

# **DANGEROUS STUDENT BEHAVIOR**

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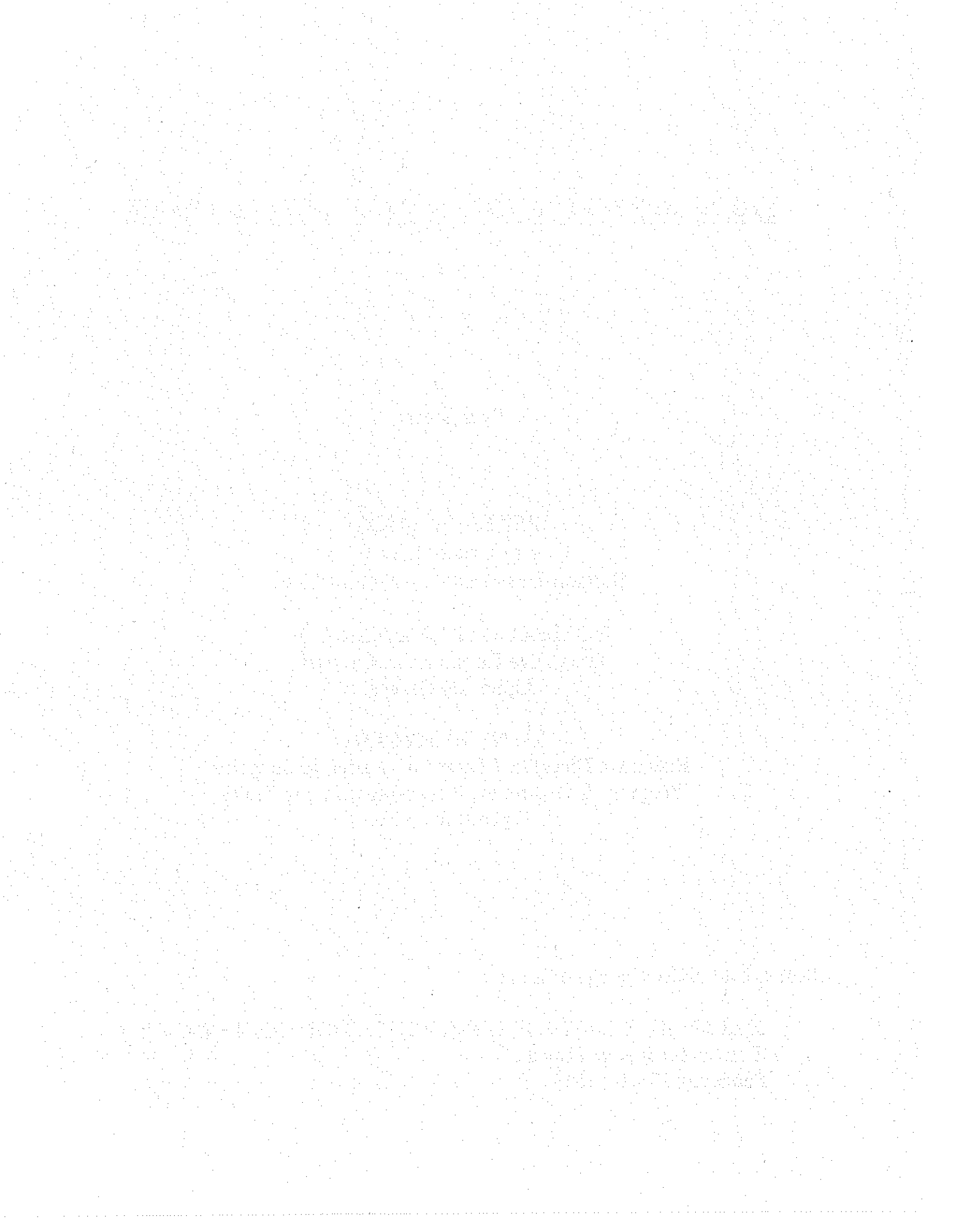
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**“Dangerous Student Behavior”**

## “Dangerous Student Behavior”

### L Introduction

High risk drinking, hazing and other dangerous student behavior continue to generate a number of lawsuits involving colleges, universities and fraternities. The case law has emerged from periods of *in loco parentis* and the college-as-bystander-rule.<sup>1</sup> Recent case law, however, has created some concerns and some confusions regarding what the future will look like. On the one hand, in an attempt to regulate student behavior, universities may return to a period of *in loco parentis* by recreating strong command and control norms regulating student behavior; on the other, universities may begin to distance themselves from student life further and further, moving down the road of distance learning models.

Fundamentally, the new cases raise critical questions about the type of community or communities that we build at modern colleges: the law alone cannot be an architect for what the modern university will look like, it is simply a factor in this process. Colleges and universities should consider the merit of returning to their roots and examining the core values of a true living and learning community. The loss of community and attempts to recreate community in America have been the subject of significant writing and research outside the higher education field. In *Bowling Alone*, Robert D. Putnam documents the collapse and revival of American community and points us in directions of how to recreate civic life in modern communities.<sup>2</sup> Americans do not feel responsible for or accountable to each other. These values are evident in

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<sup>1</sup> See ROBERT D. BICKEL & PETER F. LAKE, *THE RIGHTS AND RESPONSIBILITIES OF THE MODERN UNIVERSITY: WHO ASSUMES THE RISKS OF COLLEGE LIFE*, (Carolina Academic Press 1999).

<sup>2</sup> See ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY*, (Simon & Schuster 2000).

the microcosm of a campus community. Two important developments seem to be happening simultaneously that are important for university attorneys to recognize in the process of dealing with dangerous student behavior. First, Greek organizations, organizations that emphasize the value of community, have found themselves increasingly emphasizing ethics and values in the missions of their organizations in a way to reduce injury and increase civility and performance.

As Allegra Wiles writes:

Recent times have found fraternities and sororities on college campuses beginning initiatives to bring about a cultural change. At the forefront, hazing and binge drinking have become significant drawbacks to Greek life, leading to the complete abolishment of fraternities and sororities on some campuses. The notion that members of Greek organizations should be devoted to academic excellence, personal growth, character development and ethical behavior – the qualities which they were founded on – has taken a backseat . . . as a result more and more organizations are placing their priorities back on the ideals of the founding principles of fraternities and sororities. Perhaps by embracing ethics and values, Greek organizations will be able to reclaim the highest respect they once enjoyed.<sup>3</sup>

Second, a developing trend in higher education is to put emphasis generally on a return to academic integrity fostering certain key values at the core of the academic mission. Academic integrity issues lend themselves well to providing a concrete means of promoting individual character development on campus. As one might imagine, this concept reaches well beyond the notion of “thou shall not cheat.” Fundamental values of academic integrity can be stated as including values of honesty, trust, fairness, respect, and responsibility. As a report from the Center for Academic Integrity in October of 1999 stated:

[A]cademic integrity is essential to the success of our mission as educators. It also provides a foundation for responsible conduct in our student’s lives after graduation. The Center for Academic Integrity, a consortium of over two hundred colleges and universities, seeks to encourage campus conversations about this vital topic. Since 1997, the Center has made its home at Duke in affiliation with [the] Kenan Ethics Program. [I]t can be difficult to translate values, even widely-shared values, into action – but action is badly needed now to promote academic

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<sup>3</sup> Allegra Wiles, *Can Ethics and Values Take Center Stage in Greek Life?*, ETHICS TODAY, Vol. 7, No. 1, Fall 2000.

integrity on our campuses. Researchers agree that rates of cheating among American high school and college students are high and increasing.<sup>4</sup>

This outline explores the intriguing possibilities that an interplay between the reassertion of community and community values in Greek organizations and a resurgence of and emphasis on academic integrity play a central role – not a satellite-role – in the creation of safer campuses and the reduction of dangerous student behavior.

## II. Legal Rules Facilitating the Collapse of Community and Shared Values

The outflow of cases like *Beach*, *Bradshaw*, and *Rabel*, was that the university increasingly distanced its academic mission from student life.<sup>5</sup> *Beach*, *Bradshaw*, and *Rabel* all put emphasis on the fact that dangerous student conduct, particularly as it related to alcohol culture, was beyond the purview of a university which was not in a custodial but so-called educational role. The case law birthed an image of modern universities divided deeply between two missions: on the one hand the university was to provide academic and educational values, and on the other hand it was to be loosely associated with student life. Intriguingly, the seventies and the eighties saw a very large period of growth in the student populations, in Greek organizational structure and size, and the rise of modern student personnel administration. In many ways, we were creating two communities that were living symbiotically but distantly. The 1980's also saw critical development in university law when beginning with *Ballou v. Sigma*

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<sup>4</sup> Nannerl O. Keohane, President, Duke University, *A Report from the Center for Academic Integrity*, October 1999 (unpublished document).

<sup>5</sup> We take it for granted at this session that the participants are familiar with seminal cases of *Beach*, *Bradshaw*, and *Rabel*. See *Beach v. The University of Utah*, 726 P.2d 413 (Utah 1986); *Bradshaw v. Rawlings*, 612 F.2d 135 (3d Cir. 1979, *cert. denied*, 446 U.S. 909, 1980); *Rabel v. Illinois Wesleyan University*, 514 N.E.2d 552 (Ill. App. Ct. 1987). Bickel and Lake often refer to these cases as the seminal cases of the so-called “bystander” era, an era in university law which courts attached significant emphasis to key features of Tort Rescue Doctrine that indicated that a duty to students was owed only under special circumstances. See footnote 1.

*Nu*,<sup>6</sup> the courts began to identify high risk alcohol behavior and other drug problems with Greek organizations. Following *Ballou v. Sigma Nu*, courts would typically say that although the university was not responsible for injuries to students arising from dangerous student behavior including hazing, alcohol poisoning, trampoline injuries, etc., Greek organizations (particularly local chapters of Greek organizations) were responsible.<sup>7</sup> The trend in the case law has continued virtually unabated into the 1990's, and in fact may even be accelerating rapidly.<sup>8</sup> Moving into the 1990's, the modern university was confronted with legal rules that typically identified high risk alcohol behavior and many forms of dangerous student behavior with the individual responsibility of students and/or the organizations that they chose to join. Students found themselves coming together for academic programs but typically found themselves 'bowling alone' as they pursued their student life.

### **III. Emerging Caselaw Facilitating Notions of Shared Responsibility**

Evolutions in scientific theories to manage dangerous student behavior have been coupled with parallel legal decisions which seem to support the scientific literature. Prior to the 1990's, the principle objective of those whose job it was to fight dangerous student behavior patterns, particularly those in prevention areas involving alcohol and other drugs, was oriented around notions of individual responsibility and education. The thinking was that the way to reduce dangerous patterns would be through targeting individual choices and educating students regarding consequences of those choices. By the 1990's, it was apparent that those strategies

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<sup>6</sup> 352 S.E.2d 488 (S.C. Ct. App. 1986).

<sup>7</sup> See, e.g., *Haben v. Anderson*, 597 N.E.2d 655 (Ill. App. 1992).

<sup>8</sup> See e.g., *Delta Tau Delta v. Johnson*, 712 N.E.2d 968 (Ind. 1999); *Oja v. Grand Chapter of Theta Chi Fraternity, Inc.*, 255 A.D. 2d 781 (N.Y. App. Div. 1998); *Estate of Hernandez v. Board of Regents*, 866 P. 2d 1330 (Az. 1994).

were not sufficient (remember, of course, they are still critically important). Social science began to move to new ideas of environmental management and so-called social norming. The principal ideas are that to manage dangerous student behavior one must focus not just upon individual choices, but also on the greater context of the environment in which those choices are made. Moreover, the social norming notion brings out the idea that the perceptions that students have of their environment may drive behavior patterns in the environment. Researchers have found, for example, that students often over-estimate the danger behaviors of their peers and act out in dangerous ways under the impression that their behavior is both normal and accepted in the community.

The new social science ideas have been complemented by recent cases which have begun to shift the notion that the university is a bystander to student life. In what might be the single most important university decision in the year 2000, the Florida Supreme Court in *Nova Southeastern University v. Gross*<sup>9</sup> unanimously determined that a graduate student was owed a duty of reasonable care by her university with respect to her physical security in an off campus internship. In that case, the student did not cause her own injury – she was attacked in a parking lot by an assailant. Yet, the reasoning of the court was highly instructive for all student injury cases. The Florida Supreme Court made an overt connection between the academic program the student was participating in and the responsibility for safety in the context of that academic program. The court held that Nova “had control over the students” to the extent that it required students to complete a practicum and assigned them to a specific location. The Florida Supreme Court reasoned that when a university sets up a program – an academic program – it assumes a so-called Hohfeldian correlative duty of acting reasonably in creating the program. The court

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<sup>9</sup> 2000 WL 329234 (Fla. 2000).



instinctively acknowledged that the creation of an instructional environment is more than just an academic exercise in many cases, but also involves the conditions of student safety that make learning possible. The *Nova* case also went a great distance in reimagining boundaries between academics and physical danger. *Nova* reasoned that students exist not so much in a landscape but in a riskscape which follows them through their environment, wherever it may be.

The closely divided decision in *Garofalo v. Lambda Chi Alpha Fraternity & Lambda Chi Alpha University of Iowa Chapter*,<sup>10</sup> is likewise instructive. In that case, the Iowa Supreme Court was forced to consider a wrongful death action brought against a local and national fraternity involving the death of a nineteen-year-old pledge as a result of his own uncoerced drinking of excessive amounts of alcohol. The university was not a defendant. By operation of law, the wrongful death case was dismissed against both the local and national chapter. In voting to not hold the national fraternity responsible, the judges pointed out (citing *Beach* and *Bradshaw, inter alia*) that the national chapter was not in control of particular activities of the local. However, with respect to the local chapter, the judges split equally on the issue of local chapter responsibility and by operation of law the lower court decision exonerating the local chapter was upheld. In short, the case was functionally a draw and it will remain to be seen in the future whether the Iowa Supreme Court will tip one way or another as new issues arise. The discussion between the judges is exceedingly instructive in terms of images of dangerous student behavior, particularly how it may arise in Greek life. On the one hand, the student who died was not a freshman uninitiated in high risk alcohol culture, but was in fact a frequent drinker who, by reports on the case, engaged in excessive consumption of alcohol by his own device. Moreover, it was apparent to many that the individual student fully understood the effects of large

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<sup>10</sup> 616 N.W.2d 647 (Iowa 2000).

consumption of alcohol and may even have been one of the individuals who typically facilitated, or attempted to facilitate, high risk drinking by others. In short, some of the judges did not see the nineteen-year-old pledge in the *Garofalo* case in a similar light to Scott Krueger at MIT.<sup>11</sup> On the other hand, some of the judges were concerned that the events surrounding the death of the student were related to a fraternity local chapter organized event and that there was a nexus between the behavior of the chapter and the student's high risk alcohol use.

This discussion is particularly instructive because it illustrates some key points about how courts are beginning to reimagine high risk student behavior and how to combat it. The judges all seemed to believe that had consumption been coerced in some way, then responsibility could flow. However, some of the judges were also concerned that short of overt coercion, the creation of an environment which fostered high risk use may itself be a problem. *Garofalo* will be recognized as a case which establishes that coercive environments will be the subject of legal responsibility; but even more so, some will cite to opinions of some of the judges to the effect that a nexus between an activity which fosters, facilitates and engenders high risk use may also be sufficient to create responsibility. However, it is worth noting also that the Court's use of *Beach* and *Bradshaw* may well indicate that the Iowa Supreme Court is still ensconced with the general position of the bystander cases and may not reach quickly to impose environmental type responsibilities on universities.

Three cases from 1999 remain worth watching in the years to come. The first is *Coghlan v. Beta Theta Phi Fraternity*.<sup>12</sup> In that case, the Idaho Supreme Court was forced to consider a situation when a college freshman was injured as a result of her own voluntary intoxication after attending several alcohol related Greek functions. The Idaho court refused on social policy

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<sup>11</sup> See THE CHRONICLE OF HIGHER EDUCATION, September 29, 2000, A49.

<sup>12</sup> 987 P.2d 300 (Ida. 1999).

grounds to impose a general duty to aid or protect adult students with respect to risks associated with their own voluntary choices, particularly intoxication. However, the Idaho court did point out that the university will be responsible when it assumes a duty to prevent unreasonable risk. On first blush, the *Coghlan* case may seem to be nothing more than an outflow of the *Beach*, *Bradshaw*, and *Rabel* cases which seem to say that the university was a bystander to student conduct only to the extent that it chose to intervene. However, in the *Coghlan* case, the kinds of things that the university did that created duty would be the types of relations that a typical residential college would have in many ways with many types of student behaviors. In short, it is unlikely that a residential college could maintain its texture and context without doing the kinds of things that courts such as *Coghlan* would view as “assumption of duty.” For example, in the *Coghlan* case, university employees were present to provide supervision at a party attended by the student and those employees had knowledge, or should have had knowledge, of the dangers that were taking place. Again, it is unlikely that even in an unattended event that the university might be entirely unaware of foreseeable danger and also there may be similar action by university employees which could potentially create such ‘assumed duty.’

The next case from 1999 that will be much discussed is *Lloyd v. Alpha Phi Alpha Fraternity & Cornell University*.<sup>13</sup> In that case, a student involved in fraternity hazing brought suit against Cornell University regarding the injuries sustained. In a lengthy decision the court elected to find that Cornell University was not responsible for the student’s injuries. The facts, however, were somewhat unique and interesting and may underscore the need for environmental management in modern universities. In that case, the student in question came to health services on several occasions seeking medical treatment and misrepresented the cause of his injuries.

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<sup>13</sup> 1999 U.S. Dist. Lexus 906 (No. Dist. NY 1999).

Later, the student acknowledged that the injuries were caused as a result of hazing. The *Lloyd* court pointed out that where the university has actual or constructive knowledge of a dangerous behavior pattern such as fraternity hazing, it has a duty of reasonable care to act to prevent such injury. However, where the student chooses to misrepresent the source of injuries and the university has no independent way to become aware of the nature and source of the injury, a court may be willing, as the *Lloyd* court was, to permit the university to defer engaging in undifferentiated speculation about the possibility of dangerous behavior. Although *Lloyd* did not impose legal responsibility on the university, the case points out conditions under which universities may become responsible regarding dangerous student behavior. Foreseeability of danger is an important determinant in determining responsibility.<sup>14</sup>

In many ways, the Supreme Court of Nebraska came to a similar vision in *Knoll v. University of Nebraska*.<sup>15</sup> In that case, the Supreme Court of Nebraska determined that a student who received serious injuries in a hazing abduction scenario could successfully allege that the university owed a duty of reasonable care under a landowner duty theory, even when the injuries occurred off campus. In that situation, the student alleged that he was forcibly abducted from university premises to a fraternity house and then handcuffed and given large amounts of alcohol leading to a falling injury when he attempted to escape. The court reasoned that a landowner, such as the University of Nebraska, becomes liable for foreseeable actions of third parties which pose unreasonable risks to invitees, even when those foreseeable actions may occur off premises and transport onto premises, or begin on premises and transport off. In applying the totality of the circumstances test, the *Knoll* court acknowledged that a landowner assessing the

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<sup>14</sup> See *Morrison v. Kapha Alpha Si Fraternity, et. al.*, 738 So. 2d 1105 (La. App. Ct. 1999). In *Morrison*, the Louisiana Appellate Court determined that although a university has no general duty to supervise student organizations actual knowledge of specific danger from a fraternity does create a duty to monitor further behavior.

<sup>15</sup> 601 N.W.2d 757 (Neb. 1999).

responsibility to protect invitees on land must look to the fact that risk transports on and off premises and also can occur near premises in ways that create danger to entrants on premises. One of the critical outflows of the *Knoll* decision is the continuing breakdown of the geographical sense of risk and responsibility. As the modern campus expands and students engage in organizational activities that are not physically present on land owned or operated by a university, these issues become more manifest.

#### **IV. An Emerging Emphasis on Fundamental Values, Community and Responsibility**

Among the implications of the new cases, including the notable settlement in the Scott Kruger case at MIT, are that universities and organizations associated with universities, such as Greek organizations, now see themselves very much on the same liability playing field. Incidents which arise in association with organizations may well trigger responsibility of individuals and associations and the universities simultaneously. This has drawn new attention to the idea that shared responsibility is a critical norm in managing environmental risk factors. What is noteworthy is that we have now seen developments both in Greek organizations and in the academic community more generally to bring an emphasis on fundamental values and to get a return to the root values of the organizations formed in other eras.

Greek organizations, for example, have found that certain so-called solutions have not been sufficient to reduce risk. Further, despite the abolition of alcohol from chapters, there are still incidents involving students who become inebriated and become injured. For example, in 1999, a student at the University of Michigan became inebriated and fell out of a window after attending a party that supposedly was an alcohol-free fraternity event. Perhaps even more significantly, Greek organizations have suffered a decline in membership as well as in public

perception. According to the Center for Fraternity and Sorority Life at San Diego State University, membership declined from 400,000 approximately in 1990 to approximately 280,000 in 1999.<sup>16</sup> In an interview with the Chronicle of Higher Education, David L. Westol, Executive Director of Theta Chi Fraternity stated “we need to get back to what we once were – a group of men and women brought together by values and ideals.”<sup>17</sup> As Allegra Wiles points out, “the return of values has appeared on several discussion agendas among national fraternities and sororities, and many have developed programs such as the “Balanced Man Project” and the “Men of Principle,” which focus on the ethical behavior and values of its members. The idea of maintaining a high ethical standard and a focus on engendering similar values between members is once again becoming a priority of Greek organizations. Traditionally, the fundamental basis of membership in a Greek organization is based on an individual adherence to high standards.”<sup>18</sup>

The reformation of Greek organizations around new values – should we say old values returned – is not simply hollow rhetoric nor collateral to the issue of danger. Indeed, the reformation of values is critical *to recognizing that Greek life is not simply student life outside of the academic community but is integral to the overall academic program.* Increasingly, scholars and educators and even the courts see that the texture of student life and the values that it expresses have an impact not just on student safety but also on the academic mission of the university which is in turn tied back to a safe learning environment.

Simultaneously, universities are beginning to refocus on fundamental values. Institutions of higher education and society generally will benefit from the promotion of high standards of integrity in the academic environment that provide the context for both vibrant academic life,

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<sup>16</sup> See Allegra Wiles, *supra*.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

scholarly progress and responsible citizenship. Intriguingly, institutions of higher education often do not define academic integrity nor do they choose to commit expressly to a concept of academic integrity. One of the more typical paradigms that seems to be out there is that when academic integrity is a mission of the school it may be that the school will list behaviors that are prohibited or excluded as opposed to focusing in on the positive aspects of identifying key values and behaviors that should be promoted. The Center for Academic Integrity at Duke defines academic integrity as “a commitment, even in the face of adversity, to define fundamental values: honesty, trust, fairness, respect, and responsibility.” As to the value of honesty, an institution of higher education embraces the value of honesty when it advances the quest for truth and knowledge by requiring conditions in which there is honesty in learning, teaching, research, administration, and service. Dishonesty finds its most obvious moments at times when students engage in the deplorable acts of cheating, fraud, theft and other behaviors that undermine the rights and welfares of the community and destroy the work of academic degrees. Honesty also plays itself out in relationship to the safety aspects of student behavior as students may find it difficult to share, in an honest way, their experiences with others in a way that could prevent or deter injury. Indeed, policies and procedures may actually cultivate a culture of dishonesty by encouraging students to lie, obfuscate or otherwise not share information in a forthright way, undermining the very academic mission of the university on this key value.

- In what ways do faculty administrators, campus police and others develop honesty and integrity?
- What are some positive ways to improve honesty that cultivate this academic value?

An academic community also seeks to engender a climate of mutual trust. The exchange of ideas in a free and open way enables everyone in the community to reach their highest potential. Consistent honesty tends to breed trust and also is promoted by a university which sets clear guidelines both for expectations and evaluations. Clear and consistent policies engender a community of trust. So often in dealing with high risk and other forms of dangerous behavior campus communities may inadvertently create conditions under which mistrust exists. For example, in the process of developing relationship statements with Greek organizations, it is important to assess the extent to which process itself is a trust building process which can help to fight risk or a trust demeaning exercise which can lead to the degradation of the community. A sense of community is a strong asset in the fight to reduce danger.

Fairness also is a cornerstone of an academic community with integrity. Fair, accurate, and reasonably fast evaluation and assessment is critical. Students often tell us that key aspects of fairness from their point of view include predictability, clarity of expectations, and consistent and just responses to issues involving dishonesty or other actions which undermine the student community. Rationalizations to the extent that everyone does it, or expects too much, should not be allowed to be an excuse for dishonesty and mistrust. Again, an academic community that does not stress fairness begins to degrade the very values that are learned outside the classroom component of the academic environment.

Another key aspect of an academic community of integrity is the value of respect. So often, as we work around the country, we typically hear administrators and others lament of the loss of civility and the lack of self-respect and mutual respect among students. The loss of mutual respect and self-respect is a great facilitator for high risk activity in which an individual makes poor choices regarding their own self-determination. One of the key aspects of



developing respect is to recognize that individuals and groups on campuses are not simply means to the ends of particular organizations, but that the community is an end in itself and that others are not there simply to facilitate goals of others. The division brought about in universities in the bystander era contributed significantly to the diminution of respect among organizations. The caselaw clearly promoted an aspect of relationing where one organization or another would try to point the finger at either an individual, or another organization, or the university, or Greek life, and attempt to effectively use that individual organization or university or Greek organization as a means to avoid legal responsibility. The overall community suffered as respect diminished and risk increased because of the loss of cooperation regarding the sharing of information and action steps which could prevent injury. Again, the loss of respect plays itself out immediately into the classroom as students show disrespectful behaviors towards peers and professors and show little or no regard for basic values that are stated even in more rigorous environments. Again, research and initiatives are showing that there is a deep connection between the overall community that the students exist in and the values that are manifest in that community and the tone and texture of the so-called academic component of the enterprise.

Another cornerstone of an academic community of integrity is responsibility.

Responsibility is a complex concept and requires clearly that each aspect of the academic community, student, faculty, administrator, Greek organizations, sports organizations, etc., be and take responsibility for upholding the integrity of the process. Critically, what is important to realize is that each individual is a responsible unit and also shares responsibility for the overall texture of the environment: pointing fingers and trying to assess blame degrades a sense of responsibility. Shared responsibility is a more subtle concept recognizing that as individuals take responsibility for themselves, they also play a role in fostering an overall community. For

example, when a student discovers cheating, that student may turn away and simply say, "I am not responsible for anyone except myself," ergo, "I am not cheating, therefore, I should not do anything." However, as is typical in honor systems around the country, students are a necessary part of bringing information forward regarding dishonesty to the attention of others. Moreover, when students are out drinking heavily on a given night, it may be simply enough for some students to say that their responsibility lies only in taking care of themselves or being responsible for others only in the most minimal way, as for example, in seeing that they get to the health services once they become severely intoxicated. Are students on campus sensitized to how individual choices they are making facilitate and enable choices of others? Are they given instruction on ways in which they may intervene or take action which can reduce risk to others?

The Center for Academic Integrity has set out key features of how to develop a strong program for academic integrity.

### **How to Develop a Strong Program for Academic Integrity<sup>19</sup>**

The call to promote academic integrity places responsibility upon everyone in the educational community to balance high standards with compassion and concern. From its study of the processes and practices of successful academic integrity programs, the Center for Academic Integrity has developed seven recommendations that are appropriate to every institution of higher education.

An academic institution should:

1. Have clear academic integrity statements, policies, and procedures that are consistently implemented.
2. Inform and educate the entire community regarding academic integrity policy and procedures.
3. Promulgate and practice rigorously these policies and procedures from the top down, and provide support to those who faithfully follow and uphold them.
4. Have a clear, accessible, and equitable system to adjudicate suspected violations of policy.
5. Develop programs to promote academic integrity among all segments of the campus community. These programs should go beyond repudiation of academic dishonesty and include discussions about the importance of academic integrity and its connection to broader ethical issues and concerns.
6. Be alert to trends in higher education and technology affecting academic integrity on its campus.
7. Assess regularly the effectiveness of its policies and procedures and take steps to improve and rejuvenate them.

All institutions should encourage actions and policies that promote and justify the values of academic integrity and highlight their interconnectedness. Campus dialogue, national conversation, and institutional action are the keys to the process of strengthening academic integrity. Our campus cultures and our civic culture will be the better for these efforts.

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<sup>19</sup> This material has been drawn from, "The Fundamental Values of Academic Integrity" (The Center of Academic Integrity, October 1999), p. 10.

## V. Conclusion

Efforts to deal with dangerous student behavior have taken on a new character in the caselaw and in the academic research areas. New voices are arising from the courts, academics, social scientists, and Greek organizations to reimagine the nature of the problem of dangerous student behavior in attempt to recreate the communities which once existed to fight risk. As Robert Putnam writes in *Bowling Alone*,

America's major civic institutions, both public and private . . . need to be reformed in ways that invite more active participation . . . in the end, however, institutional reform will not work – indeed, it will not happen – unless you and I, along with our fellow citizens, resolve to become reconnected with our friends and neighbors . . . we should do this, ironically, not because it will be good for America – though it will be – but because it will be good for us.<sup>20</sup>

## VI. Appendix

### Case Studies

**Disclaimer:** The authors have crafted these scenarios portraying the climate on campus utilizing vivid examples of community relationship issues and behaviors that could be found within Greek life. Portions of the descriptions have been construed from real life incidents to add vigor to the scenarios. Some readers will perceive the scenarios as an honest rendering of a campus climate and the Greek experience. It is our intent to utilize these scenarios to emphasize the challenges associated with creating positive living and learning environments.

### Questions to generate discussion.

1. What type of student-institutional relationship exists?
2. Describe the campus climate?
3. If colleges and universities distance or disassociate themselves from student activities, what impact does this have on campus culture?

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<sup>20</sup> See ROBERT PUTNAM, *BOWLING ALONE* at 413-414.

4. Should colleges and universities be concerned with the moral and ethical dimensions of students? Do they have a responsibility to teach social responsibility and promote character education?
5. If yes, who is responsible for teaching this? And what are some tangible examples of how this can best be accomplished?
6. Was injury foreseeable?

## CASE STUDY #1

### Mid-sized public university

Fair Play University is a mid-sized liberal arts four-year institution located in the southeastern United States. The University has a large Greek system that prides itself in many years of tradition. Fraternities and sororities own houses located immediately adjacent to campus. The men's fraternities are recognized student organizations of the University and members of the Interfraternity Council on campus. These organizations also affiliate with the North-American Interfraternity Conference (NIC). The sororities participate in a college panhellenic council. Fair Play State University has recently been awarded the distinction of "a top ten party school" by the most recent edition of *The Princeton Review*. The mission of the institution emphasizes intellectual development and a commitment to teaching and research.

**Background Information:** The following scenario follows a series of incidents that have occurred over the years at various fraternity functions at Fair Play State University. University Police logs indicate that officers have been dispatched to several houses on the row on numerous occasions as a result of complaints launched by neighbors in the surrounding community. Neighbors describe town/gown relations as strained from years of "neglect" on part of the institution. Complaints have centered on the fact that drunken coeds disturb the peace at wee hours in the morning and vandalize property. Several letters to the Editor have appeared in the local newspaper criticizing the university for lack of enforcement of alcohol rules and laws, for student disrespect, and overall incivility. The university appears to have a hands-off approach towards regulating student conduct and Greek life. A police report filed last week indicates that

the Campus Police were forced to call upon the City Police to assist them with breaking up a large fight that erupted at a party at the Delta Theta Chi fraternity house in which alcohol was served. Rocks and beer cans were thrown at Police. Several students, non-students and a Police Officer were treated and released at the hospital for minor injuries resulting from this affray.

***The Incident:*** The University has recently come under intense scrutiny for injuries sustained to students participating in the latest round of alcohol related events. Several fraternity houses hosted a progressive drink party that resulted in the following. A small fight broke out in the street between rival fraternities. A “pledge” was transported by rescue to the hospital after he was hit in the face with a broken beer bottle. It is believed that this young man will permanently lose sight in his left eye. Another underage student was discovered face down in his own vomit on the lawn of a neighbor. This student is transported to the hospital for alcohol poisoning. He remains in the hospital in an alcohol-induced coma.

## CASE STUDY #2

### Small Private College

Small Liberal College is a small, private liberal arts, four-year institution located in the midwest. Seventy percent of the undergraduates are members of the fraternities and sororities on the campus. The fraternities and sororities have chapter houses, in which members reside, that are on college land. Liberal College attracts students from all over the United States. Students characterize themselves as being academically competitive and entitled to the weekend party lifestyle due to the intense academic environment. The Greek community is the social life of Liberal College.

**Background Information:** Liberal College is aware that hazing practices exist within Greek organizations on campus. Further, Liberal College has a relationship statement with the Greek organizations. Among other provisions the relationship statement sets forth the following:

1. Recognition is a privilege granted to student organizations by the College;
2. Greek organizations accept responsibility for the behavior of members when members are in the chapter house and when members are acting as a group outside of the facility;
3. Greek organizations exist at the College at the invitation of the College;
4. Greek organizations, in order to be recognized by the College, must have a "\$5 million comprehensive general liability insurance policy" and add College as an additional insured to such insurance policy.
5. Greek organizations agree to indemnify and hold harmless College should College be named in a lawsuit involving a Greek organization or the member(s) of a Greek organization.



***The Incident:*** During this academic year there have been no reports of hazing. College officials notice, while walking across campus, that the windows of a fraternity house have been covered with newspapers. Two days after noticing the window coverings a member of a Greek organization is hospitalized due to severe dehydration and broken bones.

