

2013 INTERNAL REVIEW OF STANFORD UNIVERSITY'S
OFFICE OF JUDICIAL AFFAIRS – A REPORT OF
HOW 24 STUDENTS, PARENTS, AND ALUMNI
EXPERIENCED “JUSTICE” IN WHAT STANFORD
CALLS ITS “DISCIPLINE” SYSTEM

An injustice anywhere is a threat
to justice everywhere.

Martin Luther King (1963)
Letter From Birmingham Jail

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I

INTRODUCTION

This report constitutes the second in a continuing multi-year series of reports to be issued by its authors – Stanford University students and alumni. The first report, issued June 1, 2012, was entitled “A Case Study of the Operations of the Office of Judicial Affairs at Stanford University – How 3 Students Were Deprived of Rights Afforded Them Under the Student Judicial Charter” [“2012 Case Study.”].¹ That report followed three Stanford students who went through the judicial process at Stanford from June 2011 through November 29, 2011. The first report meticulously detailed systematic violations of student rights guaranteed under Stanford’s 1997 Judicial Charter.

It has been over *two years* since the authors first approached Dean of Student Life Chris Griffith² with evidence of misconduct in Stanford’s Office of Community Standards (OCS). At Stanford, the OCS is the office assigned responsibility for maintaining the academic integrity of one of the world’s leading research universities. It is in charge of the University judicial processes. While privately thanking the authors for the Case Study and suggesting she wanted to “partner” with them, Griffith herself launched an aggressive attack on the credibility of the Case Study within hours of its release to the public on May 14, 2013.³

Once it was released publicly, Griffith labeled the Case Study “seriously flawed [in many respects] and inaccurate in many others.” She said the case was an “outlier” and an “anomalous example.” In October 2013, appearing before the ASSU Senate, Dean Griffith suggested it was time to move on from the concerns expressed in the Case Study, saying “we have progressed well beyond the Case Study.”

In the same month, October 2013, the authors of the Case Study, along with the newly-formed Student Justice Project, concluded a months-long “2013 Internal Review” of OCS, a review authored by students who have recently been processed through OCS, along with their support group of parents, friends, and legal representatives. The review was initiated to test Dean Griffith’s claims that the Case Study was an outlier and that OCS had been cleaned up such that it was time to move on.

This group’s Report No. 2 provides the results of the 2013 Internal Review. It will also provide an overview of what happened at Stanford when it learned of misconduct at OCS on November 30, 2011 until the Case Study was made public on May 14, 2013; it also reports on what has happened since. These findings, and that two-year experience, have implications for the University that go far beyond OCS.

If you are a student who needs help, or want to help us protect students, go to the Student

¹The 2012 Case Study can be read in its entirety at www.studentjusticeproject.com. A summary of the students’ experience in that case is included here at Appendix p. 32-34.

²Letter of November 30, 2011.

³See *Stanford Daily* archives, Dean Griffith’s letter to the editor of May 15, 2013.

Justice Project's new website located at www.studentjusticeproject.com.

If you support restoring the 1997 Student Judicial Charter, please forward this report to at least five students or alumni.

II

EXECUTIVE SUMMARY

A. Conclusions of This Report

The 2013 Internal Review, if the testimonials accurately depict the handling of judicial affairs, is nothing short of an indictment of the handling and oversight of judicial affairs at Stanford University. Participants in the review were consistent in the descriptions of their experiences. They perceive OCS employees as presuming guilt and effectively denying them a process to prove their innocence. If the respondents to this review are to be believed, OCS employees routinely violate both the spirit and the letter of the 1997 Student Judicial Charter.

The 24 testimonials can be reviewed in the Appendix at pages 1-28. Excerpts from the testimonials are included in the main body of this report at pages 21-32.

Stanford's Judicial Charter is clear and unambiguous. Any problems at OCS could be resolved by simply following the letter and spirit of the Charter. That the respondents in this review believe this has not always been the case since issues were first raised over two years ago, suggests current personnel and supervisors are incapable of addressing the issue, or unwilling to do so. Alternatively, they may not believe these firsthand accounts suggest a problem.

Some conclusions are readily apparent from a reading of the 24 testimonials. Other conclusions require an understanding of the broader context of the year and a half leading to the public disclosure of the Case Study, and the seven months since. The handling of this issue by Stanford employees all the way up the supervisory chain raises serious issues that must be addressed by the University.

The following conclusions are drawn by the authors:

1. The 2013 Internal Review Suggests the Case Study Was Not an Outlier

If respondents in the 2013 Internal Review are to be believed, the experience of the three students followed in the 2012 Case Study reflects the norm. This is true even in 2013, two years *after* the whistle was blown on OCS and seven months after the Case Study was publicized.

2. The Office of Student Affairs Appears Incapable of Addressing the Concerns About OCS Raised By These Respondents

The choice of the Office of Student Affairs to solve a problem it created was always suspect. If the 24 respondents in the 2013 Internal Review provide a credible assessment of

the current state of affairs at OCS, *over two years* after the Office of Student Affairs has been on notice of these issues, then it is time to have someone else solve problems that exist.

3. This Issue Has Exposed an Unflattering View of How Some University Employees Perceive the Relationship of Students and Alumni to the University

A not uncommon refrain to the students and alumni who have amicably, patiently, and methodically pursued what they correctly perceive to be a significant concern is that Stanford is a “private university” and therefore presumably can do what it wants. Stanford’s Provost John Etchemendy put it most succinctly, in responding to the Case Study sent to him by three students and three alumni, when he said that judicial affairs employees “have no obligation to respond to you.” Stanford Professor of Wikinomics Michelle Dauber, faculty co-chair of the Board of Judicial Affairs in 2012-2013, told students and alumni that they could not attend meetings of the Board of Judicial Affairs.

This refrain raises an important question for Stanford students (as well as their parents) and alumni: private as to whom? This attitude suggests some view the institution as Stanford *Employee* University, apparently unaware that students, their parents, and alumni are members of the *Stanford* University community.

4. The Office of General Counsel Appears to be Heavily Involved in the Employee Response to the Alleged Misconduct Despite Its Role in the Underlying Problem

By all appearances, the Office of General Counsel seems to be providing advice to *all* of the individuals who could fix this situation, from the Office of Student Affairs and the Board of Judicial Affairs, to the Provost, President, and Trustees. This raises issues because the Office of General Counsel was identified in the Case Study as a part of the perceived problem; it also raises issues about the University’s checks, balances, and oversight if, in fact, one office has this much potential control over the University’s response.

5. Absence of Checks and Balances

Student Affairs and the Office of General Counsel were identified in the Case Study as the offices responsible for the problems alleged in that report. Yet, those two offices appear to be the only ones assigned by the University to respond to the claims of serious misconduct. All others with supervisory responsibilities, from the BJA and Provost, to the Office of the President and Board of Trustees, appear to be deferring to Student Affairs and General Counsel.

If this perception is accurate, it should raise concerns across the board at what is recognized as one of the world’s leading research universities. If multiple and credible checks and balances do not exist over the very office tasked with maintaining the academic integrity of the University, does this reflect a broader issue with checks and balances over the integrity of other components of the University, including research?

6. Fear of Reprisal, Repercussions and Retaliation

Whether warranted or not, all but 3 of the 24 participants in the 2013 Internal Review feared use of their names in this report. Many expressed their personal concern that they or others could face repercussions for their views, comments, and advocacy. That contributing members of our community would even have such concerns, whether or not warranted, speaks volumes about *their* perception of the respect for individual rights at Stanford University.

If their views have a basis in fact, then the free exchange of ideas, which is at the core of a great university, has been negatively impacted. The University should acknowledge its duty to protect those associated with this effort from retaliation.

7. An Unwillingness to Apologize to the Students

For two years the three students followed in the Case Study have been owed an apology that has never come. Since November 30th, no one has contested any fact in the Case Study. No one has disputed that their case was mishandled and their rights violated. Multiple requests have been made on the students' behalf for an apology, to no avail.

For the three alumni – all lifetime Stanford volunteers – who experienced the 2011 hearing firsthand with the students, it has been difficult to watch the impact that treatment has had on the students' Stanford experience. We have assured these now young alumni that the conduct they experienced, and the response of University officials and some Trustees over two years does not reflect the spirit and legacy of Stanford University. Rather, it is the growing coalition of students, parents, and alumni who support them that reflect the historical values of the University. It will be *this* Stanford community that does what Stanford has always done – fix the problem.

Institutions, like people, who cannot admit mistakes and apologize when an apology is warranted, do grave damage to their own credibility and reputation. No employee aware of this case at Stanford, to its highest levels, has communicated *any* empathy directly to the three impacted students, let alone the words "I'm sorry."

8. The Secret Documents of OCS

Dean Griffith proclaims her department performs well, repeatedly referencing a 2010 Internal Review. However, it is a document *never publicly released*. Now, for the first time, the Student Justice Project has learned of an OCS manual entitled "Common Office Practices." It is believed this document describes guidelines on how to handle judicial cases at Stanford, notwithstanding that the 1997 Student Judicial Charter dictates how to handle cases. A request to share the 2011 and 2012 versions of this document has been ignored.⁴

⁴See letter of November 18, 2013 to OCS, copied to Dean Griffith.

9. The Secret World of Judicial Affairs at Stanford

University Counsel has acknowledged the 1997 Student Judicial Charter is a “contract”⁵ with students. Notwithstanding this, and in addition to secret reviews and documents, OCS appears to the respondents here to have its own secret operations, secret oversight, secret rules, and secret terminology. It has become, in the eyes of some of its critics, akin to a secret society, much like Yale’s Skull and Bones Society. While such secrecy may serve a purpose in an undergraduate social group, it is not appropriate for a judicial system designed to maintain the academic integrity of one of the world’s elite universities.

As noted above, many crucial documents are kept secret. Oversight is secret, too. The Board of Judicial Affairs (BJA) advertises it welcomes community input, but meets in private and excludes the community. In 13 months of trying, none of the authors of the Case Study has had a conversation with anyone on the BJA. Dean Griffith publicly claims she *welcomes* a discussion of these issues, but maintains a tight lid of secrecy over her own internal reviews while attacking the credibility of the public report prepared by three of her students – individuals with whom she was happy to “partner” when they, like OCS, were keeping their report private.

While the Judicial Charter specifically provides a presumption of innocence, Stanford’s Office of General Counsel routinely, and without explanation, refers to Stanford’s system as a *discipline* system, not a judicial system.

OCS and Dean Griffith go further, creating their own Orwellian language that is derived from no publicly known source. Dean Griffith has publicly refused to call the system created by the Charter a judicial system, instead regularly referring to it as an “educational” system.⁶ Yet, the drafters of the Charter called it a *Judicial* Charter, not an *educational* Charter. The Charter itself uses the word “judicial” 170 times. After the first sentence which does not even talk about the judicial system, the Charter does not again use the word “educational.”

The Charter refers to potential “guilt.” OCS has changed the terminology to “responsibility.” The Charter contemplates “judicial hearings,” but OCS often talks of “conversations.” The Charter contemplates only panel members will go into deliberations, but OCS sends in the Judicial Advisor as well; the Charter contemplates the Judicial Advisor and Officer will be neutral, but OCS has them write the Professor’s briefs; the Charter mandates that all witnesses shall cooperate and face discipline if they do not, but OCS routinely and affirmatively conceals the principal student witness.

⁵See Counsel’s opinion letter of August 23, 2012 (“the Charter is a contract the University has put in place with our students”).

⁶See, e.g., her OpEd, *Stanford Daily* of May 15, 2013 (“...the Charter created a system that...stresses education.”)

The drafters of the Charter presumably contemplated it would be the guideline for handling judicial cases at Stanford; OCS is reported to use “Common Office Practices,” a document no one has been allowed to see. The Charter lays out grounds for appeal, but for 10 years OCS ignored those and distributed conflicting rules.⁷

This tightly controlled and secretive department may explain why respondents believe OCS appears to operate in such conflict with student rights and has been unable to fix a problem that the respondents in this review uniformly observed.

B. Results of the 2013 Internal Study

Twenty-four individuals (all of whom had experienced Stanford’s OCS) were approached to participate in this 2013 Internal Review. All responded. All wrote their own testimonials. The 24 testimonials are in the appendix at pages 1-28. Interestingly, almost all of our respondents were either not charged after referrals to OCS, or were charged and acquitted. The authors acknowledge this results in participants who may speak more favorably of OCS given their positive outcome. Nevertheless, not a single respondent spoke in positive terms of their experience with OCS. All 24 were highly critical.

The following is a summary of the ten issues most discussed by the participants in the 2013 Internal Review. These issues reflect consistent complaints and comments of the respondents. The headings reflect the perception of respondents.

1. The System Appears to Presume Guilt

A consistent theme of the participants in the 2013 Internal Review is their perception that the OCS process begins with a presumption of guilt. This theme permeated the study. This was a finding consistent with the perception of those involved in the 2012 Case Study. A presumption of guilt, if it occurs, violates a student’s rights under Charter §II(A)3.

One participant described an investigator beginning the process of scheduling a hearing *before* the investigation was barely underway and well before the student had been charged. To them, that “screamed” presumption of guilt.

2. OCS Favors Professors in Evidence Gathering

Participants repeatedly claimed OCS was meticulous in assembling evidence to support the claims of a professor or TA. Descriptions of this generally painted the OCS employees as acting more as a prosecutor or quasi-attorney for one side and against the student. In one case, OCS retained an expert, but concealed his/her identity when the results favored the student. In another case, OCS secretly retained an expert, disclosing his identity only when OCS perceived the expert helped the professor. If true, such complaints would

⁷The total rewriting of grounds for appeal in 2003 , without following appropriate procedures for Charter amendments, will be addressed in a subsequent report.

reflect a loss of neutrality dictated by Charter Sections III(D) and III(E).

One student said his so-called “neutral” judicial advisor and judicial officer went so far as to write the brief for the professor on appeal arguing for the student’s conviction, dropping even a pretense of neutrality (a fact reported to the Vice Provost of Student Affairs, who was untroubled). If these neutrals have become adversaries, which appears to be the case if participants in this internal review are to be believed, then the students’ rights to neutral officials have been violated under Charter sections III(D) and III(E).

3. OCS Fails to Effectively Assemble Evidence for Students

A consistent complaint from those who participated in this study was that OCS failed to conduct the interviews or gather the evidence students needed to defend themselves. While *aggressively* discouraging students from gathering their own evidence, OCS often refuses to obtain evidence sought by the student, unilaterally deciding it is not germane to what OCS is investigating.

This failure would violate numerous Charter provisions. Section III(E)(5) of the Charter requires the Judicial Officer to accumulate all evidence *before* charging a case. Charter section II(A)(6) guarantees a student is to receive all evidence. Charter sections III(D) and III(E) presume the OCS employees will be neutral, which they are not if they fail to properly assemble the student’s case as well as the professor’s.

4. OCS Discourages Competent Representation

It is reported some schools actually provide students with attorneys or other competent representation when the student faces potential suspension or expulsion. At Stanford, multiple students said OCS discouraged retaining even privately compensated counsel, saying it would work against them or make them look guilty. While OCS typically advises students of their right to a representative, evidence here suggests they discourage the competent representation of licensed counsel. Participants also noted how judicial advisors attempt to talk the student into giving a statement to the judicial investigator *before* the student can obtain the advice of counsel.

One student told us his Judicial Advisor intimidated him when he said he wanted an attorney. He was led to believe retaining an attorney would be held against him.

An attitude or philosophy that starts at the top and filters down to employees and panelists creates an environment where students may not have the help many believe they need. This violates the intent of Charter section II(A)(7).

5. OCS Fails to Equip Students to Defend Themselves

Participants complain they are led to believe the hearing will be a friendly “conversation,” that they do not need an attorney, and they should just tell their version of events. When they show up for their hearing, some are shocked that OCS allows multiple employees to act as “experts” against them. Many believe OCS appears to be helping the

other side. These Respondents felt OCS did not help the student put together an aggressive defense that is needed in an arena where they perceive everything is already stacked against them.

In a recent case, a student facing expulsion was allowed to attend a sanction hearing without OCS having interviewed a single one of many student witnesses on the sanctions issue.

Dean Griffith has to date ignored offers from alumni to get Stanford students competent representation.⁸ Student Affairs should be focused on helping students properly defend themselves. That is not happening.

6. The Many Violations of Due Process by OCS Require Legal Representation

The most frequent comment by those responding in our study was the *unqualified* belief that without an aggressive attorney, a student has almost no chance of proving his or her innocence. Most participants started the process without counsel, but retained an attorney when they saw what they believed was the systematic violation of their rights. Those who did retain counsel describe a “totally different” experience pre- and post-attorney. The fact that most respondents retained counsel may also explain why so many had a positive outcome.

A common theme was the concern of how students without counsel could successfully navigate the system. Multiple respondents described a “night and day difference” from their experience before hiring counsel and their experience after. Concerns were expressed for students who speak English as a second language, for those who are poor public speakers, or for those whose families could not afford legal help.⁹

7. OCS Employees Often Appear Unfamiliar With the 1997 Student Judicial Charter

This one surprised us, but almost every participant had one or more examples of OCS employees either totally unaware of a provision of the 1997 Student Judicial Charter or just seeming to ignore it. Since OCS exists almost exclusively to process cases according to the provisions of that Charter, it seems improbable employees do not know some or many of its provisions, or seem to believe they can be ignored.

⁸At an October 2013 ASSU Senate meeting, Dean Griffith said she had *not* rejected an offer from alumni to recruit, train, and supply competent alumni to represent all students in Stanford judicial matters. Technically she is correct, although misleading, in her response. The OCS 6 have made this offer verbally for over a year, and in writing more recently. Dean Griffith has yet to respond, ignoring the offer. That enabled her to truthfully tell the ASSU Senate she had *not* rejected the offer, but it does little to help those students who do not have competent representation. Her response, which is at best misleading, raises serious credibility issues for the University’s public point person on this issue.

⁹If you want to help protect our students, go to www.studentjusticeproject.com to volunteer.

In one instance, a Judicial Advisor not only violated the Charter, but the Advisor then told the student's representative to "read the Charter." He did and learned the provision in question was the exact opposite of what the Advisor had represented.

8. Concealment of Witnesses

In almost all cases, participants claimed OCS willfully concealed the principal witness in the case – the student who reports the suspected wrongdoing. OCS routinely grants anonymity to reporting students, violating either Charter §II(B)(6) or §II(C) and the unnumbered Bylaw adopted Spring 2003. As attention has focused on this misconduct, OCS has dramatically shifted its defense of this *long-practiced Charter violation* so as to border on the absurd. This issue alone, and OCS' multiple explanations, will be the subject of a future report.

Further, OCS employees and Dean Griffith appear to fear students actually contacting witnesses in order to defend themselves, taking steps to discourage it. The students who ignore OCS' efforts, and develop extensive witness lists, do exceedingly well. Those who don't often pay a heavy price.

9. "The Case Will Go On Without You" Threat

The Judicial Advisors encourage students to schedule back-to-back meetings with the Judicial Advisor and Judicial Investigator, encouraging students to give the Investigator a statement *before* receiving sound legal advice. When some students ask for more time to get legal help, they are told (even in writing) that if they do not come in to give a statement, the case might go on without them. Students do not even have to give a statement. Neither can cases go on without them.

This OCS tactic violates Charter sections II(A)(7) and potentially II(A)(5).

10. OCS Employees Are Often Non-Responsive

Many participants complained about a lack of responsiveness and professionalism in their dealings with OCS. One employee in particular was the target of severe criticism on this issue. With their lives, reputations, and careers literally on the line, students described often waiting for weeks for responses on simple issues, or getting no response at all.

III

THE AUTHORS

The Student Justice Project, under the leadership of Reid Spitz ('14), has taken the lead in the preparation of this group's Report No. 2. The Student Justice Project is a growing coalition of students, parents, and alumni devoted to restoring justice to Stanford's justice system. The bulk of the report is, of course, written by the students, parents, and alumni who experienced firsthand Stanford University's judicial process as overseen by OCS.

Three of this report's authors are alumni. John Martin ('80) is a supervising administrative law judge in Los Angeles. His background as a long-time and senior administrative law judge, combined with his extensive background with due process as a Federal Public Defender, has been invaluable in providing a benchmark for fair administrative procedures. Bob Otilie ('77) is an attorney in San Diego specializing in education and administrative cases. Otilie has represented scores of students, faculty members, and administrators from middle schools to graduate schools. He has provided insight into fair processes and procedures elsewhere. Graham Gilmer ('05) is a private consultant to the federal government. Gilmer mentors current Stanford students, contributing an insider's knowledge of Stanford's current student culture. All three alums are long-time University volunteers whose previous volunteer efforts have always been warmly received.

IV

BACKGROUND

A. What Led to the 2012 Case Study?

The November 29, 2011 hearing of the case exposed in the 2012 Case Study was, to the three charged students and their three alumni representatives (the "OCS 6"), an unimaginable trampling of almost every conceivable concept of due process. That evening, the OCS 6 committed to working *with* OCS to assist the office in understanding the importance of due process, and more specifically the inviolate rights provided to Stanford students in the 1997 Student Judicial Charter. The OCS 6 then proposed a meeting with OCS employees to identify and fix problems in the office.

Initially, the OCS Advisor (the "neutral" advisor to all parties) agreed to meet. Later, he reported his "supervisor" had said he could not attend.¹⁰ The Judicial Officer never agreed to meet, instead referring the offer of help to an attorney in Stanford's Office of General Counsel under the direction of Debra Zumwalt.

One comment by that same Judicial Advisor convinced the OCS 6 that the problems in OCS went far deeper than originally perceived. On November 30, 2011, the day after their hearing, the OCS 6 asked the Judicial Advisor to preserve the entire administrative record from the just-completed case. The Advisor responded by saying he had "shredded" most of it, and then defended his actions by saying this was for the benefit of the acquitted students and was routinely done. He also said he would soon destroy the recording of the hearing.¹¹

¹⁰Koren Baakegard had not, at that time, been retained as the director of OCS. The department was without a director, but reported to Dean of Student Life Chris Griffith. This Advisor did not reference his "supervisor" by name, so it is unknown if it was Dean Griffith who precluded this opportunity for students, alums, and OCS to fix the office's problems two years ago in a collaborative process. In any event, according to the Advisor, this "supervisor" said he could not accept the offer made by the OCS 6 to have a conversation about the problems and potentially resolve them. Certainly, an opportunity was lost.

¹¹See confirming letter of November 30, 2011, Exhibit 54 to 2012 Case Study.

When the alumni representatives protested, the Advisor emphatically said: “You need to read the [1997 Student Judicial] Charter.” The alum was stunned when he did, as the Charter specifically guarantees [in §III(F)(4)] that the administrative record will be preserved *for a year*. This experience raised a concern as to whether this, or perhaps all, OCS employees had ever read the 1997 Student Judicial Charter.

Referred to Debra Zumwalt’s Office by the Judicial Advisor and Judicial Officer, the OCS 6 shifted their offer to help fix the problems at OCS to Counsel Zumwalt’s office. For months, Zumwalt’s office promised the students and alumni it would work with them, but never followed through on even an original promise to share some basic documents.¹² Clearly, that office was satisfied with how OCS operated.

Dealing with the Office of General Counsel was just as disconcerting as the experience at OCS. That interaction is described at pages 50 to 54 of the 2012 Case Study. In the initial conversation with the attorney, she said she wanted to work with the group, but then said, “you have to remember that this system at Stanford is a *discipline system* designed to correct bad behavior” [Case Study, p. 52]. In fact, the three students in the 2012 Case Study were acquitted and should never have entered a “discipline” system.”¹³

Another comment made by the attorney corroborated the concern that University employees lacked a good, if any, understanding of the 1997 Student Judicial Charter. This attorney (as had the Judicial Advisor) defended what she contended was OCS’s *practice* of immediately destroying the files of acquitted defendants. She argued this benefitted acquitted students. Her statements, like those of the Judicial Advisor before her, suggested at face value someone who was unfamiliar with some (if not all) of the provisions of the 1997 Student Judicial Charter.

For the first time, the OCS 6 contemplated what would have seemed unimaginable at an educational institution of Stanford’s caliber. It appeared to the OCS 6 as though OCS had quietly abandoned some or much of the 1997 Judicial Charter and was now operating under *its own idea* of how a judicial (or, in their words, “educational”) process should operate.¹⁴

When it became evident that OCS and the General Counsel’s Office were not interested in *even discussing student and alumni concerns*, the OCS 6 concluded a Case Study was in order. In preparing the 2012 Case Study, the OCS 6 compared their own recollections, combed their personal

¹²The attorney handling the matter in Debra Zumwalt’s Office of General Counsel advised the OCS 6 that she was in communication with Dean of Student Life Chris Griffith.

¹³A judicial system could never be equated with a discipline system unless the system *presumes guilt*. This very deliberately-made and well-thought-out comment by OCS’s counsel suggests that may be the case at Stanford. Debra Zumwalt would later make a similar statement in writing, an incredible admission by the General Counsel of Stanford University.

¹⁴There is a wealth of evidence to support this proposition. In subsequent reports, the authors will extensively develop the evidence. In one case, it was discovered an entire section of the Charter had been abandoned and simply replaced *without* a Charter Amendment or Bylaw, or even notice to students.

notes, listened to the tape recording of the November 29, 2011 hearing, and reviewed almost 100 documents. From this they developed a document entitled “99 Facts,” which ultimately became the entire factual basis for the 2012 Case Study.

Then, to preclude University administrators from later contending the study contained errors,¹⁵ the document entitled “99 Facts” was sent both to OCS and the General Counsel’s Office.¹⁶ This effort began months before the June publication of the 2012 Case Study. No one at Stanford ever corrected or clarified a single fact in the “99 Facts” document.¹⁷ In fact, to this day, not a word in the 2012 Case Study has been challenged to its six authors.

B. What Did Stanford University Do When Confronted With Claims of Misconduct in Its Office of Academic Integrity?

The Justice Project is currently preparing a comprehensive case study of Stanford University’s response to the 2012 Case Study. That study will be a heavily cited record of written communications to and from the highest levels of the University, including administrators, attorneys, and Trustees. It is a fascinating insight into how one of the world’s most elite educational institutions responded when confronted with claims of serious mishandling of claims at the University’s judicial affairs office, the very office tasked with maintaining the academic integrity of the University.

With a detailed history not anticipated to be ready until 2014, the following brief summary describes how the 2012 Case Study went from its first (and what had originally been anticipated would be the only) two recipients in June 2012 (Dean Griffith and Vice Provost Boardman), to its publication in *The Stanford Daily* on May 14, 2013.

Griffith and Boardman received the 2012 Case Study in the first week of June 2012. At the time its authors did not know Dean Griffith was directly responsible for OCS during the case followed in the Case Study. In August, Dean Griffith and Vice Provost Boardman met with the OCS 6. Both expressed appreciation for the report. Neither, then or ever, identified *any* flaws in the Case Study, let alone the “serious flaws” or “inaccuracies” that Dean Griffith would claim existed in the Study after it became public in May 2013.

Griffith communicated in August that the Office of Student Affairs wanted to “partner” with the OCS 6 to solve problems of “shared concern.” Yet, over the next nine months the OCS 6 saw little, if any, progress after the August 2012 meeting. While Griffith was friendly and communicated

¹⁵Notwithstanding these efforts described here, this is exactly what Dean Griffith claimed in May 2013 when the 2012 Case Study was made public. See below.

¹⁶See letter to OCS of February 9, 2012 [2012 Case Study exhibit 25]. See also, letter to General Counsel of February 27, 2012 [Case Study Exhibit 71].

¹⁷As discussed below, Griffith would later contend the 2012 Case Study was “flawed” and “inaccurate” in several respects. Yet, in private over 11½ months before the Case Study was published in *The Daily*, in almost a dozen contacts with the OCS 6, she never once suggested *any* concerns with the content of the Case Study.

often, and professed a commitment to solve the problems, the *end* result (as evidenced here) did not match her *suggested* result.

The Case Study authors shared the Case Study with the Board of Judicial Affairs (BJA) on November 30, 2012. The BJA website claimed at the time that the organization provided oversight of OCS and *welcomed* community input. However, during the 2012-2013 school year, the co-chairs of BJA (Wikinomics Professor Michelle Dauber and student Jonathan York) refused to speak with the OCS 6. Dauber, with one exception, refused to even disclose when or where the BJA met, keeping its proceedings secret from the student and alumni authors. She was adamant that BJA meetings are not open to the public, including students and alums. She even put that in writing.¹⁸

Never having heard back from the BJA, the OCS 6 worked through Stanford's supervisory hierarchy step by step, assuming someone would ultimately step in and protect students. As loyal Stanford students and alums, the OCS 6 patiently and quietly navigated through the system for a year and a half.

Debra Zumwalt, the University's General Counsel and presumably an official who should appreciate and be protective of student rights, received the Case Study in July 2012. She responded to its authors *four months later*, only then after select Trustees began receiving the Case Study. She called our judicial system an educational "discipline" system and expressed confidence Dean Chris Griffith (who oversaw the department when the identified problems occurred) would solve the problems.

Next it was the Provost's opportunity to protect our students. He expressed appreciation, but also deferred to Chris Griffith. That said, he lectured the student and alumni authors for their expectation that University officials should respond to them, asserting employees associated with judicial affairs at Stanford "have no obligation to respond to you." This was surprising, given that three of the authors were his own students – students who had been wrongfully charged and then acquitted of wrongdoing, and who had *volunteered* (along with the alums) to help Stanford fix its problems.

The Provost's view of University relations with students and alumni is markedly different than the approach of the University's Development Office. On the fundraising side of the house, Stanford employees *always* respond to volunteers and donors. Not so, according to the Provost, when the issue is student rights and wrongful convictions.

Stanford President John Hennessey was next to receive the Case Study. This was in May 2013, before the Study went public. We cannot yet report his view of the conduct described in the Case Study. In almost seven months he has yet to respond. In his defense, he presumably is busy. At least eight Trustees have received the Case Study. None have provided the OCS Six with a

¹⁸Email of November 15, 2012 ("The BJA meetings are not public"). No one, including Dean Griffith and Ms. Dauber, has responded to multiple requests seeking the authority that allows Ms. Dauber and the BJA to bar students and alumni from its meetings. They also did not share with the OCS 6 the times and dates of meetings. A future report will address the secret workings of the BJA activities in 2012-2013.

substantive response.

It would appear that most everyone, if not all, to whom the OCS 6 sent the 2012 Case Study referred the matter to the Office of General Counsel, the very office that was a subject of the Case Study. If this perception is accurate, it suggests a flaw in the system of checks and balances that presumably should exist to respond to whistleblower claims.

Another troubling component of the response of some at or associated with the University has been the statement that “Stanford is a private university.” In the context in which this statement has been made, it has raised the question, “Private as to whom?” When made, it has suggested to the students and alumni that they are not a part of that “private” institution, almost as though Stanford University had become Stanford *Employee* University.

Most disappointing for the alumni authors has been the refusal of anyone at Stanford to ever apologize to the three students whose rights were violated in 2011. If, as many have said, the Case Study exposed real problems, the students were owed an apology by someone. As this matter has progressed from the OCS employees all the way to some Trustees, *no one* has ever communicated *any* expression of empathy or apology directly to the three students. Both Chris Griffith and Greg Boardman have been asked, multiple times, to arrange for some apology, or even just express some empathy directly to the three students. Neither has.

The failure of *anyone* aware of these circumstances to offer an apology suggests to the authors that those people are not sorry at what occurred. This reinforces the perception that OCS’ conduct is both intended and perceived by these members of academia as acceptable conduct.

As students and alumni with Stanford’s best interests at heart, and having both patiently pursued and exhausted all levels of the supervisory chain over OCS, the OCS 6 determined the only option was to share the Case Study with the entire community. In doing so, students could at least be warned. They could then act to protect themselves. As a community, we could support them.

V

***THE STANFORD DAILY* EDITOR CLAIMS HE PERCEIVED A THREAT AND INTIMIDATION FROM THE UNIVERSITY ON THE MORNING THE CASE STUDY WAS PUBLISHED**

The Stanford Daily published the Case Study on May 14, 2012. On May 15, just one day later, *Stanford Daily* editor Miles Bennett Smith penned a letter to his readers entitled “Letter From the Editor: On Libel, Due Diligence and Intimidation.” [See appendix, pages 29-31.]

Bennett Smith described receiving “an URGENT EMAIL” early on the morning of May 14, 2013. It was from “a senior University official” informing him that *The Daily* had published a libelous story. At first concerned, Bennett Smith told his readers that eventually he “began almost to laugh.” Why?

“It certainly wasn’t because I (and the rest of the staff here at *The*

Daily) take the accusation of defamation or libel anything less than extremely seriously...

No, my amusement was rather directed at the gall of the University to send me a message *that carried with it the threat* of pursuing a libel case, a message that I felt at least in some way *had to be sent with an air of intimidation*.

....

The story in question [“Case Study Finds Flawed, Slanted Judicial Process”] was one I believe was of extreme importance to the student body and Stanford community.” [Emphasis added.]

To our knowledge, no one at Stanford University has come forward to dispute Bennett Smith’s claims . We have only his report of what occurred in his early morning contact from a “senior” University official. The senior official has yet to be identified.

VI

DEAN GRIFFITH ATTACKS THE CASE STUDY ON MAY 15, 2013

On May 15, 2013, a day after the Case Study was printed in *The Daily* and the same day Bennett-Smith wrote to his readers about what he believed could be administration intimidation, Dean Griffith mounted an aggressive attack on the 2012 Case Study. She stated that the “current discussion” of Stanford’s judicial system had been “poorly served by a ‘Case Study’ based on an anomalous example.”

Griffith never described what discussion there had been on the Stanford campus related to judicial affairs prior to the Case Study. In fact, it seems apparent to everyone the only discussion we have been having about judicial affairs was prompted by the 2012 Case Study itself.

Griffith attacked the credibility of the 2012 Case Study, calling it “seriously flawed [in many respects] and inaccurate in many others.”¹⁹ Yet, Griffith failed to address the Case Study’s authors’ contention that Griffith had never once, in the 11½ months she had possessed the Case Study (she was its first recipient), expressed *any* objection or concern regarding inaccuracies or flaws. In fact, Griffith had personally distributed the Case Study to Stanford’s Board of Judicial Affairs on November 30, 2012 and welcomed its authors into Vice Provost Boardman’s office to discuss the

¹⁹The cumulative tone of Dean Griffith’s harsh characterization of the 2012 Case Study starkly contrasts with her positive comments in August 2012 and her professed intentions then to want to “partner” with the OCS 6. It could suggest that one or both of her characterizations (August 2012 or May 15, 2013) were disingenuous.

Case Study on August 15, 2012.²⁰ Even Provost Etchemendy, before the Case Study went viral, had told the OCS 6 the University was “grateful for the issues that [the OCS 6] have brought to our attention.”²¹

While the University may have been grateful for the OCS 6 raising these issues with the University, Dean Griffith was not. In her May 15 letter, Dean Griffith went even further, saying:

“To extrapolate from a single anomalous case that an entire system is flawed *is simply wrong*. In fact, a recent and very thorough review of the system concluded that it is fundamentally sound.” [Emphasis added.]

[Griffith was referring to an internal review, initiated in 2010 (the 2010 Internal Review), that has never been made public. Griffith *repeatedly* refers to the 2010 Internal Review, but always refuses to disclose it. The secrecy surrounding Dean Griffith’s 2010 Internal Review is rivaled only by the secrecy of the workings of the BJA in 2012-2013.]

During the 2013 Internal Review, it came to the authors’ attention that OCS possessed another document it has refused to make public. This document, entitled “Common Office Practices,” is purported to reflect guidelines utilized by OCS in handling judicial cases. These guidelines, in the format that existed *before being disclosed publicly for the first time here*, should be compared to the 1997 Student Judicial Charter. OCS has been asked for a copy of this document.²² It has not been provided. Along with the 2010 Internal Review, it remains a well kept OCS secret.

Dean Griffith concluded her remarks on May 15 with the following:

“We invite students to continue to engage in this process, which has a high degree of student involvement already. We welcome and look forward to the conversation and their participation.”

VII

THE CASE STUDY STUDENT AUTHORS RESPONDED TO DEAN GRIFFITH

The three student authors of the Case Study almost immediately responded to Griffith in the May 22, 2012 *Daily* [see Appendix, pages 32-34]. Students C, R, and L from the Case Study, first observed that Griffith was a strange choice to provide the University’s response to the 2012 Case

²⁰To this day, over six months after her letter to *The Daily*, Dean Griffith has not identified a *single* factual error in the 65-page Case Study.

²¹Etchemendy letter, April 1, 2013.

²²See letter to OCS and Dean Griffith of November 18, 2013.

Study given that she had been running the department during the handling of the case spotlighted in the Case Study. She therefore seemed an unlikely candidate to clean house at OCS.

The students next reminded the community of the many violations of the 1997 Student Judicial Charter that occurred in their case. First, they described how they were told in a letter from OCS that they could not contact witnesses, even though that right is guaranteed in the 1997 Student Judicial Charter.

The students then described how OCS had hired a statistical expert but when the expert *corroborated their innocence*, the OCS dismissed the expert and refused to identify the statistician so the students could call him as an expert. OCS appeared, at least to these three students, to be working to convict the three students rather than providing a fair process.

While the 1997 Student Judicial Charter mandates that if a Reporting Party seeks anonymity the case must be withdrawn, the authors said that provision had been violated in their case. OCS granted the reporting student anonymity and the students were denied the right of cross-examination, but OCS nevertheless allowed the instructor to testify as to what the never-identified student had said.

In addition, according to the three students, OCS did everything it could to exclude their 12 non-party witnesses, cut off direct questioning, precluded effective cross-examination, and stated that at a hearing conducted by the OCS, students cannot object to improper evidence coming into the record. So much for the rights guaranteed by the 1997 Student Judicial Charter.

Addressing Dean Griffith's statement that the Case Study was an outlier, the students responded:

"Was OJA's conduct an outlier? Hardly. Almost every violation of our rights reflected OJA policies, not unique individual evidentiary rulings. If there was any doubt that OJA could eviscerate our Judicial Charter, consider Griffith's surprisingly candid quote in the *Daily*: '[Griffith] said that by omitting the previously supplied warning to student respondents to not contact witnesses, student respondents *might be more likely to do so.*' [Emphasis added.]

These people appear to have fundamental philosophical objections to portions of our student-drafted Judicial Charter. Griffith's quote, her effort to discredit us and the study itself, all suggest a culture that permeates OJA."

The students called for Stanford to assign a respected, credible third party to clean house and remove from OCS anyone who philosophically objects to the rights guaranteed by the 1997 Student Judicial Charter. Griffith has yet to respond. Neither has Stanford.

In their conclusion, the students discussed the potential for wrongful convictions:

"Does enforcement of the Charter matter? We believe scores of

students may have been convicted in cases where the Charter was violated. Wrongful convictions typically result in one quarter suspensions and Stanford maintains a permanent record, which graduate schools and employers can see.

More significantly, systemic and condoned Charter violations, in the very office tasked with maintaining the University's academic integrity, will threaten the University's reputation and erode its core values. This issue affects us all."

VIII

OCTOBER 2013—DEAN GRIFFITH CLAIMS IT IS TIME TO MOVE ON

Appearing before the ASSU Senate on October 15, 2013, Dean Griffith claimed she and OCS had progressed well beyond the Case Study. Her comments suggested to senators that the 2012 Case Study was outdated and that it was time to move on.

Dean Griffith told the ASSU Senate that students should instead rely on her department's own confidential 2010 Internal Review as proof that OCS is functioning properly, not the apparently *outdated*, albeit public, 2012 Case Study.

For students who want to rely on the 2010 Internal Review, Dean Griffith has yet to make it available to the public even at this late date and even as she has made it the core defense of her department. Trust her, she appears to be saying, to know that a study initiated almost four years ago can tell us what students face now when confronted by OCS.

At the ASSU Senate meeting, Dean Griffith was pressed by Senator Ilya Mouzykantskii ('16), who told Dean Griffith that he was receiving reports suggesting "[the Judicial Charter of 1997] is being flatly ignored." Mouzykantskii asked Griffith when the student body could expect a public response to the 2012 Case Study. Said Mouzykantskii: "...the fact that OCS does not want to provide [a written response to the Case Study] is damning."

Griffith told Senators she had privately reported to the OCS 6 and would not be responding publicly. Like the 2010 Internal Review and the OCS document known as "Common Office Practices," Griffith chose not to provide the community with the requested information.

For Senator Mouzykantskii's benefit, the OCS 6 can share here that Dean Griffith has *not once* questioned the authors of the 2012 Case Study as to the accuracy of a single fact contained in that Study. Her unwillingness to openly respond to you may well be damning, but as Provost Etchemendy told us, OCS *does not have* to respond to students.

IX

THE STUDENT JUSTICE PROJECT IS BORN

Dean Griffith challenged students to become engaged in the discussion. Under the leadership of Reid Spitz ('14), a new student group was formed, known as the Student Justice Project. The group's founding members were motivated not so much by Dean Griffith's challenge, but by their knowledge of what was actually happening at OCS and in other Stanford judicial processes. (To contact the Student Justice Project, go to www.studentjusticeproject.com.)

The Student Justice Project is dedicated to educating the Stanford community with respect to the failure of the OCS to enforce the 1997 Student Judicial Charter, to protect the interests of students accused of wrongdoing, and to restore the rights mandated by the 1997 Student Judicial Charter but perceived by many to have been somewhat or largely abandoned by OCS. The Student Justice Project will also work with alumni to recruit competent volunteers to defend every student in need of assistance.

Students, parents, and alumni have privately expressed concerns that their efforts to restore student rights at Stanford will come with a heavy price. The Student Justice Project will also speak for those who have expressed their fears that they will face retaliation from University employees if they go public with their criticism.

X

THE OCTOBER 2013 INTERNAL REVIEW IS DESIGNED TO TEST DEAN GRIFFITH'S REPRESENTATIONS AS TO THE FINDINGS OF THE PRIVATE 2010 INTERNAL REVIEW

With Dean Griffith attacking the credibility of the 2012 Case Study and instead asking the community to rely on the confidential 2010 Internal Review, it was decided to conduct a new internal review of OCS, *but this time make it public*. If students were being wrongfully convicted, it would be a mistake for University administrators and Trustees to rely on Dean Griffith if her representations were not entirely accurate.

Thus was born the October 2013 Internal Review of OCS. The purpose was to test Dean Griffith's claim that the Case Study was an "outlier" and that it was time to move on. This internal review would be undertaken by students, parents, and alumni. It would be totally transparent and shared in its entirety with the community, as things should be at Stanford University and consistent with the practices of the Student Justice Project.

The methodology of the October 2013 Internal Review was to reach out to every individual who could be identified who had had a recent experience with OCS, either as a referred student, a charged student, representative of a referred or charged student, or a support person who went through the process with a student. Each would be asked to describe their experience. They, not Dean Griffith, would judge her department.

The goal was to enlist individuals who had been through the OCS Process in the 2012-2013 school year and in particular, find as many students as possible who experienced the process in the spring or summer of 2013. The results would be both broader-based and more current than the 2012 Case Study and much more current than the 2010 Internal Review.

Twenty-four impacted individuals were identified. All were asked for testimonials of their experience with OCS. All said yes. None refused. Their testimonials are included in their entirety at Appendix pages 1-28.

Six of the individuals were the student and alumni authors of the Case Study, who each wrote about their own personal experience with the process in the 2011-2012 school year. With those exceptions, the other 18 testimonials included here were from those who had cases that were either concluded in the 2012-2013 school year (with most coming in the spring or summer of 2013) or cases that were still active when this report was issued in October 2013.

Dean Griffith had promised the OCS 6 that the Office of Student Affairs would conduct audits at the end of some OCS cases to get feedback from those who went through the process. None of the 24 individuals whose testimonials are provided here were ever contacted by OCS, Chris Griffith, or Greg Boardman, or anyone associated with the Office of Student Affairs for purposes of auditing their experience with OCS. For them, this was the first time to tell their experience.

Since Dean Griffith has not contacted these individuals, this report will be shared with her so she can have the auditing feedback she purports to want. It will also provide her office with an internal review that can be shared with students, parents, and alumni. For Provost Etchemendy and General Counsel Zumwalt, they will now have an additional means to assess whether Dean Griffith has, as they have suggested, been able to resolve the many issues identified in the 2012 Case Study. OCS will also now have a review it can give students (and their parents) when they enter the system.

Participants in this 2013 Internal Study of OCS were offered an opportunity to sign their name to their testimonials or submit them anonymously. All of the students and their support persons asked for anonymity for a variety of reasons. Almost all, including the non-students, feared retaliation from individuals associated with Stanford University. All of the students feared the reputational damage that could come from being associated with an OCS case, notwithstanding that only two of the testimonials came from students who had been adjudicated guilty (but who are both currently challenging that result).

As noted, given that the responding group skews heavily in favor of those not charged or acquitted, an obvious bias may exist. The authors perceive that those with negative results would probably be *harsher* in their comments than the comments received from this review group.

The testimonials express the views of their authors and are distributed with the intention of sharing with the community the personal observations of those who have experienced OCS firsthand. Every testimonial is enclosed in the appendix in its entirety [1 to 28].

XI

THE 24 TESTIMONIALS FROM STUDENTS, PARENTS, AND ALUMNI OF STANFORD UNIVERSITY

The 24 testimonials are in the appendix at pages 1 through 28. Below are partial summaries from each of our 24 respondents. The page numbers shown are the pages in the appendix at which you can find each complete testimonial.

App.
Pg. No.

p. 001- **John Martin ('80) – Supervising Administrative Law Judge, Los Angeles**
003

As a Presiding Administrative Law Judge of the California Unemployment Insurance Appeals Board, I devote a great deal of time to ensuring due process is observed by the 25 judges I supervise in our administrative hearings. Moreover, as a former Deputy Federal Public Defender and criminal defense lawyer, I have dealt with due process at an even higher level of scrutiny.

....

When I assisted in the representation of students accused of Honor Code violations at Stanford, I was appalled by the lack of due process afforded them. Some of the most basic due process protections were discouraged or outright denied.

Overall, the hearing evidenced a lack of impartiality and a lack of understanding of the most basic legal concepts that ensure a fair proceeding. No one involved in the day to day doings at the Office of Community Standards had a legal background or an apparent familiarity with elements of procedural due process. ...

....

I want to be clear on the issue that now confronts all of us at Stanford. It is not about changing the 1997 Student Judicial Charter. The Office of Community Standards has already done that. The issue is going back to the 1997 Student Judicial Charter, and enforcing it strictly. It was designed to protect students, and that protection needs to be restored. ...

....

p. 004 **Student (2012-2013 Case)**

My advisor[s were] extremely unpleasant. They treated me in a disrespectful and judgmental manner. Every time I met with them I felt like I was being attacked and I never felt at ease when I was in their office.They constantly gave me bad

advice, encouraged me to admit to things I didn't do, and discouraged defensive strategies. My advisor had little regard for my rights. At no point did I ever feel like this person was my advocate or on my side. This made me feel alone and stressed throughout the whole process.

At a certain point I felt that my rights were negatively impacted by my reliance on my advisor's counsel, so I sought professional legal counsel.

Initially, I was afraid to disclose that I had retained legal counsel because my advisor had strongly discouraged this and implied that professional legal counsel would not be helpful in my case. Once I got legal advice everything changed for me. It was a night and day difference.

p. 005 **Stanford Parents and Alum (2013 Case)**

Our son faced a case at the Office of Community Standards in 2013 in which there was an overriding presumption of guilt, despite the fact that he was innocent. We hired an attorney mid-way through the case, and there was a night-and-day difference in the way his case was handled *before* we retained counsel and the way his case was handled *after* we retained counsel. He was ultimately unanimously acquitted by his panel.

From the beginning, the OCS seemed to be more interested in securing a conviction than uncovering the truth. For instance, the Investigator in the case scheduled a date for my son's hearing *before even concluding the investigation or formally charging him*; if that doesn't scream presumption of guilt, I don't know what does.

... Fortunately, my son's public speaking skills are well-honed. However, *we feel particularly sorry for the accused students who have a fear of public speaking or speak English as a second language*. These students have no fighting chance in front of Stanford's kangaroo court.

The major takeaway from our son's case is that, without the benefit of an attorney, an innocent student can easily lose his or her case when denied basic protections of due process.

p. 006 **Graham Gilmer '05 (2011-2012 Case, Alumni)**

.... I was an alumnus advisor to a student wrongfully accused of a violation of the Honor Code, and I experienced the judicial process firsthand. My student, along with others in his situation, faced direct intimidation from University officials.

.... The staff involved showed a clear lack of training and, consequently, have dangerously interpreted sections of the Stanford Judicial Charter to better suit their needs. Procedures were not standardized, and the entire organization lacked the

rigor and oversight that I would expect from Stanford University. I am absolutely confident that innocent students have been found guilty through this slanted system.

p. 007 **Student (Spring 2013 Case)**

....

..., my fundamental rights under the Stanford Student Judicial Charter were repeatedly violated in material respects ...

Perhaps the most egregious example of a violation of my rights under the Charter occurred when the OCS and the reporting parties purposefully concealed the identify of the only known witness in my case. ... The OCS has acknowledged that I requested the witness come forward on multiple occasions, but that they failed to compel the witness to come forward. (Note: witnesses are compelled to cooperate and appear at Judicial Panel hearings per Section II(D of the Charter.)

... Throughout my case, I felt strongly that the way my case was being handled was unjust, but the OCS kept telling me that their actions were permissible under the Charter, and that I had no choice but to accept that fact. Case in point, the “neutral” Judicial Advisor in my case co-authored a brief *advocating for my conviction*. The one person, whom I was told I could trust, pretended to advise me confidentially before advocating for my conviction. Some trust!

...the Judicial Advisor in my case specifically advised me not to hire an attorney. He even went so far as to suggest that if I retained counsel I would look guilty.

p. 008 **Stanford Student N (Spring 2013 Case)**

....

I met with an “Advisor”... I was appalled by the manipulative diction used and the blatant lack of respect for the Student Judicial Charter. I felt that the University was trying to convince me they were preparing me for battle, while they were actually taking the ammunition out of my gun. At any chance my advisor could, he manipulated and changed the phrasing of the 1997 Student Judicial Charter to render it meaningless.

.... I was strongly advised by OCS NOT to retain legal counsel. Until I was protected by my attorney, I felt as if the system utilized by OCS was designed to strip me of my rights, push me through a manipulative and biased process and then find me guilty, independent of the facts. I shared my experience with Dean of Student Life, Chris Griffith, in writing in May of 2013. I have not heard back from her.

Fortunately, because of a backlog at OCS, my case was referred to a Dean at the

Law School. She had a legal background. The case was then handled professionally. No charges were filed.

p. 009 **Bob Otilie ('77) (Representative of multiple students)**

Over the last 15 years, I have been involved in scores of administrative processes administered by middle schools up to law schools and medical schools; from the California Interscholastic Federation to the NCAA. Never have I seen such a lack of due process as that exhibited in the handling of matters by the Stanford Office of Community Standards (OCS).

Individuals who administer the judicial process at Stanford often appear unclear as to their proper role and responsibilities. Their actions and arguments often suggest a lack of familiarity with the 1997 Student Judicial Charter. Most alarming is their willingness to handle cases in a way that appears to me to be in conflict with the Charter itself, even after they have been made aware of Charter provisions.

....

...the right to representation is guaranteed under the 1997 Student Judicial Charter, students with means are already retaining attorneys. It is the students from families without high incomes, or students who do not feel comfortable telling their parents, that are being deprived of quality representation.

This creates a dual system of justice. Those with quality representation get an entirely different experience from OCS than those who are not represented.

p. 010 **Student (Case considered in 2012-2013)**

I am a student who was found not guilty in an Honor Code case within the Office of Community Standards.

....[I was initially deprived the name of, and access to, the student who initially reported me. This was a violation of two Charter provisions.]

...my case was immediately dropped [once my lawyer forced them to produce the student]. Through this additional round of questioning, the witness relayed information that pertained to other students involved in the allegation, but my innocence became clear. My case was dropped.

This happened over four months after the original complaint was filed. Had I been granted access to the witness immediately, my case would have been dropped in a matter of days. ... This created a system that held me guilty before proven innocent.

....

.... I would write letters approximately every other week to the individuals handling my case, These letters contained time-sensitive questions regarding steps that I needed to take to ensure I received due process. I asked for the name of my witness. I received no feedback for three weeks.

.... I have no doubt that other innocent students did not take the appropriate measures to ensure their due process, resulting in a wrongful conviction.

....

p. 011 **Student (Winter 2013 Case)**

In the fall of 2012, I was involved in a verbal argument in a university residence that ended with a physical altercation. Prior to retaining counsel, I was completely denied the due process that students at Stanford are supposed to receive. Although I self-reported the incident to the Residence Dean, I was essentially treated as “guilty until proven innocent”

I had dozens of witnesses to provide to the University in my defense. However, when I had first spoken to the Residence Dean, she had told me I could not contact witnesses, and so I assumed she would do that for me. I was wrong.

....

Fortunately, when an experienced attorney and involved Stanford alumnus offered to represent me in my appeal, everything changed. I filed an appeal. He told me that the Dean was wrong when she said I could not contact witnesses. Even though it was three months since the incident, I had about 60 witness statements collected in about four days.

With the evidence the Dean would not let me gather, I won my appeal.

pp. 012 **Current Stanford Student (2012-2013 Case)**
- 012b

.... I was completely innocent and no charges were ever brought against me after I was initially informed that I was one of a few students believed to have possibly violated the honor code on an exam, my experience was incredibly stressful and distracting.

From the outset and throughout all of my dealings with the OCS, I felt that I was involved in an adversarial process in which I was guilty before being proven innocent rather than innocent until being proven guilty. I felt this way because significant exculpatory evidence and the identity of an accusing witness were not disclosed to me... In fact, there is no provision for anonymous witnesses in Stanford’s 1997 Student Judicial Charter and the Charter and a bylaw mandate that witnesses must cooperate, and yet the OCS ignored this requirement... Fortunately for me, my case was dropped

almost immediately after the anonymous witness finally came forward and made a written statement and other significant exculpatory evidence was disclosed. ...

I was fortunate to have been guided through my dealings with the OCS by both my father and an attorney I do not believe that a student without representation could possibly understand and self-advocate their rights under the 1997 Student Judicial Charter,

p. 013 **Student (Spring quarter 2013 Case)**

The Stanford Judicial Process is not one that seeks the truth, but one that tries to corroborate the assertion made by the Professor. You are assumed guilty from the moment that you enter the process. There is nothing about it that is fair or that even resembles a normal judicial proceeding. To be completely honest, to be put into this system is resembles a lot [like] being bullied.

Before I retained a counsel, I was told that I could not contact witnesses and if I did so, I would have their statement annulled. I was also told that I would have a deadline to write the statement, otherwise the case would go to trial without a chance for me to explain my actions. The worse part was that the Judicial Officer never set the deadline, nor would she reply my emails or phone calls, so I was in constant terror that my defense would not be accepted.

.... The Judicial Officer refused to contact my witnesses since she believed they were not essential to the case. Even though, their statement was my alibi. Since I could not reach out to them, in fear that it would annul their statement, I felt completely lost. I did not know what to do at the time.

....

p. 014 **Student, Class of '14 (OCS, Class of '13)**

I am a Stanford student who has myself been through a case at the Office of Community Standards, and who has helped multiple friends navigate through the challenging OCS process. Throughout the many cases I have seen, I have witnessed a pattern of *serious* and *ongoing* problems within the OCS.

I am not someone with a legal background, but one doesn't need to be a lawyer to have a strong understanding of the concepts of "due process" and "presumption of innocence"—concepts that are cornerstones of American jurisprudence and necessary parts of the best legal system in the world. These basic concepts seem to be utterly lost on the staff at the OCS. In the cases I know about, I've seen the OCS deny students the right to confront their accuser. I've seen them deny students access to exculpatory and incriminating evidence. I've seen them railroad students through the process and threaten to move on "without the benefit of their participation" if they attempt to seek legal counsel. I've even seen them *break federal law* in their

case-handlings. For the OCS, conviction—not justice—is the ultimate objective. It's no wonder they have a 95% conviction rate. Conviction...or “education,” as Chris Griffith likes to call it.

It is with this flawed philosophy of “education” over “legality” that the OCS has justified its systemic thrashing of the Student Charter. Indeed, the OCS *does* seem to be intent on educating their accused students...about how guilty they are., Chris Griffith and the OCS publicly state their mission is to make the *judicial phase* “less legalistic and more educational.” It's hard to presume someone innocent through a judicial process when your primary concern is in “educating” him and not providing him with all of the protections granted under the Student Charter of 1997.

....

Stanford's motto is “Die Luft der Freiheit weht”—“The Wind of Freedom Blows.” Unfortunately, that motto reads more like a punch line than a slogan.

p. 015 **Student (2011-2012 Case)**

....

.... our judicial investigator...stated that he would be asking a statistics professor to run tests on our exams to estimate the probability that the few of our answers that were the same was just by chance. However, once the results came in, [they] decided to throw the results away, offering us no reason as to why. This led us to believe that the statistics results corroborated the fact that we were indeed innocent.

....

The meeting with the judicial committee was to me one of the most unfair “trials” I could have imagined. It seemed as if we were assumed guilty and that we were supposed to prove our own innocence.... The original accuser was never even required to present him/herself to us, an act that is required by the judicial charter if a judicial affairs case is to move forward. It seemed that at every turn the charter was ignored and abused.

.... The guidance that Stanford judicial affairs provided was subpar and I believe that we would have been found guilty if our representative was not in the room with us. The whole meeting felt more like an attack on us than the “conversation” that it is proclaimed to be.

p. 016 **Friend of Impacted Student (2012-2013)**

I have experienced the operation of the Stanford Office of Community Standards (OCS) by observing a close friend of mine going through a four-month long process. During this time, I experienced the absolute worst display of incompetence,

intimidation and bullying that I ever saw at Stanford.

The OCS staff operated as prosecutors, not unbiased counselors and investigators (as they should). Many times, the investigator would threaten the student with charging the case without giving her an opportunity to reply with the appropriate time. The investigator allowed the reporting party to withhold evidence, and many times failed to interview significant witnesses in the case. In spite of such repeated abuse and violations of student rights on part of the investigator, the judicial advisor did absolutely nothing to help—she did not respond to multiple emails from the student, neglecting her job during the entire investigation. In my experience, the OCS staff either works against the student (in spite of all evidence pointing towards the students' innocence), or does not work at all.

....

My general impression of the operations of the OCS staff was that they were simply advocates for the professor's point of view. The investigator was not concerned with finding the truth in the matter, but simply with finding evidence to corroborate the professor's accusation,

....

p. 017 **Student (2013 Case)**

...., I was advised not to retain counsel by my Judicial Advisor, He said he would see me through the case, however not once during the process did I feel like he was pulling for me. I felt like the OJA was actively seeking a conviction.

After subsequently getting outside counsel from an alumnus, I felt a lot more secure about my position regarding the case and its direction. Without him, I have no doubt I would have been wrongfully convicted. He was a source of comfort and invaluable advice on how to proceed with affairs. He informed me of my rights allowed to me by the Judicial Charter; rights that the OJA attempted to deny me from the onset of the investigation.

....

I hope that big changes will be made to the Judicial system and soon, so that students in future cases will be allowed due process, which is currently being denied.

p. 018 **Student (2012-2013 Case)**

....

.... My advisor frequently gave me suggestions that either did not apply to my situation, or would have hurt my case had I followed them. For instance, my advisor threatened me with a Fundamental Standard violation if I were to talk to the other student involved in my case. Not only would that have been nearly impossible since we were being tried together, it would have hurt my chances of preparing a sound defense.

..., poor and misleading advice such as the example I provided characterized my case.

Not only was I was receiving poor suggestions from my Judicial Advisor, he later co-authored a brief arguing for my conviction. My Judicial Advisor could be considered an expert when it comes to the Judicial Charter, but instead of correctly advising me, he misled me, ignored violations of my fundamental rights under the Student Judicial Charter, and then argued *for my conviction*.

....

p. 019 **Parent (2012-2013 Case)**

The Stanford Office Judicial Affairs does not respect human dignity. It fails to give the accused party a viable way to defend themselves from allegations from the reporting party. As a lawyer myself, I cannot contain my disbelief that this is the office that decides the future of the students in a first class university.

The defending students are subject to a daily torture with the investigators refusing to contact witnesses because they deem them as unnecessary.

.... My own child could not eat, sleep or work in the first few months of the OCS process. My child went through depression. There were multiple witnesses on the student's side, expert's reports and much more supporting evidence, but OCS still went on.

....students should be granted the choice of being represented by either a lawyer or a parent, instead of having to personally deal with the OCS. Secondly, the people that judge and investigate the students should be ones that understand the law and respect the Student Judicial Charter.

For a University that is the top in the world, this system is shameful.

p. 20 **Student (Spring 2013 Case)**

.... I feel that students are, by the very nature of the process, in a disadvantageous position and are generally unable to advocate properly for their rights under the Charter.

..., without representation of a legal counsel, I felt that my requests and questions were not addressed adequately. The assumption of neutrality unless and until the final point of finding of violation was challenged by the actual practice of the office personnel. The process was skewed, and the involvement of legal counsel, who fought relentlessly for legitimate student rights, helped restore the balance of power, at least to some extent. I sincerely hope that Stanford students, with or without means, can get high-quality legal representation in a proceeding through which a stigma may be attached.

p. 021 **Parents (Spring 2013 Case)**

As a parent of a student who has been through the OCS process after being accused of academic violations I can't begin to explain how disappointed I am in Stanford. I realize OCS is only a small portion of Stanford, but our encounter with them has tarnished the entire Stanford experience.

....

We inquired of our son if we should secure an attorney to represent him. The OCS employee advised our son that attorneys are really not needed and everything will work out. In hind sight, our biggest mistake was not securing representation from the beginning. OCS knowingly violated the Stanford student charter regularly throughout the process and proper representation should have been able to stop those violations.

....

Our experience with the OCS showed them to be an organization bent on justifying all claims against students without interest in following the due process as outlined in the student charter. Currently, they are guilty until they can prove their innocence, and OCS will make every effort to prevent the students from making their case.

p. 022 - **Student X '14 (OCS '12)**
023

....

Like most Stanford students, I was blind to the flagrant and systemic problems within the OCS when I entered the process. It became quickly apparent to me, however, that they presumed guilt from the get-go and were willing to do *anything* to get a conviction. My so-called "advisor" acted like more of a prosecutor than

even my “impartial” investigator; neither seemed to have any grasp of due process or presumption of innocence; both seemed uniquely unqualified to hold their current positions.

The way the OCS handled my case was deplorable. My advisor tried to railroad me through the process as fast as possible from Day 1. Over and over again, she told me that I must move forward with the investigation immediately or “the case would proceed without me,” ...

....

The witnesses I named—the only eye-witnesses in the case—were *not interviewed* until after I pressed the OCS repeatedly to get statements from them. On the other hand, the OCS was quick to interview the witnesses named by the Reporting Party. The OCS routinely bent and even made up rules as they saw fit to give the Reporting Party every advantage in the process, ... Most egregiously, the OCS threw out the vast majority of my evidence *the night before my trial*.

....

Having competent legal representation in a matter handled by the OCS is absolutely necessary in the current environment. The OCS cannot be trusted to comply with the Student Judicial Charter unless forced to do so.

p. 024 **Student C (from June 2012 Case Study)**

.... I went into the process without representation, assuming that my adamant professions of innocence and lack of evidence against my claim of innocence would be more than enough to acquit me from any accusations. That assumption was wrong. I never would have received the acquittal I deserved if not for representation...

....

.... I had been explicitly told by the OCS to not contact any witnesses involved. As a naïve student, I assumed this was right. Fortunately, [my lawyer] informed me that my right to contact witnesses is actually protected by the Judicial Charter. I was infuriated by the lie and learned quickly not to trust the process. I am convinced that *my lack of trust in the Office of Community Standards is the only reason I was vindicated*.

The experience has blighted my image of the University. The ideals of ethics and justice that were taught to me in my Stanford courses are not embodied in the processes of the University itself. Remember that I am a student who was found innocent by this system. And believe me when I say that the system is very, very messed up.

p. 025 **Parent of Student (2012-2013 Case)**

....

The subject student receives a seemingly innocuous but very serious email outlining a potential complaint and a roadmap of the OCS judicial process, inviting the student to pick up the phone and, basically, confess.

The subject student is discouraged from discussing the situation with any witnesses or colleagues, some of whom may have exculpatory information. A meeting can be set up with an OCS representative (named in the letter) who is supposed to be non-adversarial and friendly in order to discuss the case and as in every step in the process, to confess.

....

Due process is touted in the judicial rules but not in practice. The biggest flaw is the inability to properly investigate charges by interviewing potential witnesses.

From my view, it appears that *the University has its thumb on the scales of justice*.

Anyone being investigated and/or later accused MUST be represented by able counsel at all phases of the matter. Otherwise justice likely won't be done.

p. 026 **Caregiver of Student (2012-2013 Case)**

As a lawyer and professor for the past forty years, I cannot believe the arbitrariness of the OCS process.

....[OCS employees] try their hardest to corroborate the story of the reporting party, even if such party has no witnesses, no reason and no hard evidence. Having accompanied my family's member going through this process is an extremely painful experience. You feel their disbelief in the system, ...

This process affects every single aspect of one's life. Having them go through this alone is a form of punishment. Stanford should provide students with lawyers that can respond for them.

I cannot state how disappointed I am at Stanford for the horrible job they are doing at judging and investigating their Honor Code cases.

....

.... I am an attorney and yet, after reviewing the correspondence that my child received from the OCS and attempting to understand what a student's rights are under the 1997 Student Judicial Charter, I felt that it was absolutely imperative to engage an attorney to represent my child.

.... My child's case involved anonymous witnesses and the withholding of exculpatory evidence for many months, and my child was ultimately exonerated after these issues were ultimately resolved., no student (nor their parents) should be subjected to such a process.a student should never even be notified that there might be an issue if it is based on evidence from an anonymous witness, which I learned that the 1997 Student Judicial Charter strictly prohibits,

When my child's case was ultimately resolved favorably without any charges being brought, I was of course relieved. However, I also had deep feelings of anger by the way in which the OCS had treated me and my child during our dealings with it. And I couldn't help but feel sorry for any student who isn't fortunate to have a close enough relationship with his or her parents to involve them in a proceeding with the OCS and/or doesn't have the financial means to engage an attorney to represent them. Without some type of competent 3rd party representation, I do not believe it is possible for a student to understand and self-advocate their rights under the 1997 Student Judicial Charter.

Stanford University is one of our country's most esteemed educational institutions and its OCS should be held to the highest standards.

XII

CONCLUSION

This 2013 Internal Study of OCS suggests the findings of the 2012 Case Study are not an "anomalous example" as suggested by Dean Griffith. In fact, if these testimonials are to be believed, things appear to be getting worse at OCS, *much* worse. The testimonials paint a picture of a systemic problem. Students, parents, and alumni all see OCS as an organization to be feared, not a protector of student rights.

None of the testimony supports Dean Griffith's contention that the Case Study was an "anomalous example," an "outlier," or "outdated." The testimony from the 18 individuals not associated with the Case Study describes similar circumstances, similar attitudes, and similar contempt for student rights.

This 2013 Internal Study of the OCS would suggest, if anything, that Dean Griffith's oft quoted (but never made public) 2010 Internal Study is outdated, if it even ever existed or if it even painted a positive picture of the OCS at that time. It also suggests that in defending OCS, Dean Griffith is an outlier.

This report suggests a troubling lack of meaningful independent sources of oversight over Stanford University's student judicial operations. The University's status as a private institution is used by some as a defense to legitimate student and alumni concerns for student rights and wrongful convictions.

Wrongful convictions change lives. They kill dreams before the impacted young people can even pursue them. The authors, including two recognized experts on due process, have estimated that scores of students have been wrongfully convicted in Stanford's judicial system. In the face of such evidence, the continued support of OCS by high ranking employees has the potential to threaten both the core values and the reputation of the University.

This Internal Review should make one thing clear to every student, parent, and alum who reads it. Our students need help. If you want to volunteer or donate, contact us at studentjusticeproject.com.

Date: December 3, 2013

STUDENT JUSTICE PROJECT

www.studentjusticeproject.com

October 7, 2013

As a Presiding Administrative Law Judge of the California Unemployment Insurance Appeals Board, I devote a great deal of time to ensuring due process is observed by the 25 judges I supervise in our administrative hearings. Moreover, as a former Deputy Federal Public Defender and criminal defense lawyer, I have dealt with due process at an even higher level of scrutiny.

In 1997, Stanford students and faculty enacted the 1997 Student Judicial Charter. This document strictly defines the handling of all judicial cases at Stanford. I was a co-author, along with three students, of an extensive case study that followed a single Honor Code violation through the Stanford judicial process from start to finish at the Office of Community Standards. That case study, published by The Stanford Daily on May 13th, came to one principal conclusion – the Office of Community Standards was failing to process judicial actions at Stanford in conformance with the 1997 Student Judicial Charter.

When I assisted in the representation of students accused of Honor Code violations at Stanford, I was appalled by the lack of due process afforded them. Some of the most basic due process protections were discouraged or outright denied. Students were advised that they should not only desist from contacting witnesses but they were denied the opportunity to question their own witnesses in the proceeding. They were denied the opportunity to confront their accuser. They were discouraged from objecting to the testimony against them and from cross-examining those witnesses. New issues were raised at the hearing that were not part of the scope of the accusation and for which no notice had been given.

Overall, the hearing evidenced a lack of impartiality and a lack of understanding of the most basic legal concepts that ensure a fair proceeding. No one involved in the day to day doings at the Office of

Community Standards had a legal background or an apparent familiarity with elements of procedural due process. The students outlined just some of the violations of the Student Judicial Charter in their letter to The Daily on May 22, 2013.

Our students had representatives to advise them even though the representatives were not allowed to appear or participate in the actual proceeding. I cannot imagine how unrepresented students would be able to navigate such a process at all, let alone successfully.

Under the 1997 Student Judicial Charter (§II, (A), (7)), every student is entitled to be represented while going through the process. Yet, many students who have come forward to us since The Daily's publication of the Case Study in May have suggested they are either intimidated from retaining an attorney, or are led to believe it would be in their best interests not to. Further, it has become apparent that those who are not represented face an entirely different experience from those who have competent counsel who can protect their rights in every step of the process. This is happening now, in cases resolved or commenced in the spring of 2013.

I want to be clear on the issue that now confronts all of us at Stanford. It is not about changing the 1997 Student Judicial Charter. The Office of Community Standards has already done that. The issue is going back to the 1997 Student Judicial Charter, and enforcing it strictly. It was designed to protect students, and that protection needs to be restored. Recent practices demonstrate what can happen when the Charter is ignored.

As a Stanford graduate who is proud of the excellence of most all that Stanford does, I was deeply disturbed by this lack of professionalism and fairness at the Office of Community Standards. In his letter from the Birmingham Jail in April 1963, Martin Luther King said, "An injustice anywhere is a threat to justice everywhere." Dr. King's cautionary words ring just as true today, 50 years later. It is incumbent on those of

us who care about Stanford and its continuing excellence that we take steps to prevent the miscarriage of justice that will surely come from the continuation of such a flawed judicial process at Stanford.

John Martin ('80) – involved with student cases in 2011-2012
and 2012-2013 school years

October 13, 2013

To Whom It May Concern:

I am a student at Stanford University. During the 2012-2013 school year the Office of Community Standards let me know that they would be holding a case against me.

My advisor was extremely unpleasant. They treated me in a disrespectful and judgmental manner. Every time I met with them I felt like I was being attacked and I never felt at ease when I was in their office. My advisor was also unhelpful. They constantly gave me bad advice, encouraged me to admit to things I didn't do, and discouraged defensive strategies. My advisor had little regard for my rights. At no point did I ever feel like this person was my advocate or on my side. This made me feel alone and stressed throughout the whole process.

At a certain point I felt that my rights were negatively impacted by my reliance on my advisor's counsel, so I sought professional legal counsel.

Initially, I was afraid to disclose that I had retained legal counsel because my advisor had strongly discouraged this and implied that professional legal counsel would not be helpful in my case. Once I got legal advice everything changed for me. It was a night and day difference. My advisor became more helpful and seemed to respect my rights more. My legal counsel also provided me with vital advice regarding the case that my advisor would have never shared with me, and helped me make sure that my rights were not being trampled.

For this reason, I support the Student Justice Project in its efforts to get students that go through the OCS process competent representation. I hope that in the future all students that go through OCS will get the representation and help that I was fortunate enough to have.

2012-2013 Case

Oct. 11, 2013

Dear Justice Project Coordinators,

Our son faced a case at the Office of Community Standards in 2013 in which there was an overriding presumption of guilt, despite the fact that he was innocent. We hired an attorney mid-way through the case, and there was a night-and-day difference in the way his case was handled *before* we retained counsel and the way his case was handled *after* we retained counsel. He was ultimately unanimously acquitted by his panel.

From the beginning, the OCS seemed to be more interested in securing a conviction than uncovering the truth. For instance, the Investigator in the case scheduled a date for my son's hearing *before even concluding the investigation or formally charging him*; if that doesn't scream presumption of guilt, I don't know what does. More telling is that there were many discrepancies and unanswered questions that the Investigator seemed eager to overlook, presumably due to incompetence and an overzealousness to prosecute. Stanford was even willing to violate federal privacy laws in order to secure a conviction. There's a problem with the system when the investigator also acts as prosecutor and judge, and the University will break laws that were intended to *protect* students.

It was at this point that we hired an attorney who's familiar with these kinds of cases to handle my son's case. Even though we hired an attorney, the OCS *still* wouldn't speak with our son's legal counsel directly. Currently, lawyers are not allowed to represent their clients at the hearing. Fortunately, my son's public speaking skills are well-honed. However, we feel particularly sorry for the accused students who have a fear of public speaking or speak English as a second language. These students have no fighting chance in front of Stanford's kangaroo court.

The major takeaway from our son's case is that, without the benefit of an attorney, an innocent student can easily lose his or her case when denied basic protections of due process. He received a relatively fair trial towards the end, but *only* because he hired competent legal counsel to help him handle his case. In retrospect, hiring an attorney was the best decision we made in our son's case, and we believe strongly that all Stanford students must be provided access to legal counsel in order for the process to be fair. Currently, there seems to be a dual justice system for those students who have the means to hire an attorney versus those who do not. That does not reflect well on our University, and we believe strongly that it must be changed.

Stanford Parents and Alum
(OCS Case 2013)

APP 005

October 7, 2013

To: Stanford University

Re: Stanford Justice Project

My contact with the Stanford Office of Community Standards and the University's Board of Judicial Affairs over the past three years has caused me to question my support of Stanford as an institution. I was an alumnus advisor to a student wrongfully accused of a violation of the Honor Code, and I experienced the judicial process firsthand. My student, along with others in his situation, faced direct intimidation from University officials. He had to overcome a confusing process, uncooperative staff, and a stacked case against him. Even though his circumstances did not have enough evidence to warrant review by the panel, it was unfairly argued by the Faculty representatives and he narrowly escaped with a split decision.

I came away from the experience thankful of the result and hopeful that Stanford would review its outdated and skewed process for hearing these cases. The staff involved showed a clear lack of training and, consequently, have dangerously interpreted sections of the Stanford Judicial Charter to better suit their needs. Procedures were not standardized, and the entire organization lacked the rigor and oversight that I would expect from Stanford University. I am absolutely confident that innocent students have been found guilty through this slanted system.

I am contributing my thoughts today because I know there are violations (or unauthorized amendments) of the Stanford Judicial Charter that still need to be addressed. As a proud alumnus, these are of great concern to me. I believe that through an independent review and a series of steps to enforce the Charter, Stanford can establish a Judicial System that lives up to its academic reputation, and I am committed to resolving these issues through my support and contributions to this project.

Graham Gilmer '05
Senior Associate
Booz Allen Hamilton
Washington, DC

To Whom It May Concern:

I am an undergraduate at Stanford University. I was charged by the Office of Community Standards (OCS) with providing unpermitted aid to another student on a final exam during the fall quarter of 2012.

During the investigative phase and adjudicative phase of my case, my fundamental rights under the Stanford Student Judicial Charter were repeatedly violated in material respects in approximately 30 different ways.

Perhaps the most egregious example of a violation of my rights under the Charter occurred when the OCS and the reporting parties purposefully concealed the identity of the only known witness in my case. The witness would have impeached the testimony of the reporting parties in my case; however, the witness's identity, which was known to the reporting parties, was never revealed. The OCS has acknowledged that I requested the witness come forward on multiple occasions, but that they failed to compel the witness to come forward. (Note: witnesses are compelled to cooperate and appear at Judicial Panel hearings per Section II(D) of the Charter.)

Unfortunately, I did not know that my rights had been violated repeatedly throughout the process. Nor did I know that 95% of students accused of an Honor Code violation were found guilty. Throughout my case, I felt strongly that the way my case was being handled was unjust, but the OCS kept telling me that their actions were permissible under the Charter, and that I had no choice but to accept that fact. Case in point, the "neutral" Judicial Advisor in my case co-authored a brief advocating for my conviction. The one person, whom I was told I could trust, pretended to advise me confidentially before advocating for my conviction. Some trust!

Notably, the Judicial Advisor in my case specifically advised me not to hire an attorney. He even went so far as to suggest that if I retained counsel I would look guilty. It was not until after I was convicted that I learned I had the right to have an attorney represent me. A few weeks after my conviction, I read an article in the Stanford Daily which described a student who had been similarly wronged by the OCS, but had retained an attorney during his case, and was found not guilty. I contacted the same attorney. Only then did I realize the extent to which I had been wronged. I also realized that I had been treated differently than other students whom the attorney had represented.

In closing, I truly wish I would have known that I could have hired an attorney to represent me during my case. My family lives below the poverty line, and hiring an attorney would have presented significant hardship for my family and me, but the alternative is worse. I am quite confident that I would not have been convicted if an attorney had retained an attorney to stand up to the OCS when my rights under the Charter were violated time and time again. I firmly believe that every student charged with an Honor Code violation deserves to have competent counsel.

Consider my case, three reporting parties—one of whom was a respected faculty member—were allowed to testify against me. I had no one on my side. I had no one to balance the playing field. It was my word, the word of an accused cheater, against the respected word of a Stanford faculty member and his assistants.

If the simple fact that 95% of students are convicted does not convince you that every student deserves an attorney, hopefully my case will illustrate how an honest student without an attorney can be thrown under the bus by the "neutral" Office of Community Standards.

October 8, 2013

To: Stanford University

Re: Stanford Justice Project

To Whom It May Concern:

I am a current Stanford student who, because of an experience I felt to be *unnecessarily* stressful, is writing to hopefully help change a flawed process. During an examination earlier in 2013, I was accused of cheating when I was not. From the moment I was contacted by the Stanford Office of Community Standards (OCS), I felt as if I were being methodically manipulated into believing that I did not actually have the rights listed in the 1997 Student Judicial Charter.

I met with an "Advisor" who was supposed to be impartial. He walked me through the rights listed in the Student Judicial Charter. I was appalled by the manipulative diction used and the blatant lack of respect for the Student Judicial Charter. I felt that the University was trying to convince me they were preparing me for battle, while they were actually taking the ammunition out of my gun. At any chance my advisor could, he manipulated and changed the phrasing of the 1997 Student Judicial Charter to render it meaningless.

It was not until I subsequently received legal counsel that I finally felt that I actually might be treated as innocent until proven guilty and that the Student Judicial Charter actually meant something. While this was comforting, it also made me very angry with the University because I was strongly advised by OCS NOT to retain legal counsel. Until I was protected by my attorney, I felt as if the system utilized by OCS was designed to strip me of my rights, push me through a manipulative and biased process and then find me guilty, independent of the facts. I shared my experience with Dean of Student Life, Chris Griffith, in writing in May of 2013. I have not heard back from her.

Fortunately, because of a backlog at OCS, my case was referred to a Dean at the Law School. She had a legal background. The case was then handled professionally. No charges were filed.

Sincerely,
Stanford Student N (Spring 2013 case)

October 7, 2013

To whom it may concern:

Over the last 15 years, I have been involved in scores of administrative processes administered by middle schools up to law schools and medical schools; from the California Interscholastic Federation to the NCAA. Never have I seen such a lack of due process as that exhibited in the handling of matters by the Stanford Office of Community Standards (OCS).

This is troubling because Stanford adopted a very good Judicial Charter in 1997. The Student Judicial Charter, if followed, would provide good due process to Stanford students.

Individuals who administer the judicial process at Stanford often appear unclear as to their proper role and responsibilities. Their actions and arguments often suggest a lack of familiarity with the 1997 Student Judicial Charter. Most alarming is their willingness to handle cases in a way that appears to me to be in conflict with the Charter itself, even after they have been made aware of Charter provisions.

Every time I have spoken with anyone associated with Stanford about getting higher quality representation for any student charged, their comeback is always "Stanford students do not want lawyers to be involved." On the other hand, I have yet to meet a student who did not greatly appreciate quality representation after they experienced OCS without representation. The only way to protect our students is quality representation.

Interestingly, whenever Stanford is pressed on a legal issue, they insist on having their lawyers involved, often "high priced" attorneys as they have been described to me. They want attorneys, but do not want their students to have them.

Further, since the right to representation is guaranteed under the 1997 Student Judicial Charter, students with means are already retaining attorneys. It is the students from families without high incomes, or students who do not feel comfortable telling their parents, that are being deprived of quality representation.

This creates a dual system of justice. Those with quality representation get an entirely different experience from OCS than those who are not represented.

Bob Otilie ('77)
(Representative of multiple students)

October 2013

To Whom It May Concern:

I am a student who was found **not guilty** in an Honor Code case within the Office of Community Standards.

I feel it necessary to outline here the events surrounding my case, given the lack of due process I received.

Let me first state outright that my case was immediately dropped upon second investigation of the witness's testimony. Through this additional round of questioning, the witness relayed information that pertained to other students involved in the allegation, but my innocence became clear. I did not go to a hearing. My case was dropped.

This happened over four months after the original complaint was filed. Had I been granted access to the witness immediately, my case would have been dropped in a matter of days. I was denied access to the complainant and to the accuser from the minute my case was filed. This created a system that held me guilty before proven innocent.

When I received the materials that wrongly accused me of an Honor Code violation, I was instructed not to discuss the paperwork under any circumstances with the other students involved. This, I felt, also assumed my guilt without sufficient evidence. It disabled me from building a proper defense.

The last point, which I feel needs to be addressed is the length of time it took to correspond with individuals in the Office of Community Standards. I would write letters approximately every other week to the individuals handling my case, Jamie Pontius Hogan and later in the process, Koren Bakkegard. These letters contained time-sensitive questions regarding steps that I needed to take to ensure I received due process. I asked for the name of my witness. I received no feedback for three weeks.

My case stands as an especially strong example of the loopholes that exist in the Stanford Judicial Process, given that I was found **innocent**. I have no doubt that other innocent students did not take the appropriate measures to ensure their due process, resulting in a wrongful conviction.

Stanford University should rethink its current Judicial Process and reconfigure its operations within the Office of Community Standards. Stanford students deserve better from their institution than that which currently exists as the norm within this office.

Student

Case considered in 2012-2013

APP 010

October 9, 2013

To whom it may concern:

My experience with the Stanford judicial process during the 2012-13 academic year has made me aware of the importance of every student having competent legal representation.

In the fall of 2012, I was involved in a verbal argument in a university residence that ended with a physical altercation. Prior to retaining counsel, I was completely denied the due process that students at Stanford are supposed to receive. Although I self-reported the incident to the Residence Dean, I was essentially treated as "guilty until proven innocent" by university officials. That may sound a bit dramatic, but it is actually an understatement, since I was not even given a chance to prove my innocence.

I had dozens of witnesses to provide to the University in my defense. However, when I had first spoken to the Residence Dean, she had told me I could not contact witnesses, and so I assumed she would do that for me. I was wrong.

After she had decided I was guilty, I raised the issue of my witnesses. Only then, after she had already decided the case, did she acknowledge that perhaps she should consider my side of the story. She then again found me guilty, without speaking to any of my witnesses.

It was at this point, with the discipline about to be imposed, that I realized I needed some help to protect me against a violation of my rights.

Fortunately, when an experienced attorney and involved Stanford alumnus offered to represent me in my appeal, everything changed. I filed an appeal. He told me that the Dean was wrong when she said I could not contact witnesses. Even though it was three months since the incident, I had about 60 witness statements collected in about four days.

With the evidence the Dean would not let me gather, I won my appeal.

, I felt much more prepared to defend myself and plead my case with a professional representative by my side.. I strongly believe that this would not have been the case if I had not had an attorney representing me.

Once I learned I was not prohibited from speaking to witnesses, I also went over and visited with the other student involved in the original altercation. We patched things up in minutes, as would be expected of Stanford students. He had been surprised I hadn't approached him earlier. He was unaware the Residence Dean had precluded me from doing so.

Student ('14)
Winter 2013 case

APP 011

October 15, 2013

I am a current Stanford undergraduate who went through a process with the Judicial Affairs Office (subsequently renamed the Office of Community Standards) in a school year prior to the current one. Although I was completely innocent and no charges were ever brought against me after I was initially informed that I was one of a few students believed to have possibly violated the honor code on an exam, my experience was incredibly stressful and distracting. Furthermore, my experience led me to conclude that the process by which students are treated by the Office of Community Standards (OCS) is inherently flawed and is in serious need of review and change to ensure that all students are treated fairly and equitably.

From the outset and throughout all of my dealings with the OCS, I felt that I was involved in an adversarial process in which I was guilty before being proven innocent rather than innocent until being proven guilty. I felt this way because significant exculpatory evidence and the identity of an accusing witness were not disclosed to me until just prior to the time that I was fully exonerated, many months after I was first notified that there was even an issue. Throughout my dealings with the OCS, I lived in fear of being charged and found guilty when I was innocent. And how could I not feel this way when my accuser could remain anonymous and not be subject to cross-examination, a most basic right in any fair and equitable proceeding? In fact, there is no provision for anonymous witnesses in Stanford's 1997 Student Judicial Charter and the Charter and a bylaw mandate that witnesses must cooperate, and yet the OCS ignored this requirement for far too many months. Fortunately for me, my case was dropped almost immediately after the anonymous witness finally came forward and made a written statement and other significant exculpatory evidence was disclosed. No student, innocent or guilty, should be subjected to such a process!

I was fortunate to have been guided through my dealings with the OCS by both my father and an attorney who he hired to represent me, and I have often wondered if my result would have been different notwithstanding my innocence if I had not had the benefit of their advice and counsel. In fact, I do not believe that a student without representation could possibly understand and self-advocate their rights under the 1997 Student Judicial Charter, and I believe that every student should be offered some type of 3rd party representation when dealing with the OCS. What would have happened to me if I hadn't felt comfortable involving my parents in the process? And what would have happened if they couldn't afford to hire an attorney at considerable expense to represent me? The rights of a less fortunate student – perhaps one who is on financial aid, which I am not – should

never be compromised. And any suggestion that the Judicial Adviser assigned to one's case is all that is needed to protect such students from any inequities is nonsense in light of the fact that they advise both the accused and reporting parties and they themselves tell you that anything you say may be shared by them with the Judicial Officer assigned to your case.

Current Stanford Student

September 28, 2013

The Stanford Judicial Process is not one that seeks the truth, but one that tries to corroborate the assertion made by the Professor. You are assumed guilty from the moment that you enter the process. There is nothing about it that is fair or that even resembles a normal judicial proceeding. To be completely honest, to be put into this system is resembles a lot being bullied.

Before I retained a counsel, I was told that I could not contact witnesses and if I did so, I would have their statement annulled. I was told that I could not have the names of the people that were involved in the process with me. I was also told that I would have a deadline to write the statement, otherwise the case would go to trial without a chance for me to explain my actions. The worse part was that the Judicial Officer never set the deadline, nor would she reply my emails or phone calls, so I was in constant terror that my defense would not be accepted.

If I had not retained a lawyer, I would have been completely lost through the process. The Judicial Officer refused to contact my witnesses since she believed they were not essential to the case. Even though, their statement was my alibi. Since I could not reach out to them, in fear that it would annul their statement, I felt completely lost. I did not know what to do at the time.

My representative has gone above and beyond his functions. He has clarified that I have the right to contact anyone I wish to have as witness. He further enlightened me that I am entitled to all the evidence, which has not been provided to me by the Judicial Officer or the Accusing Party. I feel that going through this process is more of a punishment than an investigation. You are denied of everything; the professor's word is for some reason taken as evidence. It is very hard to try to prove something that you did not do, the only thing that can do is have your witnesses and the entirety of the evidence. Without a lawyer, I would not be able to attain that.

Attorneys are necessary to assist students through the process of the OCS, since the Officers themselves act as lawyers for the reporting party. What kind of a school does not allow for a one-to-one civil conversation between the reporting party and the student?

I don't mean to sound rude, but it is rather ridiculous the time length that it takes for the Judicial Officer to conduct the investigation. In my conversation with her, I have noticed she failed to read the files correctly, to reply emails and phone calls, to dismiss absurd cases with no real evidence. In my honest opinion, those people in the OCS are more than unfit to judge and make any decisions regarding the academic future of the students in this school.

Student

Spring quarter 2013 case

To Whom It May Concern:

I am a Stanford student who has been through a 2013 case at the Office of Community Standards, and who has helped multiple friends navigate through the challenging OCS process. Throughout the many cases I have seen, I have witnessed a pattern of *serious* and *ongoing* problems within the OCS.

I am not someone with a legal background, but one doesn't need to be a lawyer to have a strong understanding of the concepts of "due process" and "presumption of innocence"—concepts that are cornerstones of American jurisprudence and necessary parts of the best legal system in the world. These basic concepts seem to be utterly lost on the staff at the OCS. In the cases I know about, I've seen the OCS flat-out ignore, or patently violate, the Student Charter of 1997, which guarantees many of the same rights the U.S. Court system affords.

I've seen the OCS deny students the right to confront their accuser. I've seen them deny students access to exculpatory and incriminating evidence. I've seen them railroad students through the process and threaten to move on "without the benefit of their participation" if they attempt to seek legal counsel. I've even seen them *break federal law* in their case-handlings. For the OCS, conviction—not justice—is the ultimate objective. It's no wonder they have a 95% conviction rate. Conviction...or "education," as Chris Griffith likes to call it.

Having an attorney assist me in my case was absolutely crucial, and I recommend to all of my friends going through the process that they get an attorney as well. Unless one is in the OCS daily fighting for due process, it is virtually impossible to get a fair process without counsel. I was innocent, and was, fortunately, unanimously acquitted by my panel. That said, I feel strongly that innocent students can easily be convicted in a process so flawed.

The problem with the current setup is that there are, in effect, two systems of justice at the OCS. While those who are affluent enough to afford an attorney are guaranteed at least a relatively fair process, those without legal representation are, unfortunately, usually railroaded through and convicted with little recourse.

Stanford's motto is "Die Luft der Freiheit weht"—"The Wind of Freedom Blows." Unfortunately, that motto reads more like a punch line than a slogan. I have been utterly disillusioned with my University specifically because of the way the administration allows its students to be treated in the OCS. That said, we, as alumni, parents, and students, can do our part to make Stanford a better place. Appointing every accused student legal counsel will certainly help in that effort.

Thank you,
Student, Class of '14
OCS, Class of '13

October 12, 2013

At the end of the spring quarter in my sophomore year at Stanford, I, along with two other of my friends, was accused of cheating on the final exam of my Human Biology 3A class. A few weeks after school had ended, I received an email stating that I was being investigated by Judicial Affairs. The email stated that I was not to contact any potential witnesses. After reading this email, I have to say that I was very concerned. I knew that I had not cheated but the letter almost seemed accusatory. Luckily, I came into contact with my representative very soon after the letter was received who was able to guide me through the entire process and give me a rough outline of what to expect.

After the initial letter, I received no contact from Judicial Affairs until the end of summer. They contacted me to let me know that I would have to meet with Morris Graves. He was supposed to act as a judicial advisor of sorts. In the meeting he let me know of my options, such as the Early Resolution procedure, and fully outlined the timeline for me. Honestly, my initial experience with him was overall a positive one. Unfortunately, that is as far as the positive experiences went. We met Rick Yuen, our judicial investigator, next. He stated that he would be asking a statistics professor to run tests on our exams to estimate the probability that the few of our answers that were the same was just by chance. However, once the results came in, Rick decided to throw the results away, offering us no reason as to why. This led us to believe that the statistics results corroborated the fact that we were indeed innocent. This was the only beginning of the injustices.

The meeting with the judicial committee was to me one of the most unfair "trials" I could have imagined. It seemed as if we were assumed guilty and that we were supposed to prove our own innocence, instead of the other way around. One of the panel members seemed ready to vote our guilt as soon as we walked in. They seemed to ignore every piece of evidence we brought in to defend ourselves and were willing to go by the word of the course advisor, who was nowhere present at the time of the final, and our TA. The original accuser was never even required to present him/herself to us, an act that is required by the judicial charter if a judicial affairs case is to move forward. It seemed that at every turn the charter was ignored and abused. In an earlier case document prepared by our representatives, there were over 50 violations of the judicial charter listed. I can honestly say that, with the way the procedure was run, that we would have been found guilty if not for our representative.

After my experience with judicial affairs, I believe that students should absolutely be able to have a representative who can aid and help defend their case. The guidance that Stanford judicial affairs provided was subpar and I believe that we would have been found guilty if our representative was not in the room with us. The whole meeting felt more like an attack on us than the "conversation" that it is proclaimed to be. After this, I feel as if there is a reason that Stanford has a "guilty" finding in over 80% of its judicial affairs cases. The procedures were conducted unprofessionally and need to be changed. Having a representative was probably the only thing that prevented me and my colleagues from being punished for a "crime" that we did not commit. For a school that prides itself on integrity and fairness, the judicial affairs process is an embarrassment. I can only hope that improvements are made in the near future before more cases like mine take place.

Student ('13) – case in 2011-2012

APP 015

October 2013

To whom it may concern,

I have experienced the operation of the Stanford Office of Community Standards (OCS) by observing a close friend of mine going through a four-month long process. During this time, I experienced the absolute worst display of incompetence, intimidation and bullying that I ever saw at Stanford.

The OCS staff operated as prosecutors, not unbiased counselors and investigators (as they should). Many times, the investigator would threaten the student with charging the case without giving her an opportunity to reply with appropriate time. The investigator allowed the reporting party to withhold evidence, and many times failed to interview significant witnesses in the case. In spite of such repeated abuse and violations of student rights on part of the investigator, the judicial advisor did **absolutely nothing** to help—she did not respond to multiple emails from the student, neglecting her job during the entire investigation. In my experience, the OCS staff either works against the student (in spite of all evidence pointing towards the students' innocence), or does not work at all.

By hiring an attorney, the student was able to make sure her rights were being respected. The attorney assured the student that she could interview all relevant witnesses, and most importantly, have access to all the evidence relevant to the case. The attorney informed the student of her rights, and worked to make sure that all these rights were enforced. What is even more surprising is that the OCS staff tirelessly worked to deprive the student of her rights. Without an attorney, the student would have been completely helpless against this abuse.

It is also important to consider the significant emotional distress that the OCS caused for this (innocent) student. The student in question is one of the best undergraduates at Stanford. For her, being falsely accused of academic fraud generated a huge amount of emotional distress. The position taken by the OCS (of assuming guilt from the very beginning of the process) made this even worse. Hiring an attorney was absolutely necessary in order to give this (once again, innocent) student some resemblance of peace of mind.

My general impression of the operations of the OCS staff was that they were simply advocates for the professor's point of view. The investigator was not concerned with finding the truth in the matter, but simply with finding evidence to corroborate the professor's accusation, even when no such evidence existed. I cannot even begin to explain how problematic this stance is. The OCS does not exist to protect professors—the office has the function of protecting all members of the Stanford community. However, instead of protecting students from false accusations, the OCS staff do everything in their power to elevate the reporting party, and almost completely ignore the students and any evidence they present.

This has to change. An innocent student should never be put through this again. This is Stanford. This is our university, and we should hold it to a higher standard. As a student, I feel deeply ashamed to see such injustice and incompetence in my own university. Academic and personal integrity are central issues to this institution, and should be treated with the seriousness they deserve. Clearly, the OCS has systematic problems with the way it operates. One of the first steps that must be taken to correct this that accused students *must* be given access to experienced and well-trained attorneys to help build their defense. I am certain that this will, more importantly than anything else, increase the number of correct verdicts arrived at by the OCS. If Stanford officials really do take academic integrity seriously, then they will take steps to improve this process, the first of which is to provide all investigated students with access to well-trained attorneys. This will serve as an appropriate temporary solution, but it *must* be accompanied by a complete restructuring of the OCS, so that innocent students may never go through such injustices again.

Friend of Impacted Student (2012-2013)

Testimonial

I was a student involved in a case with the Office of Judicial Affairs in June 2011. Initially, I was advised not to retain counsel by my Judicial Advisor, Morris Graves. He said he would see me through the case, however not once during the process did I feel like he was pulling for me. I felt like the OJA was actively seeking a conviction.

After subsequently getting outside counsel from an alumnus, I felt a lot more secure about my position regarding the case and its direction. Without him, I have no doubt I would have been wrongfully convicted. He was a source of comfort and invaluable advice on how to proceed with affairs. He informed me of my rights allowed to me by the Judicial Charter; rights that the OJA attempted to deny me from the onset of the investigation.

I strongly believe Stanford students should be allowed attorney representation in all cases, no matter the severity. I also believe that the vast majority of students involved in OJA cases would want to have attorney representation. Given the manner in which I was treated by the OJA (and many others I know of who have dealt with the OJA), I feel that students stand to gain a tremendous amount by having competent representation in order to prevent wrongful convictions in the future. It is my hope that Stanford no longer attempts to discourage this practice, but rather makes an effort to provide students involved in the judicial process with such representation should they not have the means to acquire it themselves.

I hope that big changes will be made to the Judicial system and soon, so that students in future cases will be allowed due process, which is currently being denied. Stanford has an excellent Judicial Charter, however I feel thorough training of OJA staff is needed in order to ensure it is correctly applied in the future.

Student 2013

October 8, 2013

To Whom It May Concern:

During the winter and spring quarters of the 2012-2013 academic year, I had extensive contact with the Office of Community Standards (OCS) when I was charged with violating the Stanford Honor Code.

One of my largest concerns about the process was the lack of competent advising I received. My advisor frequently gave me suggestions that either did not apply to my situation, or would have hurt my case had I followed them. For instance, my advisor threatened me with a Fundamental Standard violation if I were to talk to the other student involved in my case. Not only would that have been nearly impossible since we were being tried together, it would have hurt my chances of preparing a sound defense. In addition, nowhere in the Student Judicial Charter or the Fundamental Standard is there anything about not being able to communicate with the other student involved in the case.

In fact, poor and misleading advice such as the example I provided characterized my case. When I inquired about seeking outside representation such as a lawyer or second advisor, my Judicial Advisor admitted that I could do that if I felt the need, but he strongly recommended I not do so, because in his words Honor Code cases are more of a "conversation" than a legal proceeding.

Not only was I was receiving poor suggestions from my Judicial Advisor, he later co-authored a brief arguing for my conviction. My Judicial Advisor could be considered an expert when it comes to the Judicial Charter, but instead of correctly advising me, he misled me, ignored violations of my fundamental rights under the Student Judicial Charter, and then argued *for my conviction*.

Students who had the resources to hire an attorney would not have faced many of the negative experiences that I endured due to my lack of proper advising. They would have been able to prepare a better defense for themselves. In addition, they would have had a knowledgeable advocate on their side who could challenge the OCS when Student Judicial Charter violations occurred.

They also would have been better suited during the hearing itself. I was totally shocked when my hearing began, and this supposed "conversation" turned out to be a strictly scripted judicial trial with my advisor not offering a single piece of advice. Needless to say, there are many advantages that a student would experience if he/she chose to retain legal counsel. I was not able to reap these benefits until after my hearing when the damage was already done. Without a lawyer or legal counsel to represent the students, it is simply the student alone versus the university. This is a fight that apparently only 5% of the students could win.

Student – 2012-2013 school year

October 13th, 2013

The Stanford Office Judicial Affairs does not respect human dignity. It fails to give the accused party a viable way to defend themselves from allegations from the reporting party. From our child's own experience, I have noticed that even without evidence it accepts a referral of the reporting party to initiate an unfounded and absurd case. It does not seek the truth. It fails to assist the students to organize the ammunition to defend themselves. As a lawyer myself, I cannot contain my disbelief that this is the office that decides the future of the students in a first class university.

The defending students are subject to a daily torture with the investigators refusing to contact witnesses because they deem them as unnecessary. They are constantly reminded of the wrongful accusation and all their repercussions. Furthermore, they have to deal with the people from the OCS whose objective seems to be to convict students. I ask myself if this school is aware of the repercussions of going through a process that resembles, in my opinion, a form of bullying.

Students should be at this university to study, and not to have to reply to unsupported claims by professors. My own child could not eat, sleep or work in the first few months of the OCS process. My child went through depression. My child felt reprimanded, as if there was no right to a defense. Having read the initial report by the Professor, as a lawyer, I cannot believe that it was ever even pursued by a reasonable person. There were multiple witnesses on the student's side, expert's reports and much more supporting evidence, but OCS still went on.

Without a doubt, the accused party should be adequately defended and judged. Firstly, the students should be granted the choice of being represented by either a lawyer or a parent, instead of having to personally deal with the OCS. There is a lot of emotion involved in being falsely accused, and an 18-22 year old who is taking a full course load is not able or fit to represent him/herself. Not being granted this right is just another way to punish the students and intimidate them. Secondly, the people that judge and investigate the students should be ones that understand the law and respect the Student Judicial Charter.

For a University that is the top in the world, this system is shameful. I cannot believe what my child has been put through.

Sincerely,

Parent of a case in the Academic Year of 2012-2013

October 3, 2013

Testimonial:

As a student involved in the honor code investigation process, I strongly support the idea that every Stanford student who seeks legal representation in the process should get one.

First of all, current resources made available by Stanford are inadequate for students to properly fend for themselves. I personally experienced the period during which I had exposure to OCS without a legal counsel. Although I reviewed very carefully the materials distributed by the OCS (including information available on the OCS website), I still got confused and very much pressured by the interaction with OCS personnel. The Student Judicial Charter and its Bylaws, although providing general principles guiding the process, leaves much room for discretionary procedural and substantive decisions. I feel that students are, by the very nature of the process, in a disadvantageous position and are generally unable to advocate properly for their rights under the Charter.

Second, without representation of a legal counsel, I felt that my requests and questions were not addressed adequately. The assumption of neutrality unless and until the final point of finding of violation was challenged by the actual practice of the office personnel. The process was skewed, and the involvement of legal counsel, who fought relentlessly for legitimate student rights, helped restore the balance of power, at least to some extent. Without the advice and guidance of my counsel, I could not imagine how I would proceed with the case. I sincerely hope that Stanford students, with or without means, can get high-quality legal representation in a proceeding through which a stigma may be attached.

Stanford student

Spring 2013 case

September 13, 2013

As a parent of a student who has been through the OCS process after being accused of academic violations I can't begin to explain how disappointed I am in Stanford. I realize OCS is only a small portion of Stanford, but our encounter with them has tarnished the entire Stanford experience.

Following a claim of cheating on an essay exam with a friend in the class, our son was counseled by OCS employees (including one who has since been dismissed from that position) that the process was very informal and simply a fact finding mission. The OCS employee also represented himself as an advocate for our son. Each step of the way the OCS employee would review the information on the claims against our student and lead him to believe the evidence was inadequate for there to be a case, yet the case continued to proceed. Ultimately the OCS advocate ended up on the side of the prosecution – another of the absurd things that happened.

Early in the process, our son was pressured to admit guilt to gain a lesser punishment. Young people do occasionally make out of character mistakes and we advised him to be completely honest and if he were guilty to admit it and accept the consequences. But, if he were not guilty to never admit to being so which ultimately resulted in a quarter away from school.

We inquired of our son if we should secure an attorney to represent him. The OCS employee advised our son that attorneys are really not needed and everything will work out. In hind sight, our biggest mistake was not securing representation from the beginning. A couple of weeks after his hearing we read the article documenting other student's adventures with the OCS. If we had known that information before his hearing, we would have known not to follow the advice provided by the OCS employee and absolutely would have secured representation. OCS knowingly violated the Stanford student charter regularly throughout the process and proper representation should have been able to stop those violations. Based on the evidence presented at the hearing, no unbiased reasonable person could have convicted these young men as guilty beyond a reasonable doubt which is a stipulation within the student charter.

Our son and his friend compiled a lengthy written appeal outlining numerous student charter violations that should have resulted in a new hearing. Even though the appeal review admitted their student rights were violated, they deemed the violations to be too minor to change the outcome – another violation of the student charter.

Our experience with the OCS showed them to be an organization bent on justifying all claims against students without interest in following the due process as outlined in the student charter. Stanford should abandon their honor code and begin policing exam rooms if the students can't depend upon the process to guarantee them the assumption of innocence until the hearing proves them as guilty. Currently, they are guilty until they can prove their innocence, and OCS will make every effort to prevent the students from making their case.

Parents – spring 2013 case

APP 021

Oct. 8, 2013

Dear Justice Project Coordinators,

I am a Stanford student who faced a Fundamental Standard charge at the Office of Community Standards in 2012. After a 10-week battle with the OCS, Stanford referred my case to mediation as I was on the verge of bringing in legal counsel to examine numerous *egregious* violations of my rights under the Student Charter.

Like most Stanford students, I was blind to the flagrant and systemic problems within the OCS when I entered the process. It became quickly apparent to me, however, that they presumed guilt from the get-go and were willing to do *anything* to get a conviction. My so-called "advisor," Jamie Pontius-Hogan, acted like more of a prosecutor than even my "impartial" investigator; neither seemed to have any grasp of due process or presumption of innocence; both seemed uniquely unqualified to hold their current positions.

The way the OCS handled my case was deplorable. My advisor tried to railroad me through the process as fast as possible from Day 1. Over and over again, she told me that I must move forward with the investigation immediately or "the case would proceed without me," despite the fact that I was not given full access to the information pertinent to the case and without full disclosure it was impossible to properly defend myself.

I spent more than 20 hours of my time relentlessly lobbying, both in person and via email, just to figure out *with what I was being charged*. It took the entire duration of my investigation to see the totality of the evidence presented against me, even though the Student Charter grants that I have the right to have access to both incriminating and exculpatory evidence.

The witnesses I named—the only eye-witnesses in the case—were *not interviewed* until after I pressed the OCS repeatedly to get statements from them. On the other hand, the OCS was quick to interview the witnesses named by the Reporting Party. The OCS routinely bent and even made up rules as they saw fit to give the Reporting Party every advantage in the process, including giving him an extension on the deadline for submission of new evidence (after the fact) when I had asked for the *same extension* multiple times and was repeatedly denied. Most egregiously, the OCS threw out the vast majority of my evidence *the night before my trial* without basis and with no warning. These are only a few of the ways that my rights under the Student Charter were completely shredded.

My case absolutely consumed my quarter. I spent, by far, more time dealing with the Office of Community Standards than I did on all of my academics combined. I was in their office *daily*, trying to understand the rules & procedures (which seemed to continuously change) as I tried to protect my rights to a fair process. Without that effort, I would have certainly been convicted.

Having competent legal representation in a matter handled by the OCS is absolutely necessary in the current environment. The OCS cannot be trusted to comply with the Student Judicial Charter unless forced to do so. The *only* reason I won my case is because I

acted as my own attorney and poured hundreds of hours into my own defense, at great expense to my academics.

I hold my University in extremely high regards, but my impression of it was severely diminished when it showed such indifference to my plight. Students, alumni, and parents must come together and do what Stanford people do best: fix problems where we see them. This is why I am fully in support of the Justice Project's efforts to recruit and train competent counsel to protect students referred to the OCS.

Sincerely,
Student X '14
OCS '12

October 8th, 2013
To Stanford University:

I am a proud young alumni of Stanford University who experienced the stressful judicial process of Stanford's Office of Community Standards (OCS) less than two years ago. I went into the process without representation, assuming that my adamant professions of innocence and lack of evidence against my claim of innocence would be more than enough to acquit me from any accusations. That assumption was wrong. I never would have received the acquittal I deserved if not for representation by Mr. Robert Otilie, a mentor I had known for several years.

I sought Mr. Otilie's help when I learned how unlikely it would be for me to escape this process without being found guilty. I heard that most students are found guilty and The Office of Community Standard's own data supports this. I also learned chilling information from a friend who had been on the judiciary panel deciding another student's fate. He said he felt bad about having voting guilty in a previous case based on nothing more than a gut feeling. He didn't feel right about having that power and felt like he had no real evidence on which to base his decision.

After learning this, I sought Mr. Otilie's help. I had been explicitly told by the OCS to not contact any witnesses involved. As a naïve student, I assumed this was right. Fortunately, Mr. Otilie informed me that my right to contact witnesses is actually protected by the Judicial Charter. I was infuriated by the lie and learned quickly not to trust the process. I am convinced that my lack of trust in the Office of Community Standards is the only reason I was vindicated. I was found innocent in spite of the process, rather than as a result of it. Instead of my University, I put my trust in Mr. Otilie. I can't imagine going through the process without his help. He was so much more than legal representation. He helped me through an incredibly stressful system that threatened to wreck my grades, destroy my mental wellbeing, and tarnish my academic record forever.

The experience has blighted my image of the University. The ideals of ethics and justice that were taught to me in my Stanford courses are not embodied in the processes of the University itself. Remember that I am a student who was found innocent by this system. And believe me when I say that the system is very, very messed up. The changes that we seek are for the benefit of your students. I sincerely hope you will consider this cause worthwhile and work with us to help protect future students.

Sincerely,
Student C (from June 2012 Case Study)
Stanford Class of 2012

October 2013

To Whom It May Concern,

I am a parent of a student who was involved in an Office of Community Standards investigation. I am also a practicing lawyer and feel strongly that no one who is the subject of an investigation should be unrepresented.

The subject student receives a seemingly innocuous but very serious email outlining a potential complaint and a roadmap of the OCS judicial process, inviting the student to pick up the phone and, basically, confess.

The subject student is discouraged from discussing the situation with any witnesses or colleagues, some of whom may have exculpatory information. A meeting can be set up with an OCS representative (named in the letter) who is supposed to be non-adversarial and friendly in order to discuss the case and as in every step in the process, to confess.

There is never a mechanism for an accused to confront accuser. Just a Board.

Due process is touted in the judicial rules but not in practice. The biggest flaw is the inability to properly investigate charges by interviewing potential witnesses.

From my view, it appears that University has its thumb on the scales of justice.

Anyone being investigated and/or later accused MUST be represented by able counsel at all phases of the matter. Otherwise justice likely won't be done.

Thank you very much.

Parent of Student (case considered in 2012-2013)

October 12, 2013

As a lawyer and professor for the past forty years, I cannot believe the arbitrariness of the OCS process. Firstly, as a professor you expect to have an open communication with students if you believe some irregularity in their work. From my understanding of the Stanford Honor Code, it does not allow for that. It pretends to trust students, but at the same time, the professors try to seek similarities between the students' work. It is contradictory – in my honest opinion: it either believes in the students or it doesn't. Unless there is an accusation from a peer witness or actually compelling and hard evidence against students, they shouldn't be submitted to a 6-month inquisition-like process.

As a lawyer, you expect that your clients are given enough evidence to defend themselves. However, the investigators of the OCS provide the students with the exact opposite of that. They try their hardest to corroborate the story of the reporting party, even if such party has no witnesses, no reason and no hard evidence. Having accompanied my family's member going through this process is an extremely painful experience. You feel their disbelief in the system, the fading of the love that they had for the subject in question and their discontent with life.

This process affects every single aspect of one's life. Having them go through this alone is a form of punishment. Stanford should provide students with lawyers that can respond for them. The students should not focus all their energies in trying to prove their innocence in a system that is broken. They should have specialists to do that for them. Furthermore, they should be judged by someone that understands the system, hopefully, someone with a law degree.

I cannot state how disappointed I am at Stanford for the horrible job they are doing at judging and investigating their Honor Code cases.

Yours truly,

Care giver of Student of Case in 2012-2013

October 17, 2013

I am the father of a current Stanford undergraduate who went through a process with the Judicial Affairs Office (subsequently renamed the Office of Community Standards) in a school year prior to the current one. My child has already submitted a testimonial with respect to why it is important for every student to be offered 3rd party representation in their dealings with the OCS, so I would just like to address my feelings as a parent having watched my child, who was completely innocent and never ultimately charged by the OCS, go through this process.

I understand that it is the position of the OCS that students do not want any type of 3rd party representation, legal or otherwise, in their dealings with the OCS. In that regard, all I can say is that this position by the OCS is either completely without merit or students going through a process with the OCS have been completely misguided. I am an attorney and yet, after reviewing the correspondence that my child received from the OCS and attempting to understand what a student's rights are under the 1997 Student Judicial Charter, I felt that it was absolutely imperative to engage an attorney to represent my child. The attorney that I engaged was familiar with the 1997 Student Judicial Charter and had previously represented students in OCS cases, and the advice that we received from this attorney was invaluable.

I am not sympathetic in any way towards students who violate the honor code, but I do believe strongly in due process and fair and equitable proceedings. A student should not be presumed guilty until proven innocent, which I am sure is not the intent of the OCS, but that is exactly how both I and my child were led to feel. My child's case involved anonymous witnesses and the withholding of exculpatory evidence for many months, and my child was ultimately exonerated after these issues were ultimately resolved. However, no student (nor their parents) should be subjected to such a process. If the purpose of the OCS is to simply find the truth and let the chips fall where they may, then there is no place for the OCS process to which my son was subjected. In fact, from my perspective a student should never even be notified that there might be an issue if it is based on evidence from an anonymous witness, which I learned that the 1997 Student Judicial Charter strictly prohibits, and rightly so, or if the OCS is not prepared to share without delay any and all evidence, whether damning or exculpatory, on which the alleged case is based.

When my child's case was ultimately resolved favorably without any charges being brought, I was of course relieved. However, I also had deep feelings of anger by the way in which the OCS had treated me and my child during our dealings with it. And I couldn't help but feel sorry for any student who isn't fortunate to have a close enough relationship with his or her parents to involve them in a proceeding with the OCS and/or doesn't have the financial means to engage an attorney to represent them. Without some type of competent 3rd party representation, I do not believe it is possible for a student to understand and self-advocate their rights under the 1997 Student Judicial Charter.

Stanford University is one of our country's most esteemed educational institutions and its OCS should be held to the highest standards. And I just cannot fathom why the OCS and the University would have any issue with making whatever changes are necessary to ensure that (a) students are made to feel that they are innocent before being proven guilty and that the process in which they are involved is completely fair and equitable and (b) every student have access to competent 3rd party representation in their dealings with the OCS. And what possible reason could there be for anything less!

Parent of Current Stanford Student

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FRIDAY DECEMBER 6, 2013

SEARCH

Letter from the Editor: On Libel, Due Diligence and Intimidation

By [Miles Bennett-Smith](#) May 15, 2013

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I woke up early this morning, rolled over, checked my laptop and opened an email labeled URGENT. It was from a senior University official informing me that The Daily had published a libelous story.

Uh oh.

The next 10 minutes of my browser history are filled with Google searches for "defamation lawsuits with newspapers," Supreme Court case briefs and blogs on libel..

But as I continued to comb through the Internet, fearing perhaps that I had fallen asleep in my journalism ethics class or in the host of communications classes that have touched on libel, slander and the like, I began almost to laugh.

It certainly wasn't because I (and the rest of the staff here at The Daily) take the accusation of defamation or libel anything less than extremely seriously. (My news editor would call me some hours later in somewhat of a panic after waking up to the same email.)

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<http://www.stanforddaily.com/2013/05/15/letter-from-the-editor-...>

No, my amusement was rather directed at the gall of the University to send me a message that carried with it the threat of pursuing a libel case, a message that I felt at least in some way *had* to be sent with an air of intimidation.

The story in question was one I believe is of extreme importance to the student body and Stanford community.

"Case study finds flawed, slanted judicial process" details a case study put together by three students and their alumni representatives, including Bob Otilie '77, after a 2011 judicial proceeding. The students say that several of their rights under the Student Judicial Charter of 1997 were obstructed and that it seemed unlikely that their case was merely the outlier in a system that saw 154 allegations of violations (resulting in 93 official charges) of either the Honor Code or the Fundamental Standard in 2010-11.

This should matter to you, students, and to you, alumni, and to you, staff, faculty and administrators. The case study is thorough, and if half of the allegations of misconduct are true, students should simply be scared enough to call for more transparency in the judicial affairs process as a whole.

And if the allegations are false, then I beg the University to call Bob Otilie and these three students out for concocting a gross lie. I beg them to call me out for believing in the charade. But at this moment, I have heard nothing of substance that would lead me to believe that this study is anything but true.

I know there are privacy laws that must be obeyed, and I know this might put an unfair expectation on University officials to answer questions they say they are not allowed to on advice of counsel. This, then, appears to be an unfortunate impasse for both parties, as we at The Daily must deal in facts and quotes to retain any real credibility.

But to that end, The Daily's reporters went through a follow-up investigation of the case. And in the subsequent interviews that we conducted, University officials noted disagreements with some aspects of the case and contested the light in which it paints some of the officials involved. Dean of Student Life Chris Griffith notes in a letter to the editor that "to extrapolate from a single anomalous case that an entire system is flawed is simply wrong."

I wholeheartedly agree.

However, Griffith also says despite being "seriously flawed and inaccurate" in many instances, "the case study was helpful in some limited respects."

If the study was helpful, does that not mean that at the very least, some of what was said was accurate? Does that not imply that somewhere in the wealth of evidence that Otilie and these students provide (the case study itself is over 50 pages), something stuck?

APP 030

That's what it says to me, and that is what scares me, because in my mind that begins a descent down a slippery slope that trends towards students not being aware of many of the rights they possess and ultimately ends with an innocent student being convicted in an unfair process. I am not saying that this has occurred, as I have no knowledge of any such case, but I am saying that it is our role at The Daily to be vigilant and watchful and to report on issues that we believe should be moved further into the light of day.

In short, this is a story worth telling, and I hope administrators can appreciate that just as there is value in doing their jobs to the best of their abilities with the goal to improve Stanford, student life and the world, there is value in my job and The Daily's job to educate and inform students and the community about relevant issues.

And while I have no way of knowing whether or not the actions of the senior official who contacted me were at the direction of the general counsel or any other group of University administrators, they felt and read strongly like intimidation.

Perhaps I am overreacting, and the email, as well as the phone call I received 20 minutes after the email, were just misguided attempts to warn me of my exposure at The Daily. Certainly the call was neither intimidating nor berating as I explained my confusion as to how the story we published would in any way qualify as libel.

In fact, after I noted that The Daily had done its due diligence and was neither malicious nor negligent in its coverage of the story, the official was very agreeable. But that does not make the email go away nor change the tone of what read as a threat of a lawsuit should The Daily not take the story down and redact the names of the officials alleged to have done wrong.

Just as I believe that students care enough about what happens on this campus to find the truth for themselves, I believe The Daily has a responsibility to inform its readers of potential misconduct, and we will continue to do just that, right alongside the overwhelming body of outstanding work that emanates from this institution.

Miles Bennett-Smith

Editor in Chief

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FRIDAY DECEMBER 6, 2013

[SEARCH](#)

A Response to Dean Griffith from Students L, C and R

By [Op Ed](#) May 22, 2013[Tweet](#)[Like](#) 24

Dean of Student Life Chris Griffith was a strange choice to provide the University's response to our case study exposing extensive violations of Stanford's Judicial Charter by the Office of Judicial Affairs (OJA). Griffith had responsibility for OJA at the time of the study, and therefore seems unlikely to clean house at the department.

The Judicial Charter was adopted by students in 1997. Griffith and others have candidly acknowledged what appear to us to be fundamental philosophical disagreements with several of the Charter's guaranteed rights. This culture, if not eradicated, will likely lead to ongoing violations of the Charter.

Our first letter from OJA said we could not contact *any* witnesses, although the Charter guarantees that right. We were fortunate to have alumni representatives advise us; we ignored OJA and produced 15 corroborating witnesses. Had we believed OJA, we would have lost our case and likely been suspended for a quarter.

Next, OJA hired a statistical expert. When the analysis was corroborative of our innocence, OJA dismissed the expert and refused to identify the statistician so we could call the expert as our witness. OJA appeared to be working for our conviction.

APP 032

The Judicial Charter mandates that if a charging student seeks anonymity, the case must be withdrawn. In our case, the student sought anonymity, but OJA pursued the case anyway, a gross violation of the Charter. At our hearing, OJA allowed the instructor to testify to what the never-identified student had said, with no opportunity for us to cross-examine, another right mandated by the Charter and violated by OJA.

OJA did everything it could to exclude our 12 non-party witnesses from testifying at the hearing, then attempted to cut off direct questioning of witnesses who did. OJA allowed into evidence matters ruled irrelevant in pre-hearing proceedings. When we objected, the OJA employee said Stanford doesn't allow objections at its judicial hearings.

The course coordinator asked our first student witness if she would authorize a review of all of the *witness'* exam booklets from the class, which served no purpose other than to intimidate the student witness. Although witnesses are protected from intimidation by the Charter, OJA employees sat by silently.

The day after the hearing we asked the OJA to preserve the record so we could share our experiences with other students. OJA told us the file had already been physically "shredded," notwithstanding the Charter's specific guarantee that it be maintained for one full year.

Now, with our Case Study providing witness to the inner workings of her department, Dean Griffith has attempted to figuratively shred our case by proclaiming our meticulously documented and thoroughly vetted Case Study "seriously flawed and inaccurate" in many respects. Yet, in 18 months, several dozen University officials have received the Study and not one, including Griffith in a half dozen conversations with our group, has questioned a single sentence. Alternatively, and inconsistently, she calls our experience "an outlier."

Was OJA's conduct an "outlier"? Hardly. Almost every violation of our rights reflected OJA policies, not unique individual evidentiary rulings. If there was any doubt that OJA could eviscerate our Judicial Charter, consider Griffith's surprisingly candid quote in *The Daily*: "[Griffith] said that by omitting the previously supplied warning to student respondents to not contact witnesses, student respondents *might be more likely to do so*." [Emphasis added.]

These people appear to have fundamental philosophical objections to portions of our student-drafted Judicial Charter. Griffith's quote, her effort to discredit us and the study itself, all suggest a culture that permeates OJA.

Griffith claims the case study "poorly serves" the discussion. In fact, our study started the discussion. It blows the whistle on the hijacking of *our* Judicial Charter by OJA. Griffith prefers an "educational" process, but the Charter's provisions are all that matter. Students adopted a *Judicial Charter*, not an *Educational Charter*.

APP 033

Does enforcement of the Charter matter? We believe scores of students may have been convicted in cases where the Charter was violated. Wrongful convictions typically result in one-quarter suspensions and Stanford maintains a permanent record, which graduate schools and employers can see.

More significantly, systemic and condoned Charter violations, in the very office tasked with maintaining the University's academic integrity, will threaten the University's reputation and erode its core values. This issue affects us all.

Stanford must assign a respected, credible third party to clean house and remove from OJA anyone who philosophically objects to the rights guaranteed by our Judicial Charter. Chris Griffith, who oversaw OJA as that culture appears to have flourished, is, in our view, a poor choice for the job.

Submitted by the three student authors (Students L, C, and R) of the 2012 Judicial Affairs Case Study