island Iced Tea, a hard liquor drink. The group then went to the Phi Beta Gamma house where they also had a couple of beers. Substantially the same group, including Falci, after spending about an hour at Phi Delta Gamma, went to Bermudas where they had some more beers; after about an hour Cripps and a friend went to the Brathaus where Cripps had a couple of more beers. He then went to the Kollege Klub where he met Birbaum and some women. He had one beer there. They stayed until closing and then walked up Langdon Street.

According to his own version of the evening, by the time he walked up Langdon Street, Cripps had had nine beers and a hard drink in the four hours following 8:30. This is obviously a minimum figure since it assumes that "beers" and "couple of beers" mean literally "two beers." If one takes these words not in their literal sense but rather in the sense that they mean "several", Cripps probably had had at least a dozen beers by the time of his arrival at the ZBT house.

Once in front of the ZBT house, Cripps and Birbaum met Marci Friedman, a high school senior, who was a sister of an Alpha Epsilon Phi member whom they knew. Apparently she had been



invited to go to the ZBT party and since it appeared to Cripps that everyone was being admitted to the party, he and Birbaum decided to go in too. When the person at the door let Friedman and Cripps in but not Birbaum, Cripps motioned to Birbaum and told the person at the door "he's one of us." With that, Birbaum was admitted too. Birbaum and Cripps then went right to the back of the house where the beer was served. Marci Friedman has no specific recollection of the incident but says it is entirely possible that as she went in to the party, someone behind her said he was with her and when the person at the door asked, she said "sure."

As I indicated, Birbaum and Cripps were together for about half an hour and then became split up. Because the party was very crowded, Cripps did not see Birbaum and after looking for him unsuccessfully near the door, returned to the party and the back of the house. It is at this point that the first incident occurred.

Cripps says he was sitting in the back when five guys came up to him and said "You're a Fiji, and we're going to ask you to leave." The five, he says, escorted him out of the house and one of them was hostile and kept pushing him. Once outside the house, the five continued to push him around and he was hit two to three times in the face. He identified Jason Abraham, a ZBT member, as one of the five. Cripps emphatically denies making any statements that could be construed as anti-Semitic remarks,



observing "it would pretty much be suicide for me to say anything like that in a house like that."

Scott Nemerovski, a ZBT member, recalls a non-ZBT person at the party saying words, in a sarcastic tone, to the effect "let's be Jews, let's be ZBTs." Michael Friedman, a member of Sigma Alpha Mu, heard Cripps say "I found a way to pick up these girls. Let's be obnoxious, let's be Jewish, let's be ZBT", statements repeated a few times with some variations in form but none in substance. Friedman told a number of people about it including his friend Robert Melsher. ZBT member Wolk also says he heard similar comments as does Debra Bream, a guest at the party.<sup>3</sup> A SDT pledge, Liz Goldsmith also recalls hearing people say that anti-Semitic remarks had been made as she saw the fight outside.<sup>4</sup>

While there is a dispute about whether Cripps made these anti-Semitic remarks, there is remarkably little dispute about what happened afterwards. Melsher, who had been working the door  
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3. Wolk's testimony standing alone would not be too helpful on this question since he places Andrew Falci at the party at the time of the first incident. It is clear beyond any doubt that Falci was not there at the time.
4. A review of the police reports indicates no reference to anti-Semitic remarks until the following evening. Several PGD members have suggested that the issue of racial and religious slurs did not surface until much later. Eric Scaife, a PGD not at the party but who spoke to Medved when Medved returned to the PGD house after the first incident, testified that Medved said that as he and the others were escorted out, they were accused of anti-Semitism. Thus, the contemporaneousness of the accusation is established independently of ZBT members and through the testimony of PGD members. There is no question that the issue of anti-Semitism was not an afterthought and arose that night.



with something less than 100% meticulousness, came over to Cripps, whom Friedman had identified as the source of anti-Semitic remarks, and began to escort him out of the party. Cripps protested strongly, urging he had done nothing to provoke an ouster. Unquestionably the physical contact between Melsher and Cripps increased as Melsher intensified his desire to force Cripps out and Cripps intensified in his insistence that there was no reason to kick him out. Several ZBT members, including Jason Abraham came to Melsher's assistance and Claybaugh and Medved, who saw a surrounded Cripps, came to his. Interestingly, Carlson and Coury, who remained at the party throughout the entire first incident, were unaware of it. Birbaum had apparently left before it happened.

Once outside the fraternity, the physical contacts between Cripps and Melsher accelerated to the shoving level, each pushing the other. Shoves gave way to punches, none of which apparently was very effective. At this point several other ZBT members restrained both Melsher and Cripps in an effort to defuse the situation. Both Cripps and Melsher were angry, Cripps because he felt he had been wrongly thrown out of the party, Melsher because he felt Cripps' remarks were the rankest of insults and warranted his departure.

Cripps struggled with the persons holding him down and they ended on the ground; Melsher broke free of the persons attempting to restrain him and ran. As he ran, he passed Cripps and kicked him, either in the face or the chest. Cripps' injuries,



Melsher's testimony, and the testimony of the two ZBT persons who attempted to restrain Cripps all agree in substance as to what happened. Cripps was then helped up and escorted, gently, along Langdon Street by Leonard Burstyn, a ZBT member and one of the people who had restrained him. Burstyn tried to calm Cripps; Cripps said he might get his friends and come back.

At the same time that Cripps was having his troubles, Medved and Claybaugh were having theirs. Medved and Claybaugh had tried to help Cripps when they saw him being escorted out of the ZBT house, efforts which resulted in their being ousted along with him. Once outside, however, they were split up. Each was surrounded and bumping and shoving took place. Neither can identify any specific ZBT member as the source of the minor bruises they picked up.

Claybaugh, surrounded by what he correctly perceived as unfriendly faces, in a defensive gesture, removed an object from his pocket which was described by some ZBT members as a knife. If it was a knife, it was small, perhaps 2 to 2 1/2 inches in length. Scott Marovitz, a ZBT member who had been outside at the time, says he saw the knife clearly. Marovitz also said that the person who pulled the knife didn't know what he was doing and subsequently put it back. Marovitz added that he didn't think the person intended to use it -- he was simply frightened. Claybaugh agrees that when he was surrounded he was frightened and says that he pulled a nail file from his pocket and opened it. Given the hour, the excitement at the time, the non-use of



the object and Claybaugh's concerns for his own safety, I am prepared to conclude that it was not a knife which Claybaugh took out.<sup>5</sup>

We are left then with one unresolved matter: were anti-Semitic remarks made? I believe they were made, for several reasons.

First, Cripps' explanation for his ouster, predicated on his status as a member of PGD, makes no sense. At least six members of PGD were openly present and spoke with ZBT members. Cripps, in fact, according to his own testimony had been there for over half an hour. Yet until Cripps' ouster, nothing at all was done to remove any PGD member from the party.<sup>6</sup> Indeed, as I have indicated, Coury and Carlson, who had been talking to ZBT members, remained at the party right through the incident after

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5. According to police reports, confirmed in a phone conversation, Tom Furrer, a friend of the ZBT president who was invited to the party as an out-of-town guest, escorted the person who had displayed the knife away from the ZBT house and at that time, the person again flashed the knife. Furrer described the knife as a 3 inch bladed knife. He says the police then arrived and the person ran away. Furrer also says he later returned. I have some trouble with this scenario since it seems unlikely that the person, having flashed a knife and then fled because of the presence of the police, would return an hour later.
  6. There is some indication that prior to Cripps' ouster a member of Sigma Alpha Mu (not Michael Friedman) was escorted out because of unruliness. A disc jockey who was hired by ZBT to work at the party saw someone being escorted out of the ZBT house and some of the shoving that took place. In fact, he may have accidentally been thrown against the wall as a result of the skirmishing at the time. He does not recall hearing any anti-Semitic comments. He stated that the hosts of the party were polite, respectful of his equipment, sociable, and not drunk.



which they left with everyone else. Put slightly differently, Cripps must have said or done something to justify his ouster other than be a PGD member. That alone could not have and did not cause him to be thrown out of the party.

Second, the testimony of those who say they heard the comments, especially Michael Friedman, is supported by their contemporaneous restatements of what they heard. Bream, Goldsmith and Melsher have all testified about such contemporaneous restatements. I accept their testimony, and Melsher's in particular, in large part because Melsher's testimony about the events of the evening, containing as it does, an acknowledgement that, under the excitement of the events, he kicked Cripps while Cripps was being held, has a solid ring of truth to it. Further, as I have indicated (see note 4), that the accusation of anti-Semitism was made that night is established independently through the testimony of PGD members.

Finally, there is Cripps' heavy consumption of alcohol. Cripps had had a large amount of beer that evening: by the time he was thrown out he had had 10 to 12 beers as well as a hard liquor drink. His own assessment of himself is that he "wouldn't be able to drive, of course, but I wasn't completely numb and senseless to the situation." Several of Cripps' past roommates and friends, persons whose biases, if they have them, are towards Cripps, have testified that when Cripps drinks, which they say he does from time to time, he can be rather abrasive and obnoxious and can say and do things he would otherwise not say or do. I



have no doubt that the derogatory comments about Jews attributed to Cripps were in fact made by him. Cripps testified that it would have been crazy for him, in the setting he was, to have made an anti-Semitic comment. Given the comparable inanity of the mission he undertook later, it is clear to me that good judgment did not have a major impact on Cripps' conduct that night.

#### B. Fraternity Accountability

There is no factual basis for finding PGD responsible for anything that was said or done at the ZBT party. Each of the trio of PGD members which ended up at the party did so on its own initiative and not as part of any plan. Birbaum left before the incident, Coury and Carlson were there during it and unaware of it, and Medved and Claybaugh became part of it only after the offending words were spoken.

Nor is there any indication that a fraternity with several Jewish members, as is the case with PGD, is the locus of a conspiracy to commit anti-Semitic acts or speak anti-Semitic words. PGD worked on the University Humorology program with Alpha Epsilon Phi, a predominantly Jewish sorority whose members speak affectionately of PGD members. The pairing of PGD and AEP was by the design of the two groups, not a random or required coupling.

Based on what I have heard I am sure that "ethnic jokes" are, from time to time told at PGD, jokes which involve a stereotyping of Jews as well as other religious groups, ethnic



groups and racial groups. There may even be such stereotyping aside from "ethnic jokes."

One would hope that in the setting of a college fraternity where future attitudes are molded by peers and the environment, care would be taken to insure that nothing is done to perpetuate harmful misconceptions about people. While the person making an ethnic joke or stating a stereotype may not intend harm, the effect of the speaking of the words may be harmful. Derogatory jokes and stereotyping may encourage racial or religious epithets by restating the groundless premises on which they are based, regardless of the intent of the person telling the joke or even the collective attitude of the group hearing it. If one person's misconceptions are furthered, harm is done.

Thus there may be an indirect causal link between the jokes and stereotyping at PGD and what happened at ZBT but I cannot pinpoint it and if I could, I could not be sure that such jokes and stereotyping heard by Cripps in settings other than at PGD were not equally causal. I find no direct causal link between such jokes or stereotyping and Cripps' comments at the ZBT party; therefore I see no justification for finding the fraternity accountable. Cripps came to the party by chance and on his own volition. What he said he said in an individual capacity, not a representative one.

Nor do I see any basis to hold ZBT accountable for what may be considered excessive force used by Melsher after he broke free and kicked Cripps while Cripps was being restrained. Melsher's



conduct was the product of an escalating degree of violence between himself and Cripps. It began with a report to Melsher that Cripps had spoken obnoxious words at the party, continued with the minimal contact involved in escorting Cripps from the party, gave way to pushing, then shoving outside and then finally an effort to hit with fists. When Melsher broke free he was obviously still very upset by the concatenation of the events of the prior few minutes. There is no justification for finding the fraternity responsible, doubly so since its members tried to restrain both Melsher and Cripps. In Melsher's case too, what he did, he did in an individual capacity, not a representative one.

#### C. Prior Knowledge of the Incident

An article appearing in the November 10, 1987 issue of the Daily Cardinal attributes to Madison Affirmative Action Officer Eugene Parks the assertion that the Dean of Students, Mary Rouse, had been forewarned of the incident. I have been asked to determine whether this is so.

Parks bases his information on an anonymous phone call and on information received from a member of the University Protection and Security who, he says, told him that P&S personnel were placed on alert because they knew something was going to happen. He has refused to give me the name of this member. Parks also concludes from the suspension of the fraternity at



3:30 a.m. on October 30, 1987 that the University must have known something or it would not have acted as quickly.<sup>7</sup>

Ralph Hanson of University Protection and Security denies having had any such information and an examination of extant dispatch tapes reveals no calls to that effect. There is an internal memorandum dated November 5, 1987 in which one Captain of Protection and Security tells another that Dean Rouse called to alert P&S that some threats of vandalism towards the ZBT house had been received. It is possible that someone reading this memorandum and not seeing the date or inferring that the warning came earlier than it did, might have concluded, erroneously, that Rouse had been forewarned prior to October 29. The memorandum does not justify that conclusion. Rouse denies having been forewarned. She notes that PGD was suspended at 3:30 in the afternoon on October 30, not 3:30 in the morning.

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7. Parks also said that John Patrick Hunter of the Capital Times had told Rouse that PGD planned retaliation against ZBT. Exactly why ZBT should be chosen for PGD's retaliatory efforts is not explained. Hunter said that in interviewing Rouse after the suspension of PGD was lifted he told her there was bad blood between PGD and ZBT, information he says he obtained from a part-time reporter with the Capital Times, Stacy Singer. Singer says she knows only rumors, rumors based on what she learned after October 29-30.

Parks also says that in a taped speech with Channel 6 of Milwaukee at a November 11, 1987 forum on racism, Rouse said she knew the Fijis were going to do something else. Charles Benson, who covered the forum for Channel 6, recalls no such statement and has provided a videotape of the news program. It reveals no such statement by Rouse. Benson agrees that had Rouse said she had been forewarned, it would have been a newsworthy item and he thinks he would have remembered it.



Further, the facts of the evening belie an organized effort to make trouble. Each of the three groups of PGD members at the party came independently of the other. For at least half an hour and probably closer to an hour, the six PGD members interacted amicably with their hosts. One left before the incident occurred and two remained through the party without even an awareness of it. While Medved and Claybaugh went to help Cripps when they saw him protesting his removal, there is every indication such help was a spontaneous reaction to what they saw and not the product of an earlier and more organized effort to make trouble.

## II. THE SECOND INCIDENT

### A. The Interim

#### 1. At ZBT

The first incident, which took place around 1:30, served to end the party. There has been some testimony that the police came to the scene, a not unlikely possibility in light of the skirmishing that took place outside the ZBT house. Or, the police might have come because of an incident on the street having nothing to do with ZBT, according to one PGD witness. Whatever the reason, there is no indication that the police took any statements and in any event, the more controverted aspects of the first incident deal with events inside the house before the police arrived.



After the party ended, the clean-up effort began. Apparently clean-up functions are assigned to pledges and after a while two pledges, Len Mormino and Jeff Resnick, no relation to fraternity president Jonathan Resnick, were involved in the clean up under the supervision and with the assistance of Jeff Burak, the ZBT member in charge of pledges.

## 2. At PGD and Sigma Chi

Events at PGD were following a less mundane course. Of the six PGD members at the ZBT party, Birbaum, Coury and Carlson went their own ways and remained oblivious to subsequent events until the following morning. Cripps, Medved and Claybaugh returned to the PGD house where Cripps indicated, as his conversation with Burstyn portended, that he wanted to return to the ZBT house, essentially to find out why he was beaten up.

A large number of PGD members tried to dissuade him, telling him it made no sense to return and that a return could only lead to further trouble. George Polydoris, a PGD officer, told him it was "ridiculous", Chris Phillips told him it was "stupid" to return, Darrin Thiem told him it was dumb and in any case the fraternity had to be careful because its suspension had just been lifted. Others concurred in the advice Cripps was given. To some Cripps stated he wouldn't go, to others he said he wanted to find his roommate, Andrew Falci.

Cripps, Claybaugh and Medved then went to the Sigma Chi house where they found Falci along with two other PGD members,



Julian Montero and Mark LaRowe.<sup>8</sup> Cripps explained, as he had done at the PGD house, that he had been beaten up at a ZBT party and he wanted to find out why. Two to three groups then left the Sigma Chi house and headed towards ZBT. The purpose of this venture was, as those at Sigma Chi have testified, to find out why Cripps had been beaten up. Falci went along to support Cripps and those who followed went along to make sure nothing happened. Falci and Cripps went first and they were followed in one or two groups by LaRowe, Montero and Claybaugh of PGD and three members of Sigma Chi, Jeremy Mathews, Moe Rice and Bill Valaika.

#### B. Inside ZBT

There are several versions of what happened once Cripps and those with him arrived at ZBT. Testimony conflicts, not just between members of different fraternities but in some instances also between members of the same fraternity, as to who came in and what happened inside. There is no doubt that a ZBT pledge, Len Mormino was hit in the face by Falci; the question is whether he was hit in self-defense after Mormino hit Falci across the legs with a broom, or whether Falci's blow to Mormino's face was unprovoked by Mormino.

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8. LaRowe says he went with Cripps and Claybaugh to the Sigma Chi house where he found Montero. Montero says LaRowe was with him at Sigma Chi when Claybaugh arrived. In and of itself, this inconsistency is inconsequential except that it is symbolic of the extraordinary confusion that characterizes the various versions of subsequent events.



Cripps says the door to the fraternity was ajar and he, Falci, Montero and LaRowe walked in. Montero says the door was open and he, Cripps, Falci, LaRowe and some Sigma Chi's walked in. LaRowe says the door was not locked and only three people went in: he, Cripps and Falci. Medved said he followed the group to ZBT but because he had had enough, he stayed about 100 feet away. He didn't see anyone go in but assumed they all did since he saw them coming out. Claybaugh does not shed any light on who went in and the three Sigma Chi members who had conversed with Cripps, Falci, Medved, Montero and Claybaugh and then gone onto the street with them, say they did not go into the ZBT house although Mathews says he was thrown out. Thus, at a minimum, according to LaRowe, there were three people inside the house [and no Sigma Chi's]; at a maximum, according to Montero, there were six including at least two Sigma Chi's.

As I have indicated, the key question in terms of what happened inside is whether Falci's blow to Mormino's face was provoked by Mormino. Of all the members of PGD and Sigma Chi who were around, only Cripps was able to testify fully as to what he saw, LaRowe could testify partially. Cripps testified that after they came in through a door which was ajar he saw four pledges cleaning up and he started to yell "why was I beaten up and who did it." He says that at this point a heated argument and much yelling ensued, including a request to leave. Someone yelled "get out of here." Someone also ran upstairs and "one of the pledges smacked my roommate on the leg with a broom." Falci then, according to Cripps grabbed the pledge and hit him in the face a



couple of times. At that point others came down the stairs and a rapid and forced exit began.

LaRowe, who said the door was unlocked said he saw three or four people cleaning up and that Cripps and Falci began questioning them in loud voices: "Why did you beat up my friend earlier? Who beat him up?" This went on for about 30 seconds at which point one of the four ran upstairs. LaRowe watched him and then when he turned his gaze to downstairs events he saw Falci throw up his hands in what appeared to be a defensive maneuver -- LaRowe thought Falci had been struck by something. Falci then grabbed the person and hit him.

Montero, who places Cripps, Falci, LaRowe and himself as well as some Sigma Chi's inside the house, says there were three pledges there "and they had brooms." Montero says he stayed in the entrance way but saw Cripps asking one of the pledges, "more like he was kind of upset" what went on earlier, why he was hit. Montero compresses the events by testifying that at this point other ZBT's came down and tried to get everyone out.

Falci, although repeatedly requested to testify has refused to do so, even though he has been assured that nothing he said in these civil-administrative proceedings would be used against him in a criminal case. The correspondence with Falci's attorney is attached to this report.

Mormino says he was inside cleaning up with Burak and Resnick when two groups of people came in, first, Cripps and



Falci, then five others. There was yelling about something that happened earlier. Burak, he says, told them they had no right to be there and asked them to leave. According to Mormino, Cripps walked over to Burak, who had been holding and then dropped a broom, and palmed his face. Burak ended up against a wall with several people around him. Mormino tried to help him out and he in turn was shoved and jostled when someone grabbed his shirt. Falci then hit him, over someone else's shoulder.

Jeff Resnick, the other pledge, says he was cleaning up with Mormino and Burak who had a paddle or broom. He says he saw seven guys come in, one of them with a blue and white sweater, repeatedly noted as the sweater Cripps was wearing. He said they started yelling about wanting to fight someone "down here" and that Burak asked them to leave. Cripps then palmed Burak's face and, with the help of someone else, shoved him against the wall; Mormino went over to help Burak. Resnick then ran upstairs to get help.

Burak says six to seven guys came into the house through a closed but unlocked door while he and the two pledges were cleaning up. They were screaming about wanting some guy, talking about a fight but Burak didn't understand what they were talking about. He did, he says, tell them to leave. Burak says he was holding the broom, and as he was being pushed around, he was using the broom in a defensive manner before he dropped it. Neither of the pledges, according to Burak, was holding anything.



Cripps and Falci, who were doing most of the talking, both seemed drunk.

Whether the door was wide open, ajar or closed but not locked, it is clear and I suspect beyond dispute that none of the members of PGD or Sigma Chi who entered the ZBT house around 2:30 a.m. did so either by invitation or with the consent of the owners. The party had long since ended and none of those who came suggested the purpose of the visit was social. If there were any doubt about their welcome, Burak's almost immediate request that they leave, something confirmed by Cripps, makes clear that Cripps, Falci, LaRowe, Montero and others, were where they didn't belong and weren't wanted. Nevertheless, they stayed.

Exactly how many stayed is not clear. As I have indicated, according to the PGD witnesses, anywhere from three to six persons came into the house. According to the ZBT witnesses there were about seven. Jeremiah Mathews, one of the Sigma Chi's, testified that after Falci and Cripps went in, there were others going in as well. Mathew's subsequent testimony is difficult to follow because he says he did not go into the ZBT house that evening, yet he also says that he and Montero were pushed out. Based on all of the testimony, it strikes me that at least 5 to 6 people came into the ZBT house, four PGD members and at least one and possibly more Sigma Chi's.<sup>9</sup>

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9. Both Phillip Grossfield and Andre Johnson of ZBT testified that when they came down to the first floor, they saw 6-7 non ZBT persons in the room with Mormino and Burak.



Despite the presence of many people, only a few have first hand knowledge with respect to the question of whether Mormino provoked Falci: Cripps, LaRowe, Burak and Mormino. Cripps' prior consumption of alcohol has been discussed. LaRowe says that from 11:15 to 12:45 he had some drinks at the El Sombrero restaurant. He then returned to PGD where he had two margaritas and another drink containing vodka and gin. Mormino said he doesn't drink and Burak said he had one beer.

I have already indicated that I disbelieve Cripps' version of what happened earlier in the evening, in part because of its internal illogic and in part because of his significant consumption of alcohol. The impact of the alcohol had obviously not abated as is evident from Cripps' judgment in undertaking the re-visit to the ZBT house in the first place. That he went against the advice of a large number of fraternity brothers further suggests that Cripps' mind was not at its best around 2:30 a.m. that night. Under these circumstances it would be difficult to find that Cripps is an accurate reporter on something as precise as to whether Falci or Mormino hit first.

LaRowe's testimony supports but does not compel the conclusion that Mormino hit Falci first. He does not say he saw Mormino hit Falci, only that he saw Falci in a defensive posture just before hitting Mormino and that he thought Mormino had hit Falci. This suggests that if LaRowe's version is incorrect, the incorrectness is not the product of design since if he wanted to intentionally misstate the facts, he certainly would have added



that he saw Mormino hit Falci. LaRowe is very emphatic that "Alasdair, myself and Falci, went up to the front porch and we entered the door. No one else followed us in. It was just the three of us." His certainty that there were only three, which is contradicted by just about every other person present including Montero and Cripps, suggests that the combination of the drinks he had had and the excitement of the events simply caused him to be mistaken in what he thought he saw.

The testimony of Burak and Mormino strikes me as more plausible. There is no question that what they were doing just prior to the entry of Cripps, Falci and others was in no way offensive or threatening: they were cleaning up after a party. Mormino, in addition, by virtue of his size and demeanor, did not appear to me to be the kind of person who would start up with Falci, who has been described to me as a physical person with an ability to fight.

It was Falci, moreover, who was the intruder, who came without invitation, who was asked to leave and who didn't. Whatever feelings of anger Falci had when he came to the ZBT house at 2:30 that morning to find out why Cripps had been beaten up were obviously not placated when he wasn't told why but instead was asked to leave. Therefore it strikes me as most logical that when he didn't leave, when the inevitable scuffling with ZBT members began, and when he didn't get the answer to the question that so troubled him, his anger and frustration only increased and prompted him to hit Mormino.



In light of all of the above, the chronology that strikes me as the most likely is the following:

1. Cripps, Falci, Montero and LaRowe, followed by one or two members of Sigma Chi entered the ZBT house around 2:30. They did so without invitation and without any reasonable belief that their presence would be welcome.

2. Upon entering, Cripps and Falci, loudly and in a hostile and belligerent tone, asked to see the person who had fought with Cripps earlier in the evening and wanted to know why Cripps had been beaten up.

3. Almost immediately after their entry, Cripps, Falci and the others were asked to leave by Burak. They did not do so.

4. A scuffle ensued while Resnick went upstairs to get help. It is not clear exactly who initiated the scuffle, whether the verbal hostility which Cripps and Falci showed yield to physical hostility or whether in the course of asking them to leave, Burak touched one or the other. If I had to guess I would say that it is the former since it is unlikely that three people would start a shoving match with six. However, I am not certain enough on this question to make a finding. Whoever began, there was at most pushing and nothing Mormino did provoked the blow or blows to his face by Falci.

5. Falci hit Mormino in the face without provocation, bloodying his nose and causing him injury and serious discomfort.



### C. Outside ZBT

Soon after, a large number of ZBT members came to the main floor from upstairs rooms or from downstairs rooms where they had gone to bed. The essential thrust of the movement in the fraternity house was out, with a large number of ZBT members pushing outward and the four PGD members and Sigma Chi's going the only way they could. Once on the porch, the movement away from the house continued. In fact, LaRowe, a PGD member, assisted in trying to get Cripps away from the ZBT house, while Cripps still wanted to find out why he was beaten up.<sup>10</sup> At this point, however, the testimony diverges.

There is no dispute that in the continuation of the controversy outside the ZBT house, Falci hit Andre Johnson in the eye. The question is whether he was thrown down the stairs by Johnson who then came after him, or whether he hit Johnson on the

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10. Despite the confusion with the large number of persons present, small items of subtle similarity appear in the testimony of both ZBT and PGD members. LaRowe testified that as he was trying to get Cripps away from the fraternity house he was struck from behind twice, once hard and once not so hard. He turned around and told the person behind him he was trying to get Cripps out of there and the person responded he wasn't doing it fast enough. Burak recalls a "friend" of Cripps [obviously LaRowe] trying to get him to leave and telling that to Burak, who responded, I don't see his legs walking.

Mathews, a Sigma Chi, says Paul Urdan of ZBT pushed him down the stairs. Urdan says that in the scuffle that ensued outside, Burak and Cripps were still yelling at each other when some of the people who had been in the house rushed towards the two. He says he pushed them back and they fell down the stairs.



top of the stairs without provocation. There is also a question as to whether Falci, after he hit Johnson, called him a "f---ing nigger"; several ZBT members say he did, everyone else denied hearing it.

Those with possible first hand knowledge of what happened outside the fraternity are the PGD and Sigma Chi members who went to the ZBT house and the ZBT members who were there. In the first category, there are Cripps, Falci, Montero, LaRowe, Claybaugh, Medved, Mathews, Rice and Valaika. Of these, LaRowe, Medved, Cripps, Mathews, Rice and Valaika do not shed any light on the question of provocation. Thus the testimony of Claybaugh and Montero is critical. In the latter category there are ZBT members Burak, Jeff Resnick [the pledge], Jonathan Resnick, Mormino, Andre Johnson, Paul Urdan and Phillip Grossfield. Of these, all profess some knowledge of the incident except for Jeff Resnick.<sup>11</sup>

Montero says that after the crowd had gathered outside, things heated up further with considerable shoving. Johnson grabbed Falci and threw him down the stairs. Johnson then came down the stairs after Falci, taunting him to go one-on-one and Falci hit him in the eye. A number of ZBT members then split the two up. Montero says he heard no racial epithets of any kind.

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11. Jeff Resnick says that after the crowd gathered on the first floor, he went upstairs with Mormino to take care of him so that Resnick didn't see what happened downstairs. Mormino, however, testifies as to what he saw outside. The two are difficult to reconcile.



Claybaugh says that when the crowd moved outside, Johnson said he wanted to fight with Falci and then pushed him blind-side down the stairs. It was at that point that Falci punched Johnson.

Johnson testified he came downstairs after Resnick had run up to get help and when he came down he saw 6-7 non ZBT persons in the room. He assisted in the process of pushing them out and once outside he faced them as they stood in a poorly formed semi-circle in front of him. At this point he was suddenly hit in the eye. He grabbed the person who hit him -- Falci -- and using Falci's clothes put a restraining type hold on him. He told Falci to take it easy and to take his friends and leave. When he let Falci go, Falci walked away and screamed at Johnson, "nigger, you f---ing nigger."

Grossfield testified Johnson was hit out of nowhere while he was telling people to leave. Johnson then put the person who hit him into a headlock and asked him if he was going to mellow or calm down and when the person said he was, Johnson released him. The person then called Johnson a "f---ing nigger." Burak's testimony is the same as Grossfield's; Mormino apparently missed the beginning: he says he saw Johnson with a jacket over Falci and then when Johnson let go, Falci called him a "nigger." Urdan and Jonathan Resnick both say they saw Johnson hit with a fist. Resnick says that Johnson then put a jacket over a person who, upon his release, called Johnson a "f---ing nigger."<sup>12</sup>

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12. I have tried, in this narrative, to refer to religious or racial epithets only when there is some evidence as to who



There are five witnesses who swear that they heard Falci use a racial epithet towards Johnson. This carries a certain weight with it, especially since the two who testified that Johnson started the fight with Falci essentially cannot disprove that the offensive words were spoken, only that they did not hear them. Falci, who would be able to offer direct evidence that such words were not spoken, as has been indicated, has refused to testify.<sup>13</sup>

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uttered them. In two instances there is evidence that such comments were made where the person who heard them cannot attribute them to anyone in particular. Mormino says that while the second incident was developing inside the house, he heard the words "dumb jew" and "kike" but he cannot say who spoke them. Urdan testified that while outside during the second incident, he heard someone say that ZBT had to have a nigger fight for them but he does not know who said it. Since the underlying purpose of this report is to assist you in deciding what, if any steps to take with respect to individuals, fraternities or both, statements such as these, which cannot be tied to any person, are of no help to you. My failure to comment further on them should not, however, suggest that if such statements were made they are of no consequence. The University environment is certainly not enhanced with the use of such slurs.

Jonathan Resnick's testimony is troubling in a different respect. When asked whether he had any reason to believe that anti-Semitism was tolerated or fostered at PGD he said he did because if PGD had any Jewish members they definitely had less than anyone else on campus. When I asked him how many Jewish members they had, he said he heard they had one but he was not sure. In fact, PGD has at least three Jewish members. One would hope that the conclusion that any body tolerated or fostered any religious or racial prejudice would be grounded on something more than a combination of wrong facts and an indifference to them.

13. There does not appear to be any internal illogic to the testimony of any of the eye witnesses to the fight except perhaps for Claybaugh's. Claybaugh says that after Johnson told Falci he wanted to take him on, Johnson blind-sided him. It seems highly unlikely that after Falci had been put on notice by Johnson that Johnson wanted to fight him that Falci would avert his eyes from Johnson thereby leaving himself vulnerable to a blind-side shot. Also, Claybaugh says



Under these circumstances, it strikes me that the weight of the evidence supports the notion that the offensive words were spoken and that Falci spoke them. This, in turn, leads me to conclude that Falci hit Johnson first. It would seem far more likely that such words would be spoken if Johnson got the best of Falci after Falci hit him rather than if Falci hit Johnson after Johnson threw him down the stairs. The words, it appears to me, are a method of retaliation, and if Falci hit Johnson after having been thrown down the stairs, there would have been no need for retaliation. The blow to the eye would have been enough. Under Johnson's version of the incident, however, there was a need for retaliation on Falci's part after Falci was released. The words served that purpose.

It is also important not to overly fragment the second incident but rather to look it as a whole. Two serious blows were struck, one to Mormino's nose and the other to Johnson's eye and Falci was the source of both. About this there is no dispute. Given the extraordinary amount of shoving and physical contact involved both inside the ZBT house and outside, contact occurring in an excited setting with emotions running high, it is hard to believe that both those blows were in self-defense or in response to provocation. Rather, a far more likely conclusion is that each of these two blows was the product of anger and frustration.

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Johnson taunted Falci about going one-on-one before he threw him down the stairs; Montero says the taunt came after Falci had been thrown down the stairs.



Certainly the purpose of the 2:30 a.m. visit to the ZBT house -- to find out why Cripps had been beaten up -- was not accomplished and nothing that happened portended that it would be.

In light of all of the above, the chronology that strikes me as the most likely is the following:

1. The members of PGD and Sigma Chi inside the ZBT house were herded outside by an increasingly large number of ZBT members.

2. Once outside, the shoving and arguing continued. Falci faced Johnson and hit him in the eye, blackening his eye and causing Johnson serious discomfort.

3. Johnson then grabbed Falci and held him until it appeared Falci had calmed down. He then released him.

4. Upon his being released, Falci, in anger and frustration, called Johnson a f---ing nigger.

5. The police then arrived and the second incident was over.

#### D. Fraternity Accountability

Again, it becomes necessary under the mandate given to me, to look into the question of fraternity accountability. I do not find any clearly improper conduct on the part of any ZBT member and therefore see no need to look into the question of fraternity accountability on its part. This leaves open the question



whether there should be fraternity accountability for the uninvited and possibly illegal entry to the ZBT house by PGD and Sigma Chi members, Falci's blows to Mormino and Johnson, and Falci's offensive language to Johnson.

There does not seem to be much doubt that the entry to the ZBT house at 2:30 a.m. was improper. There is no evidence, however, that any person in the Sigma Chi fraternity had any idea that two or three of its members might undertake such a mission and therefore one can quickly dispose of any notion that the Sigma Chi fraternity bears responsibility for that entry. It clearly does not.

As to the entry by Cripps and Falci, it does seem that PGD was on notice that Cripps might try something as foolish as go back to ZBT. Several members of PGD, including at least one officer, tried to talk him out of it and apparently thought they had succeeded. Claybaugh too tried to talk him out of it but once Cripps met Falci at Sigma Chi, it was apparent to Claybaugh that the efforts at dissuading Cripps from going back had been unsuccessful. Yet Claybaugh did not, apparently, undertake any further effort at keeping Cripps away from ZBT. Indeed, the act of accompanying Cripps, together with Mark LaRowe, might actually have encouraged Cripps because of the support implicit in such accompaniment.

It seems to me, however, that it would be unfair to hold PGD responsible for the uninvited entry to the ZBT house by Cripps and those PGD members accompanying him. The mission itself was



highly personal, and several PGD members had, after all, argued at some length with Cripps urging him not to go. The only thing they could have done which they did not do was to restrain Cripps physically. While this might have been an option, I find it hard to say it was a compelled one.

I find it equally difficult to see any basis for finding the fraternity accountable for Falci's free use of his fists. There was a considerable amount of contact between PGD and ZBT members that evening, both during the first and then during the second incidents. In each case emotions were running high and a great deal of shoving and scuffling occurred. Certainly the opportunity for an escalation to more serious physical contact existed. Yet, despite what must have been dozens of opportunities for PGD members to escalate the level of contact beyond shoving and scuffling, only one member did. The most plausible inference that arises from these facts is that the use of fists was not a fraternity policy but rather the reaction of one individual. Under this circumstance, there is no basis for fraternity responsibility.

This leaves us with one last question: whether PGD is responsible for the racial epithet spoken by Falci after Johnson released him? As has previously been mentioned, racial jokes undoubtedly have been told at the fraternity, along with religious and ethnic jokes. I have already discussed what I perceive to be the harm in such jokes. It seems difficult, if not impossible, however, to find any kind of direct causal link



between such jokes, which are undoubtedly not unique to PGD, and Falci's offensive language. Is there other evidence which sheds light on this question?

PGD has a black member who indicated to me in no uncertain terms that during the two years he was a member of PGD he experienced nothing either in terms of what was said or unsaid that he thought was insulting to blacks or any racial or religious group. After speaking with this member, I am left with no doubt that if any racist sentiments were spoken in his presence, he would have been aware of it and would have reacted.

In the course of conducting the interviews, I did sense that some PGD members felt that the University reacted with undue harshness to the incident last spring. They felt the reaction was due to pressure from minority groups. As a result, there was some bitterness towards such groups.<sup>14</sup> While it is clear that

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14. As part of this investigation, I called an officer of the Black Student Union and asked whether he had any evidence that PGD was involved in racist or discriminatory behavior. He told me that several black athletes at the University had on various occasions tried to join parties at PGD only to be told that the parties were closed. When they asked white students emerging from the party whether they knew anyone there, the response was frequently "no." From this they inferred that the parties were closed to blacks, open to whites. This complaint was repeated to me over the telephone by one of the athletes who indicated it happened with several other fraternities as well. I asked the officer of the Black Student Union to arrange for all those athletes with this complaint to appear and testify so that I would have a record on which to base subsequent questions and recommendations. None showed up.

The president of PGD indicated that such incidents might have happened, both at PGD and elsewhere. He explained that strangers sometimes get into parties and that efforts at



such feelings existed, it does not strike me that there is any connection between them and the offending words spoken by Falci at the end of the second incident. Certainly they provide no basis for finding the fraternity responsible for Falci's words.

November 6, 1987

Attorney Stephen P. Hurley  
Hurley, Burish & Milliken, S.C.  
101 North Brown Street  
Madison, Wisconsin 53703

RE: Andrew Falci

Dear Steve:

This is to confirm our conversation of earlier today.

If there is any information you have in terms of witnesses or documents that would be useful to me, please provide that information to me as soon as possible.

Also, I would like to interview your client at 10:00 a.m. on Wednesday, November 11 in Room 95, Bascom Hall. If you wish to be present during the interview, you are free to do so.

I understand your client faces potential criminal charges based on facts which I will question him about. If he intends to invoke his privilege against self-incrimination, I will represent that I do not intend to provide any prosecutor either his testimony or any fruits therefrom.

Thank you very much.

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control frequently break down. He was emphatic, however, that there was no policy of racial exclusion at PGD.

I also asked the Director of Hillel whether he was aware of any evidence that PGD was involved in anti-Semitic sentiments or behavior and he told me he was not.

FMT/kjs  
xc





UNIVERSITY OF WISCONSIN LAW SCHOOL  
Madison, Wisconsin 53706

November 6, 1987

Attorney Stephen P. Hurley  
Hurley, Burish & Milliken, S.C.  
301 North Broom Street  
Madison, Wisconsin 53703

RE: Andrew Falci

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Thank you very much.

Yours truly,

Frank M. Tuerkheimer

FMT/kjs  
XC



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STEPHEN P. HURLEY  
MARK D. BURISH  
KEVIN F. MILLIKEN  
DEBORAH MULLIGAN

November 10, 1987

Frank M. Tuerkheimer  
Professor of Law  
University of Wisconsin Law School  
Madison, WI 53706

Re: Andrew Falci

Dear Frank:

On November 6, we spoke and tentatively arranged a date for Andrew to be interviewed. Andrew and I have discussed the matter. He declines to submit to that interview. His reasons are two:

1. He is exercising his guarantees under the Constitutions of the United States and the State of Wisconsin to remain silent; and
2. He is concerned that the outcome of the process, of which your investigation is only a part, has been predetermined.

In your letter of November 6 you state: "I understand your client faces potential criminal charges based on facts which I will question him about."

He does not face "potential" charges. He faces actual criminal charges.

He has been informed that anything he says to anybody can and will be used against him. I have advised him to take that warning very seriously. As you know, the exercise of one's Fifth Amendment privilege is not an implicit recognition of guilt; rather, it is the recognition that the prosecution can attempt to use anything one says (however exculpatory) to try to prove its case. Andrew and I have no desire to provide the prosecution with any help in pursuing charges which, I believe, are baseless in fact.

You have represented that you do not intend to provide any prosecutor with Andrew's testimony, or any fruits therefrom. I do not question your sincerity. I know that, if asked to provide such information, you will assert your best efforts to resist. You cannot, however, resist the power of a subpoena.



HURLEY, BURISH & MILLIKEN, S.C.

Frank M. Tuerkheimer

Page -2-

November 10, 1987

You have opined that, in the event such information were subpoenaed, it could not be used against Andrew in a criminal proceeding. This opinion, is premised on your having informed me that Andrew's declination to be interviewed would be taken into consideration against him. In this sense, then, you felt the situation similar to that considered in Spevack v. Kline, 385 U.S. 511 (1967) and Gardner v. Broderick, 392 U.S. 273 (1968). I do not read these cases as broadly as do you. One situation involves licensed employment; and the other involves public employment. Neither case involves a student whose matriculation may be threatened by the failure to waive his privilege against self-incrimination. I know of no case which extends the teaching of Spevack and Gardner to a situation like the instant one.

My client's education is extraordinarily important to him. So, too, is his liberty. The University has inappropriately, I think, presented him with a Hobson's choice.

While Andrew's first reason for declining to be interviewed is founded in the Constitution; his second reason is founded in notions of fair play (or, more appropriately in this instance, the lack thereof).

I wish to make it clear that I expect you will act fairly. In every past dealing that I have had with you, you have done so. In every dealing which my colleagues have had with you, you have done so. Unfortunately, your function, as you have explained it to me, is to investigate and, perhaps, recommend. The decision about whether, or how, to proceed on your findings is in the hands of others. In past dealings, those people have not proved to be fair.

When, in our phone conversation, you were encouraging me to have Andrew speak with you, you observed that you thought it had been my criticism of the University that it had not listened to Andrew's side of the story. More accurately, my criticism was that the University had already made up its mind without having gathered evidence of the other side of the story. To date, I have observed and heard nothing to disabuse me of the notion that the University has already made up its mind about Andrew. Indeed, over the last weekend I heard two comments which re-enforced my impression.

First, I read and heard reports that one of the Regents had opined that the suspension of the fraternity had, perhaps, been too harsh; and that rather than having used a "shotgun," the University should have more appropriately used a "rifle." I have no doubt about at whom the rifle would be aimed.



Frank M. Tuerkheimer  
Page -3-  
November 10, 1987

Second, Dean Rouse issued a press release in which she announced the retraction of the University's suspension of Phi Gamma Delta fraternity. In that press release, she stated the following:

Those who violate our community's standards of conduct should take no heart from our decision today. However, in upholding the racial and ethnic dignity of our minority students, staff and faculty, we cannot violate the rights of others.

Implicit in the statement was the notion that someone's racial and/or ethnic dignity had been slurred.

My client engaged in no such conduct. Any allegation to the contrary is false. That your findings might substantiate my client's position is a notion which appears alien to Dean Rouse and to the quoted Regent.

Hopefully, at the conclusion of your investigation, witnesses will have informed you that my client was walking down Langdon Street, on his way home from visiting at the Sigma Chi house. While doing so, he encountered his roommate, Alasdair Cripps, and others who were on their way to the ZBT fraternity. He discouraged Mr. Cripps from going; but, finding that he was unable to do so, went along with thoughts of preventing Mr. Cripps from getting into a further altercation. The door to the fraternity house was ajar. When no one answered the group's knock, Andrew and the others went inside. Upon inquiring about who had gotten into a fight with his roommate, and why, Andrew was assaulted with a weapon.

Witnesses (Cripps, LaRowe, Claybaugh and others) should substantiate that, after first having raised his arms to protect himself from the blows, Andrew struck back in self-defense.

I direct your attention to Section 939.48, Wis. Stats. which states, inter alia:

- (1) A person is privileged to ... intentionally use force against another for the purpose of ... terminating what he reasonably believes to be an unlawful interference with his person by such other person. ...

After deterring his attacker from further blows, Andrew announced that he was leaving. He began to do so. As he was exiting, he was attacked, again, from behind by Mr. Johnson. Andrew was thrown down the outside flight of stairs of the ZBT house.



Frank M. Tuerkheimer  
Page -4-  
November 10, 1987

Johnson ran down after and got on top of him. Andrew fought Johnson off. Again, his acts were privileged in the law.

Despite the provocation, Andrew never called Johnson a bad name. Cripps, Claybaugh and LaRowe never heard Andrew call anyone a bad name. None of the members of ZBT who were interviewed on that evening reported that he had done so (though, I understand, the next day their stories had changed). Johnson, who the police reports note stood by the police car in which Andrew and Cripps were held, never accused him of having said a bad word that evening. His accusation never came until the next morning.

Even assuming, arguendo, that my client called Johnson a bad name, it is neither a crime, nor an act prohibited by the University's student disciplinary guidelines. However abhorrent one may find the word, words are not punishable. Indeed, to the extent one thinks the utterer of such an epithet to be stupid, one should be reminded that the purpose of a university is to educate those in need -- not to expel them. Such a bad name might be politically incorrect, but it does not constitute an act of discrimination. All it is is the utterance of an expression that most people (for good reason) don't care to hear.

The University certainly has an interest in determining whether sticks and stones broke some bones.<sup>1</sup> It has no business, however, investigating words. It is the University's mission to promote the exchange of words -- however disagreeable some people's views may be.

The University's initial rush to judgment against Andrew's fraternity and, thereby, against Andrew has been most upsetting to him and to his family. The Dean's retraction of the fraternity's suspension with a statement that implies that she still believes that Andrew is guilty of the allegation continues to be disconcerting. The Regent's statement merely confirms the depth of the prejudice against Andrew.

Under such circumstances, I cannot advise Andrew to participate in a process the outcome of which seems pre-

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<sup>1</sup>E.g., the broom stick used to beat my client.



HURLEY, BURISH & MILLIKEN, S.C.



Frank M. Tuerkheimer

Page -5-

November 10, 1987

determined. I regret that your services were not engaged by the University from the outset.

Cordially,

HURLEY, BURISH & MILLIKEN, S.C.

*Stephen P. Hurley*  
Stephen P. Hurley

SPH/jb  
7015300

cc: Andrew J. Falci  
Gerald Falci

As I understand it, if I represent to the...  
says will be used against him nor will any fruits thereof be used...  
against him, he is effectively shielded from criminal prosecution...  
based on his testimony. Therefore, his choice is not a Hobson's...  
choice, as you indicate, but rather simply a decision as to...  
whether to cooperate with the investigation.

You indicate that I would have no choice but to comply with...  
the subpoena asking for the transcript of his interview. I have...  
spoken to Assistant District Attorney Dawson, who has told me...  
that she will not subpoena Falci's testimony or its fruits under...  
the circumstances I have described above. The enclosed letter...  
confirms this conversation. Quite frankly, I think it would be a...  
major blunder for the prosecution to subpoena such testimony...  
since, in light of the conditions under which your client would...  
be testifying, the mixture of such a transcript with other...  
evidence the prosecution already has would risk fatally tainting...  
the case against your client.

Essentially, therefore, as I understand the situation, your...  
client is in no danger of self-incrimination should he appear and...  
testify. This removes, as I see it, any valid basis for his...  
refusal to testify. Under these circumstances his refusal to...  
testify could itself be the basis for disciplinary action against...  
him. See WIS 17.06, Wis. Adm. Code.

I hope that in light of the above you will reconsider your...  
position. I am free to question your client, obviously in your...  
presence, at any time on Wednesday, November 18.

Sincerely,

Frank Tuerkheimer





UNIVERSITY OF WISCONSIN LAW SCHOOL  
Madison, Wisconsin 53706

November 11, 1987

Stephen P. Hurley, Esq.  
Hurley, Burish & Milliken, S.C.  
301 North Broom Street  
Madison, Wisconsin 53703

Re: Andrew Falci

Dear Steve:

Thank you for your letter of November 10, 1987. I am sorry that you have advised Andrew not to appear as a witness in the investigation I am conducting.

As I understand it, if I represent to him that nothing he says will be used against him nor will any fruits thereof be used against him, he is effectively shielded from criminal prosecution based on his testimony. Therefore, his choice is not a Hobson's choice, as you indicate, but rather simply a decision as to whether to cooperate with the investigation.

You indicate that I would have no choice but to comply with the subpoena asking for the transcript of his interview. I have spoken to Assistant District Attorney Dawson, who has told me that she will not subpoena Falci's testimony or its fruits under the circumstances I have described above. The enclosed letter confirms this conversation. Quite frankly, I think it would be a major blunder for the prosecution to subpoena such testimony since, in light of the conditions under which your client would be testifying, the mixture of such a transcript with other evidence the prosecution already has would risk fatally tainting its case against your client.

Essentially, therefore, as I understand the situation, your client is in no danger of self-incrimination should he appear and testify. This removes, as I see it, any valid basis for his refusal to testify. Under these circumstances his refusal to testify could itself be the basis for disciplinary action against him. See UWS 17.06, Wis. Adm. Code.

I hope that in light of the above you will reconsider your position. I am free to question your client, obviously in your presence, at any time on Wednesday, November 18.

Sincerely,

Frank Tuerkheimer





UNIVERSITY OF WISCONSIN LAW SCHOOL  
Madison, Wisconsin 53706

November 11, 1987

Ms. Linda Dawson  
Assistant District Attorney  
City-County Building  
Madison, Wisconsin 53701

RE: Andrew Falci

Dear Ms. Dawson:

This is confirm our conversation of earlier today in which you indicated that you would not subpoena or otherwise attempt to obtain Andrew Falci's testimony or any fruits derived from it.

Thank you very much.

Very truly yours,

Frank M. Tuerkheimer

FMT/kjs  
xc: Steve Hurley

cc: Gerald Falci  
Andrew J. Falci

*Handwritten notes:*  
and letter to Steve Tuerkheimer  
re: Andrew Falci



LAW OFFICES

HURLEY, BURISH & MILLIKEN, S.C.

301 NORTH BROOM STREET

MADISON, WISCONSIN 53703

STEPHEN P. HURLEY  
MARK D. BURISH  
KEVIN F. MILLIKEN  
DEBORAH MULLIGAN

TELEPHONE  
AREA CODE 608  
257-0945

November 13, 1987

Mr. Frank Tuerkheimer  
UNIVERSITY OF WISCONSIN LAW SCHOOL  
Madison, WI 53706

Dear Frank:

Your letter of November 11 states that you have reached some agreement with the Assistant District Attorney about Andrew's case; and, therefore, that in your opinion, Andrew "is in no danger of self-incrimination should he appear and testify."

I disagree.

I am not a party to any agreement which you made with the District Attorney. I have no way of enforcing the agreement; and the letter which you sent is no assurance that my client's statements or fruits therefrom, will not find their way into the prosecution's case indirectly. Your experience as a federal prosecutor, I am sure, has taught you that only a grant of immunity provides an accused with such protection. There is no substitute; and I will accept none.

I have reviewed UWS 17.06, Wis. Adm. Code and fail to see how a citizen's assertion of his constitutional rights can be used as the basis for disciplinary action against him.

Commencing November 15, I will be in Minneapolis to try a civil matter. The trial is scheduled through December 4, 1987. If you have need to reach me in the interim, please contact my office.

Cordially,

HURLEY, BURISH & MILLIKEN, S.C.

*Stephen P. Hurley*  
Stephen P. Hurley

SPH/jb  
7015300  
cc: Gerald Falci  
Andrew J. Falci

*2nd letter  
to Frank Tuerkheimer  
misplaced 1st mailing*



# note

*Minority  
Group*

From: University of Wisconsin-Madison / News & Information Service, 19 Bascom Hall, 500 Lincoln Drive, Madison, Wisconsin 53706  
Telephone: 608/262-3571

## EDITORS/NFWS DIRECTORS:

The University-wide Steering Committee on Minority Affairs will release its report, comment on it and take questions from the media at noon on Tuesday, Dec. 1, in the Beefeaters Room (third floor) at the Memorial Union on the UW-Madison campus. Committee Chairman Charles Holley and Vice-chair Hiram Puig-Lugo will attend, as will a number of other steering committee members. Phillip Certain, acting vice chancellor for academic affairs, will formally accept the report.

Copies of the report will be available at the University News and Information Service Office, Room 19, Bascom Hall, at 9 a.m. on Dec. 1. For further information, contact Susan Trebach at (608) 262-9406.



# note

*Minutes  
Groups*

From: University of Wisconsin-Madison / News & Information Service, 19 Bascom Hall, 500 Lincoln Drive, Madison, Wisconsin 53706  
Telephone: 608/262-3571

11/27/87

EDITORS/NEWS DIRECTORS:

UW-Madison officials expect the investigation into an altercation between members of the Phi Gamma Delta and Zeta Beta Tau fraternities to be completed and a report forwarded to Acting Chancellor Bernard Cohen by Dec. 11 or shortly thereafter. An announcement of further action on the matter will be made at that time.

UW-Madison law Professor Frank Tuerkheimer is conducting the investigation into the incident, which occurred early in the morning of Oct. 30. The matter in question includes allegations that members of Phi Gamma Delta (Fiji) made racial and anti-Semitic slurs against members of Zeta Beta Tau. Phi Gamma Delta was suspended as a student organization earlier this year because of a racially-offensive display at a party, and has since been reinstated.

Steve Schumacher  
University News Service  
(608) 262-8289



Office of the Dean of Students

117 Bascom Hall  
500 Lincoln Drive  
Madison, Wisconsin 53706  
608/263-5700

MAY 1987  
Minutes  
Frank  
Jenkins

RECOMMENDATIONS ON RACE AWARENESS FOR STUDENT ORGANIZATIONS:

- 1) Encourage the Interfraternity Council, the Panhellenic Association and the National Black Panhellenic, the umbrella organizations for all Greek groups, to publish a magazine or newspaper which includes information on the approximately 50 Greek student organizations which are registered through the Office of the Dean of Students. It would contain articles about Greeks and Greek life written by students.
- 2) Encourage the umbrella organization for the Black Greeks to register as a student organization and become active on the campus again. It has been at least three years since National Black Panhellenic which serves both the fraternities and sororities has been registered through the Office of the Dean of Students. This organization was instrumental in previous efforts to open the lines of communication between majority and Black Greeks several years ago.
- 3) Ask the IFC and the Panhellenic Association to sponsor a mini workshop on Black Greek organizations based on the conference attended by Mary Rouse at Michigan State University last April. The conference was titled "Black Greeks in Predominantly White Universities" and was most informative. Perhaps a representative from one or more of the eight national Black fraternities and sororities could be invited. This event could start in an afternoon and include dinner.
- 4) Urge the IFC and the Panhellenic to host many more events such as exchange dinners with the Black Greeks. Since the latter groups do not have houses, their ranks are small and their budgets very limited, the majority Greeks need to take the initiative. At the same time, Black Greeks can invite majority Greeks to their social events which are frequently held in Residence Halls and the Unions.
- 5) IFC and Panhellenic must take a leadership role to end the discomfort Black students experience when they walk down Langdon Street because racist remarks are often called out to them. Even though majority Greeks constitute only 40% of the population on Langdon Street, it is viewed as the "Greek area." Greeks can play a critical role in improving the situation there.
- 6) Several years ago when serious attempts to establish communication among all Greeks were made, an all Greek Steering Committee was established. It consisted of 4 Greeks elected from Panhel and IFC and 4 from the National Black Panhellenic. This was a working group which usually included two advisors from the Office of the Dean of Students and Marian Laines from Residence Halls.



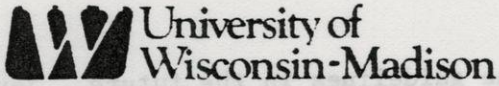
This group should be dusted off and reappointed or a similar group should be established. Perhaps an additional advisor could be found from the local Black Greek alumni or alumnae.

- 7) Work to establish an annual all Greek event. This could be a dinner, concert, program or other event to celebrate Dr. Martin Luther King, Jr.'s birthday every January or the Greeks could connect with the Martin Luther King Coalition in Madison which sponsors an annual march and event at the Civic Center.
- 8) The student organization registration form will be changed to include language requiring that all student organizations review their rituals, parties, traditions, et cetera to insure that they are not racist nor could have racist impact in the University community. This requirement will be clearly stated on the registration form signed by the organization representatives. After the registration has been approved, a letter from the Dean of Students reiterating the importance of organizations eliminating racist activities if they are to remain in status with the University will be sent out. The letter will also include suggestions regarding specific steps student groups can take to reach out to the minority student community.
- 9) Yolanda Garza and other staff are developing a workshop on racism in which student organizations can participate. All Residence Halls Housefellows will participate in these workshops during the fall semester.
- 10) The student group formed as a result of attending the slide show on racism produced by a young Danish man titled American Pictures will continue to meet. All student organizations need to get involved and show their support for this group.

May 1987

M. K. Rouse





University of  
Wisconsin-Madison

Office of the Dean of Students

117 Bascom Hall  
500 Lincoln Drive  
Madison, Wisconsin 53706  
608/263-5700

October 22, 1987

Glenn Thomas, President  
Phi Gamma Delta Fraternity  
16 Langdon Street  
Madison, Wisconsin 53703

Glenn:

On May 14, 1987 your fraternity was suspended as a registered student organization for displaying a racist caricature of a Fiji Island native on the front lawn of your property. This same sign board had appeared there every year for at least the last twelve to announce the annual Fiji Island Party, a tradition of some forty years. Black students called everyone's attention to it this year. As a result, the University community is now in a period of intense reexamination of racism.

The suspension of your group is the strongest sanction which the University can take against a student organization. On August 25, my predecessor, Paul Ginsberg, outlined five expectations for your fraternity in order to be reinstated on October 15, the date set forth for the suspension to be reviewed. On October 13, I received a letter from you requesting reinstatement. During the past week, I have carefully reviewed your letter, met with representatives from the Black Student Union (BSU), listened to the speeches at the Rally for Human Rights on October 15th and consulted with many other people including the Vice Chancellor and the Chancellor. My decision is to reinstate Phi Gamma Delta as a registered student organization effective today. Let me review the expectations set forth by my predecessor, Paul Ginsberg, in his letter to you dated August 25, 1987:

1. You were asked to adhere to the Phi Gamma Delta National Guidelines set forth by your own national headquarters in Lexington, Kentucky. Although these guidelines were published and distributed in January 1987, I was not aware of their existence until several weeks after your fraternity was suspended. When the Fiji incident occurred, you had been president just two weeks. Both you and your predecessor claimed that you had never seen the national guidelines until the national sent them after the incident. The surfacing of these guidelines clearly strengthened the University's case for suspension. However, let me add that the guidelines belong to the fraternity, not the University. My analysis of the conduct of student organizations must be based on University policies, rules, and regulations as well as local, state and federal laws. The fact that your national organization had urged abolition of the use of the caricature reinforces the general community objection to the program but does not affect the formal decision the University makes now about your status as a student group.



You have stated your intention to adhere to the guidelines in the future. Your intention to do so is supported by a letter to me from the Executive Director of your national organization dated September 29, 1987. In August you spoke to all the Phi Gamma Delta Presidents around the country at your annual leadership conference on this very subject, urging them to eliminate any racist practices or traditions in their programs. I hope you will encourage your successors to reiterate your remarks in this setting annually.

2. You were asked "to not involve the Chapter, and to take all reasonable steps to discourage and dissuade any member from being involved, in any incident of racism or racial/ethnic insensitivity," (former Dean Ginsberg's letter of 8/25/87). To date, I have received no reports, either formal or informal, to indicate that you have not met this commitment. How your fraternity will measure up in this area in the years to come must unfold with time.
3. You have scheduled a race relations workshop to be held at your House on October 26th through Assistant Dean of Students Yolanda Garza. The reinstatement of your fraternity will be contingent upon the successful completion of this program. University staff members will be there to observe and to insure that this commitment is met. Although it was my clearly expressed preference that the workshop be held prior to October 15th, it simply was not possible due to the other demands placed on the program organizers. We expect you to give serious consideration to building this kind of program into your pledge education program on an annual basis.
4. So long as your organization is suspended from the use of University facilities, it is impossible for you actively to support programs "on racism, ethnicity, breaking down of barriers, etc. sponsored and supported by IFC (the Interfraternity Council) Panhel (the Panhellenic Association)," (former Dean Ginsberg's letter of 8/25/87). Whether you meet this expectation, once again, will not be determined in a few days but rather in the months and years ahead. I have already given you a list of recommendations on this subject which I prepared last spring. I am enclosing the document again and expect that you will read it carefully and use it as a point of departure as you resume your role as a leader in the Interfraternity Council.
5. If there are any documented violations of these expectations by your group, the result will be suspension for an extended period of time. Up until this fall, our student organization registration form has not included an explicit rule that specifically prohibits racist behavior, traditions and practices in student organizations. Here is the precise statement to which all registered student groups are now held accountable as of August 24, 1987, the first day of registration, and must sign before their registration can be completed.

"Each student organization is responsible for insuring that its regulations, traditions, rituals, and sponsored events are free of discriminatory content. Programs or sponsored parties, for example, that clearly demean others on the basis of race, color, creed, sex, sexual orientation, disability, or national origin will be held as evidence of intent to discriminate in providing membership or service and will result in University sanctions against the sponsoring student organization."

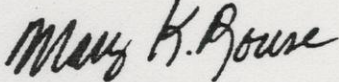
You must complete and sign the 1987-88 student organization registration form before your reinstatement is complete.



into your annual pledge education training. Inviting students of color to your house or attending multicultural events such as the Pow Wow on November 14 at the Memorial Union are examples of what all of us need to do now. To understand and appreciate the ever increasing cultural diversity among people in our world is a fundamental responsibility which all of us in this privileged community must assume. I will be monitoring your activities in race relations and expect you to meet with me at least once each semester.

Thank you for your cooperation during the past few months.

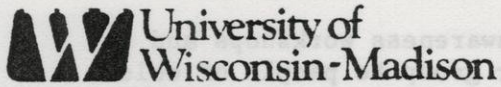
Sincerely,



Mary K. Rouse  
Dean of Students

cc: David L. Moyer, District Grand Master XVIII, Kappa Sigma Fraternity  
Mitchell B. Wilson, Executive Director, International Memorial Headquarters  
Chancellor Designate Donna Shalala  
Acting Chancellor Bernard Cohen  
Acting Vice Chancellor Phillip Certain  
Wisconsin Black Student Union  
Assistant Vice Chancellor Mercile Lee  
Associate Dean of Students Roger Howard  
Assistant Dean of Students Yolanda Garza





## Office of the Dean of Students

117 Bascom Hall  
500 Lincoln Drive  
Madison, Wisconsin 53706  
608/263-5700

October 22, 1987

Ted Jansen, President  
Kappa Sigma Fraternity  
124 Langdon Street  
Madison, WI 53703

Ted:

Last spring our office heard many rumors about a "Harlem" theme room which was part of an Around the World party hosted by your fraternity. Although I was unable to obtain any firsthand information about the details, I did discuss the matter with your predecessor, John Turnham. He acknowledged that such a party had, in fact, taken place and that a decision to eliminate it had already been made.

On June 2, another staff member and I interviewed a student who had attended an Around the World party in the spring of 1986. She described the "Harlem" room and said that she found it objectionable. In the room there were two or three individuals whose faces were painted black and who wore Afro style wigs; watermelon punch was being served; there was a basketball hoop and a boom box; a clothesline was strung across the room with clothes hanging on it, and fried chicken was being served.

The investigation of this complaint did not take place until registration week because the leaders of the fraternity were away for the summer. When you were contacted by mail, you and other Kappa Sigmas promptly made an appointment with Associate Dean Howard and me. We discussed the 1986 party and your account did not differ substantially from the student's. You also acknowledged that you had a similar party in 1987. Even though we have not received a complaint about it, you know that we will not tolerate the continuation of this practice. We agreed that the "Harlem" room was racist and had had racist impact. You indicated that the fraternity was already aware in the spring that this theme room was insensitive, inappropriate and racist and had already been eliminated. You also indicated that this theme room and others had been set up without specific approval of the officers or general members of the fraternity. To have any party sponsored by the fraternity and not be aware of any of its activities you admitted was irresponsible. At the same time, you indicated your willingness to participate in the race awareness workshops this fall on a voluntary basis.

A few weeks after the semester began, the Black Student Union and one of the co-presidents of the Wisconsin Student Association requested a meeting with the Kappa Sigma leaders as well as an account of our investigation of the 1986 party. On October 5, this meeting was held. At the meeting you agreed on behalf of the fraternity to take several remedial steps: to publicly apologize for the "Harlem"



room, to arrange for the fraternity to attend race awareness workshops and to volunteer time in a project which would connect your group to people of color. Your public apology was quick in coming and was published in its entirety by some newspapers. You had already made arrangements to have a race awareness workshop at your house on November 2. An earlier date was not possible due to the demands placed on the workshop's organizers. You indicated your willingness to take the request for community service back to your general membership with the probable outcome being favorable. Since that meeting, I understand that a plan has been worked out. In addition, you and several alumni, including your Grand Master XVIII of this region, met with Vice Chancellor Certain and me to express your regrets about the incident and your intentions for the future with regard to racism.

I have reviewed all the facts and circumstances regarding this incident, as well as the overall record of your fraternity in recent years, and I do not intend to take any University disciplinary action against the Kappa Sigma Fraternity at this time. The incident about which we have a specific description occurred a year and a half ago. Although the fraternity must accept responsibility for such a sponsored event, the offensive display in this incident was the work of a few members of the group in their own room rather than the result of a general fraternity programming decision. There is now a different set of officers and the group includes new members who were not involved in any part of the incident. You and the other officers and alumni leaders of the fraternity have expressed your regret, have apologized to the community and have committed yourselves to insuring that no such racist display occurs again in any part of an event sponsored by the fraternity. Under these circumstances, disciplinary action by the University would serve no positive purpose.

As you know, this fall we notified all registered student groups that the University will take sanctions in the future against student groups sponsoring racist programs that discriminate unlawfully against other members of this community. The rule states that:

"Each student organization is responsible for insuring that its regulations, traditions, rituals, and sponsored events are free of discriminatory content. Programs or sponsored parties, for example, that clearly demean others on the basis of race, color, creed, sex, sexual orientation, disability or national origin will be held as evidence of intent to discriminate in providing membership or service and will result in University sanctions against the sponsoring student organization."

I am pleased by your expressed commitment to become a leader in race relations efforts on the Interfraternity Council. At the same time, I am aware that the verdict, so to speak, on your group will be out for some time. By that I mean that your actions in the months and years ahead will determine the sincerity of your words about this party and your commitment to work toward eliminating racism.

As the new Dean, I have found this complex issue a challenging one. Everyone has a strong opinion as to what the outcome ought to be. I am trying to start a new chapter in race relations among student organizations on campus. It is my strong belief that the climate for change is more open and receptive than it has been for many years. The real issue for all of us is racism in the University community and how quickly we can respond with healthy, positive changes. I want to move forward in the spirit created by students of color last spring at the forum in Great Hall.

There are lots of ways to move forward and our staff is prepared to help you. We have already discussed some ideas such as incorporating race awareness programs



Office of the Dean of Students

117 Bascom Hall  
500 Lincoln Drive  
Madison, Wisconsin 53706  
608 263-5700

RECOMMENDATIONS ON RACE AWARENESS FOR STUDENT ORGANIZATIONS:

- 1) Encourage the Interfraternity Council, the Panhellenic Association and the National Black Panhellenic, the umbrella organizations for all Greek groups, to publish a magazine or newspaper which includes information on the approximately 50 Greek student organizations which are registered through the Office of the Dean of Students. It would contain articles about Greeks and Greek life written by students.
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This group should be dusted off and reappointed or a similar group should be established. Perhaps an additional advisor could be found from the local Black Greek alumni or alumnae.

- 7) Work to establish an annual all Greek event. This could be a dinner, concert, program or other event to celebrate Dr. Martin Luther King, Jr.'s birthday every January or the Greeks could connect with the Martin Luther King Coalition in Madison which sponsors an annual march and event at the Civic Center.
- 8) The student organization registration form will be changed to include language requiring that all student organizations review their rituals, parties, traditions, et cetera to insure that they are not racist nor could have racist impact in the University community. This requirement will be clearly stated on the registration form signed by the organization representatives. After the registration has been approved, a letter from the Dean of Students reiterating the importance of organizations eliminating racist activities if they are to remain in status with the University will be sent out. The letter will also include suggestions regarding specific steps student groups can take to reach out to the minority student community.
- 9) Yolanda Garza and other staff are developing a workshop on racism in which student organizations can participate. All Residence Halls Housefellows will participate in these workshops during the fall semester.
- 10) The student group formed as a result of attending the slide show on racism produced by a young Danish man titled American Pictures will continue to meet. All student organizations need to get involved and show their support for this group.

May 1987

M. K. Rouse



*Minority  
Group  
Anti  
Jewish*

From the University of Wisconsin-Madison / News Service, Bascom Hall, 500 Lincoln Drive, Madison 53706 / Telephone: 608/262-3571

Release: Immediately

5/21/87

CONTACT: Paul Ginsberg (608) 263-5700

## FRATERNITY NOT HELD LIABLE FOR "RACIST" PARTY

MADISON--Sigma Alpha Epsilon (SAE) fraternity will not be held responsible for a "racist" party held off-campus on the birthday of Martin Luther King, Jr., University of Wisconsin-Madison Dean of Students Paul Ginsberg said Thursday (May 21).

No discipline will be imposed, Ginsberg said, because his office found upon investigation that the fraternity did not plan, sponsor or promote the party.

Ginsberg will interview a number of students who attended the event about reports of racist remarks and behavior. Because the party occurred off campus, Ginsberg said his office is limited in taking disciplinary action even against individuals who attended. However, he said, the students would be questioned and counseled about their behavior at the event.

"The apartment where the party was held was the home of four SAE members," Ginsberg said, "Some, but not all, of the people who attended were members of SAE. However, we found no basis for calling this party an officially sponsored SAE event. It was not planned or advertised by the fraternity, and fraternity funds were not used."

Ginsberg launched the investigation after receiving reports that the party had been held, that those attending brought fried chicken or watermelon to gain admission and that some there had ridiculed and insulted blacks.

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*Minority  
Group  
Fund*

Release: Immediately

5/6/87

## ANGER OVER RACISM BRINGS THE UNIVERSITY TOGETHER

by Linda Weimer  
University News Service

MADISON--Michael Boykins sat quietly, attentively, in the crowded, emotionally charged atmosphere of Memorial Union's Great Hall Tuesday night. Since he enrolled at the University of Wisconsin-Madison four years ago, Boykins had been waiting for some public show of concern for the plight of minority students.

Like the university's 693 other black students, Boykins, an economics major, is troubled by the relative scarcity of blacks and other minorities on campus. And he is disturbed by the racist treatment minority students sometimes receive.

He came to a forum, organized by the Black Student Union (BSU), to hear black students talk about their experiences and expectations of the university, and to see what university administrators propose to do about them.

On a campus famous for its heated confrontations, the forum proved to be a "coming-together." In an hour's time, some 800 minority students, fraternity and sorority members, faculty, staff, other students and administrators turned what might have been a hostile and tense meeting into one that promised changes for the better and a sense of working together.

At the forum, prompted by a recent racial incident involving the Phi Gamma Delta Fraternity, the rhetoric was hot, but the audience remained cool.

"Racism, deliberate or unintended, is rampant at UW-Madison and will be tolerated no longer," said BSU co-president Geneva Brown as she opened the



Add 1 -- Black student forum

dialogue with university administrators.

The fraternity incident (in which a giant cartoon image of a black Fiji Islander was erected as part of an annual theme party) was "indicative of what blacks on the campus encounter every day," she said. It was "a mockery of black people, and a mockery of black people is a mockery of all people."

Paul Cinsberg, dean of students, told the gathering his office is investigating the weekend incident and will share its findings next week. After that, his office will make a decision on the status of the fraternity.

Ginsberg also addressed allegations that a campus fraternity had held a "nigger party" on Martin Luther King's birthday, saying his staff had been unable to track down any proof that such an incident occurred and asking that students come forward if they had any first-hand knowledge of it.

"If that kind of event took place, that organization will be barred from this university," Ginsberg told the cheering crowd.

But participants agreed that the main focus of concern is the steep decline in black enrollment, mirrored at colleges across the nation, and the treatment of blacks in a largely white environment.

"I like the way people are coming together to talk about it," said Boykins, a former Badger football player who will enter UW Law School in the fall. "I'm glad to see something constructive being done."

"Despite good intentions, the university has failed to recruit and retain minority students," said Vincent Barnes, a law student. Noting a 19 percent decrease in black enrollment since 1980, he made several recommendations and requests of the university on behalf of the students.

The black student group recommended a centralization of minority recruitment efforts. Now scattered around the university, these programs are largely the province of individual schools and colleges. Barnes also called for more financial support for the recruitment program, and more systematic



Add 2 -- Black student forum

tracking of the progress of UW-Madison's minority students. He also advocated more involvement by minorities in the recruiting process.

Black students also want a committee established for minority grievances, a multicultural center, an increase in minority faculty and staff, mandatory orientation sessions for new black students on campus, staff and student recruitment and retention reports and a requirement that all College of Letters and Science and School of Education majors take at least one ethnic/cultural study course.

Acting Chancellor Bernard Cohen, a participant in the forum, said he was quite receptive to all of the proposals, but that such efforts must be established through the existing channels of what is a large and decentralized university.

Asked if things would get better, Cohen replied, "I hope so. I can't promise anything. It will take one hell of a lot of work from all of us."

He expressed disappointment at the university's black recruitment record, saying he hoped the audience, while "questioning our achievement, won't question our dedication.

"This is a complex institution, and I can't wave a magic wand and solve all these problems myself," Cohen said.

Ginsberg, when he was asked if conditions would improve, said, "I am more inclined to say 'yes,' now than I was an hour ago. There's been a coming-together here; I feel optimistic."

Cohen echoed the sentiment. "I am really quite pleased at this; it is the start of something constructive and useful."

At the forum's conclusion, Rita Vernon, a junior majoring in journalism, said, "Tonight is the beginning of the end; an end to denying that racism exists, and an end to political liberalism mixed with personal conservatism."

"I think changes will be made," said Michael Boykins. "I was impressed with everyone who participated, and I think this shows that minorities want to work with the university in a non-hostile way."

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-- Linda Weimer (608) 262-6843



DONNA E. SHALALA, CHANCELLOR  
UNIVERSITY OF WISCONSIN-MADISON  
NOVEMBER 14, 1988

*Minutes -  
Groups -  
Final  
Products*

We accept the decision of the Committee on Student Organizations. The committee, operating for the first time and under extraordinary pressure, performed a difficult task in an extremely responsible manner. The committee deserves the thanks of the entire university community.

Despite the pressures to take some quick punitive action against the Zeta Beta Tau fraternity for its insensitive and irresponsible behavior, the university stayed the course of due process. The committee fulfilled its charge, carrying out a thorough investigation under the new guidelines established for review of student organization conduct.

Now that we have reached the end of the formal disciplinary process, I am free to share my thoughts about this incident and, more broadly, about what it signals about our progress in confronting racist and sexist behavior at UW-Madison.

Some have described the vociferous critics of the fraternity as supersensitive, and feel that the ZBT "slave auction" incident was blown out of proportion. I do not agree. Using slavery as a basis for humor should be offensive to every American. Slavery was a system that destroyed cultural identity, broke up families, and deprived people of human dignity. Any reading of world history, and the history of many ethnic groups as well as women's history, should explain why the insensitive mimicry of slavery should enrage us all.

Some may feel that this recent incident and the protests it engendered prove a lack of progress in making this campus a place where all people are welcomed and respected. I believe the opposite is true. In fact, what it means is that insensitive behavior that has been taken for granted for many years is now unacceptable, and that we are, at last, willing to confront it.

That is characteristic of a great university. I find it very encouraging and feel it will make this campus attractive to increasing numbers of minority students, faculty and staff. We welcome them. There may be more difficult times ahead -- but we will not give up. We must reinvigorate our education efforts in our elementary and secondary schools as well as in our universities. What is at stake is the kind of university we are, and the kind of community we intend to be.

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# UNIVERSITY OF WISCONSIN-MADISON



VICE CHANCELLOR FOR ACADEMIC AFFAIRS  
Bascom Hall • 500 Lincoln Drive  
Madison, Wisconsin 53706  
608-262-1304

May 14, 1987

Mr. Glenn Thomas, President  
Phi Gamma Delta Fraternity  
16 Langdon Street  
Madison, WI 53703

*Ministry  
Growth  
Fraternity*

Dear Mr. Thomas:

After reviewing all of the information surrounding the recent "Fiji Island" party sponsored by the Phi Gamma Delta fraternity, including your letter of explanation, we have determined that disciplinary action is required to underscore the seriousness of the racial insensitivity demonstrated by the fraternity and to make it clear that racism is unacceptable at the University of Wisconsin-Madison.

This decision has not been made lightly. We are encouraged by the positive approach that the Black Student Union has taken in articulating their feelings of non-acceptance in the university community, and pledging their support of efforts to build a better community for people of all races and ethnic backgrounds. We are also encouraged by the statements made by the Interfraternity Council and the Panhellenic Council. No one wishes to foster a divisive atmosphere.

We do appreciate that most members of Phi Gamma Delta had no racial intent in their party, that such parties may be typical of chapters across the country, and that they have publicly expressed their apologies to the entire community. But our statements about racism would be meaningless if we were to pay no further attention to the unintended messages that were communicated by such an event. Consequently, I have directed that the status of Phi Gamma Delta fraternity as a registered student organization be suspended until October 15, 1987. Its status will be reviewed at that time, taking into account the following factors:

- 1) A commitment by the fraternity to sponsor no longer an annual "Fiji Island" party.
- 2) An absence of incidents of racism, discrimination, and demeaning behavior committed by the fraternity toward the minority community.
- 3) Active participation by the fraternity in programs that are developed in the University community to strengthen and foster better relations among the races and the importance and significance of ethnicity.
- 4) Leadership of the Mu Chapter within the national Phi Gamma Delta fraternity to eliminate the practice of "Fiji Island" parties and themes.



The loss of registered student organization status means that Phi Gamma Delta is denied the following University privileges:

- 1) Use of the University of Wisconsin-Madison name in conjunction with your organization.
- 2) Access to University student mailing labels.
- 3) Access to University facilities.
- 4) Participation in the University Recreational Sports Program under the Phi Gamma Delta name.
- 5) Participation in other University registered student organizations as an official member such as the Interfraternity Council.

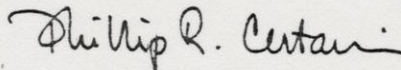
This action does not affect the access to the University of the individual members as students, and it does not affect the ownership or occupancy of its house on Langdon Street.

Some may say that there are other acts of racism or racial insensitivity in the University community, and question whether the Phi Gamma Delta fraternity should be singled out. To the extent such acts do exist, the disciplinary actions taken today are meant to be a clear statement that they will not be tolerated.

We will be working actively on this matter over the summer, and expect that during the fall semester Phi Gamma Delta will be reinstated, and we will have made important steps toward a campus community where all people can walk with dignity.

Let me add that copies of this letter are being sent to your national headquarters and to the local alumni advisory board president.

Yours sincerely,



Phillip R. Certain  
Acting Vice Chancellor  
for Academic Affairs

xc: Bernard C. Cohen, Acting Chancellor  
Paul Ginsberg, Dean of Students  
Mary Rouse, Assistant Dean of Students  
William Martin III, Exec. Dir., Phi Gamma Delta International Headquarters  
Richard Pearson, President, The Fiji Building Association  
Matt Fricher, President, Phi Delta Theta Fraternity