

*Report to the President and Fellows of Yale University
of the Advisory Committee on Campus Climate*

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Report of the Advisory Committee on Campus Climate

ON APRIL 20, 2011, you asked the four of us to constitute an Advisory Committee on Campus Climate (the Committee) and gave us an expansive charge: to explore and then advise you and the members of the Yale Corporation “how sexual harassment, violence or misconduct may be more effectively combated at Yale, and what additional steps the University might take to create a culture and community in which all of our students are safe and feel well supported.”¹ We interpreted our charge (1) to gather from a wide array of sources and diversity of views information on sexual harassment, violence, or other misconduct as these pertain to students, identifying to the extent possible best practices from peer institutions; (2) to make recommendations to enhance the social climate on campus so that all Yale students are as safe as reasonably possible from sexual misconduct and feel well supported; and (3) to ensure that the University is exemplary in demonstrating that it does not countenance sexual misconduct. You made it clear that no Yale policy or practice is beyond our jurisdiction to consider, and we have acted in accordance with this wide mandate.²

1 See Attachment A, letter of President Richard C. Levin to Chief Justice Margaret H. Marshall. Similar letters dated the same day were sent to the other three members of the Committee.

2 An important note about the scope of our work is included in Attachment B.

I. PROCESS

WE BEGAN OUR WORK with a series of intensive interviews on campus on April 21, 22, and 23, 2011, with follow-up interviews, also on campus, on May 31, 2011. We spoke with people individually and in small groups; altogether more than 150 individuals accepted the invitation of the Committee to meet with us on campus. Those with whom we met represented a wide range of perspectives, organizations, roles, and affiliations. We talked with faculty, both those from the Faculty of Arts and Sciences and the professional schools; freshman counselors; coaches and athletes; residential college masters and deans; and counselors and advisers, including the Director of the Sexual Harassment and Assault Resources & Education Center (SHARE), Title IX Coordinators, and the Special Assistant to the Yale College Dean for Gender Issues. We met with women and men students from a wide array of student organizations, including members of the LGBTQ community; students of color; international students; representatives of the Yale Women's Center; representatives of senior societies, fraternities, and sororities; undergraduates from all classes; graduate students and professional students from various schools; and representatives of the student media and other interested individuals. We held an open session in a residential college and offered individual members of the community the chance to sign up for a confidential session with one of us. We learned a great deal from these conversations and express our gratitude to all who took the time to speak with us.

We also arranged to meet during the summer with students (undergraduate and graduate) and recent alumnae/i around the country. We issued an invitation to all students presently enrolled at Yale, and all who had graduated in the last five years, to meet with members of the Committee in small groups in five major cities: Boston, Chicago, New York, San Francisco, and Washington, D.C. In addition, we established a dedicated e-mail so that anyone who wished to do so could send confidential correspondence directly to us. During the course of our work, individual members of the Committee also had countless conversations with other members of the Yale community, present and past, with members of peer institutions, and with others with information and perspectives helpful to the Committee, including experts on conflict management systems. We recognize that despite the invitations to many members of the Yale community to meet with us, our conversations were largely with those who sought to provide

their views to us. Nevertheless we believe that we have obtained a broad understanding of the issues of our charge.³

In addition to face-to-face conversations, we reviewed voluminous written materials relevant to our charge, and we were briefed on conversations that residential college masters and Yale administrators had with groups of students late last spring on the general subject of our charge. We reviewed four recent major Yale reports also of relevance to our charge: the 2008 *Report of the Yale College Dean's Committee on Sexual Harassment and Assault Prevention Education* (the SHAPE Report); the *Report of the Women Faculty Forum (WFF) Council on Sexual Misconduct* delivered to the Provost in October 2009; the 2010 *Report of the Provost's Committee on Sexual Misconduct* responding to the WFF; and the 2010 *Report of the Yale College Dean's Task Force on Sexual Misconduct Education and Prevention*. We also reviewed the procedures for the new University-Wide Committee on Sexual Misconduct (UWC) and the *Final Report of the Committee on Hazing and Initiations*, as well as several changes Yale was already initiating relevant to our charge.

Finally, based on comments and observations we received during interviews, we reviewed research on campus climate in an attempt to identify best practices. A bibliography with some of the material we reviewed is appended (Attachment D).

Our report is not a response to, nor is it intended to address, any pending investigation or complaint involving Yale. Similarly, it does not respond to the "Dear Colleague" letter of April 4, 2011, from the Department of Education, Office of Civil Rights (OCR). We know that OCR has undertaken a Title IX examination of a number of universities and colleges, including Yale. We are aware that the recommendations we make may be inconsistent with the position of OCR, and while we will consider its views with respect, we have not attempted to anticipate them.

We do want to report that, for overwhelming numbers of students who spoke to us, the Yale experience is a very positive one. The overall view in the community, especially among students, including those most critical of Yale's response to sexual misconduct or who expressed the greatest concern about the sexual atmosphere on the campus, is that Yale is "an amazing place," where its students receive an extraordinary education. We hope that our recommendations will lead to improving the Yale experience so that it is the best it can be for all students.

3 Some interviewees raised issues beyond the scope of our review: for example, concerning the promotion of women to senior ranks of the faculty, grievance procedures for staff, and concerns about respect for human dignity for groups other than women. Where appropriate we have passed on those comments and suggestions to campus administrators.

II. GENERAL OBSERVATIONS: EXTERNAL ENVIRONMENT AND CAMPUS SOCIAL CLIMATE

THE CONVERSATIONS WE HAD, the research we reviewed, and the experiences we considered at Yale and other campuses suggest that a new sexual climate for young adults has emerged in the past decade or so, one that affects young women and young men.⁴ Yale, like other campuses, is experiencing and is challenged by these changes. Aspects of casual sexual encounters, including the so-called “hook up” culture,⁵ are present at Yale and its peer institutions. The culture minimizes long-term committed relationships in favor of casual sex. It can blur boundaries of what consent means, and it leaves young adults uncertain of how to address problematic behavior, develop their own standards of conduct, and navigate a confusing social scene that floats on too much alcohol (or other drug use) and casual intimacy, with too little support for (or models of) healthy sexual relationships – making it difficult to traverse what writer David Brooks has termed “a sprawling life stage” in which “nobody knows the rules.”⁶

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- 4 There is an extensive literature on the broad topic of a new sexual climate, some of which is contained in Attachment D. We did not interpret our charge to digest every nuance of this literature but did benefit from some of the research and writing in the field.
 - 5 The term “hook up” is ambiguous, perhaps intentionally, so that any sexual encounter that takes place can be exaggerated or minimized. It generally is construed to describe a situation in which two people who are not in a relationship have a sexual encounter, often impromptu, ranging from “making out” to having sexual intercourse, typically preceded by alcohol consumption at a party or other gathering. The sexual encounter is likely to occur once or perhaps a few times, with no or few expectations of creating a committed relationship. See, e.g., Mark Regnerus and Jeremy Uecker, *Premarital Sex in America* (New York: Oxford University Press, 2011), 102 et seq.; Kathleen A. Bogle, *Hooking Up* (New York: New York University Press, 2008), 28–29; Tracey A. Lambert, Arnold S. Kahn, and Kevin J. Apple, “Pluralistic Ignorance and Hooking Up,” *The Journal of Sex Research* 40 (2003): 129; Karen D. Arnold, “College Student Development and the Hook-up Culture,” *Journal of College & Character* 11 (2010): 1; Robyn L. Fielder and Michael P. Carey, “Prevalence and Characteristics of Sexual Hookups among First-Semester Female College Students,” *Journal of Sex & Marital Therapy* 36 (2010). See also Lisa Belkin, “After Class, Skimpy Equality,” *The New York Times* (August 26, 2011), available at <http://www.nytimes.com/2011/08/28/fashion/after-class-skimpy-equality-motherlode.html?pagewanted=1&r=1&ref=lisabelkin>.
 - 6 Brooks explains: “Once, young people came a-calling as part of courtship. Then they had dating and going steady. But the rules of courtship have dissolved. They’ve been replaced by ambiguity and uncertainty. Cell phones, Facebook and text messages give people access to hundreds of ‘friends.’ That only increases the fluidity, drama and anxiety.” David Brooks, “The New Lone Rangers,” paragraphs 10–11, *The New York Times* (online, July 10, 2007), quoted in Regnerus and Uecker, *Premarital Sex in America*, 5.

The reasons for these changes are complex and include such factors as the celebration of casual sex in popular culture;⁷ the trend toward delaying marriage and other traditional role transitions characteristic of becoming an adult;⁸ the relative anonymity and ubiquity of social media as a replacement for face-to-face interaction;⁹ and an emphasis on immediate gratification that seems to counteract the work of building lasting relationships.¹⁰

It is clear that the campus is neither immune to nor protected from changes in the culture of the larger society. Many undergraduates reportedly arrive on campus having had almost no face-to-face conversations about intimacy and having previously engaged in few, if any, sexual relationships. They are willing, even eager, to do so now.¹¹ Students, faculty, and administrators told us that the current environment does have positive aspects, and a new sense of openness facilitates easier friendships between women and men. But, in part, because the social environment is so open, students seem unsure of how to develop meaningful relationships, set appropriate boundaries, determine their own social values, or act in their own best interests, short- and long-term. It is also more difficult to hold individuals accountable for their behavior where the culture allows the actors to be more anonymous, and where neither party to a sexual encounter negotiates consent with clarity.

Sexual misconduct, unfortunately, occurs on all campuses.¹² The relationship between sexual misconduct and the new sexual climate is not clear. What is clear is that the old ways of dealing with sexual harassment, violence, or other misconduct do not always work well in this new climate. In our interviews and conversations, both men and women, particularly undergraduate students, expressed a hunger for some direction or clarity concerning what it means to have positive intimate relationships, with or without sexual involvement. Students expressed frustration that campus leaders – administrators, faculty, and student leaders – do not speak out more forcefully about sexual misconduct. Beyond that, undergraduate students in particular seem to feel that

7 See, e.g., Regnerus and Uecker, 126–27 and 239–40.

8 See, e.g., Bogle, 54.

9 See, e.g., Charles Steinfield, Nicole B. Ellison, and Cliff Lampe, “Social Capital, Self-Esteem, and Use of Online Social Network Sites: A Longitudinal Analysis,” *Journal of Applied Developmental Psychology* 29 (2008): 443.

10 See, e.g., Regnerus and Uecker, 80.

11 Cf. Lisa Belkin, “After Class, Skimpy Equality.”

12 We use the definition of sexual misconduct contained in the new *Undergraduate Regulations*: “Sexual misconduct incorporates a range of behaviors including rape, sexual assault (which includes any kind of nonconsensual sexual contact), sexual harassment, intimate partner violence,

the casual sex culture has become the social default, even though many students do not endorse or participate in it; they are looking for guidance about the values the University's leaders think should frame healthy gender relationships. Students, faculty, and staff told us that there are many different dating cultures among students at Yale. But we encountered a widely held perception that there is no serious conversation on the campus about the complicated issues of positive sexual and gender relationships.

Two related concerns about the social climate on campus emerged from our conversations. The first has to do with the sexual misconduct of individuals – often fueled by alcohol – that threatens, intimidates, or injures other individuals.¹³ The second has to do with group gender-offensive speech or behavior.¹⁴ We have no reason to conclude that Yale is any different from its peer institutions in these respects, but in addressing them we have reached two overarching conclusions that helped formulate our recommendations concerning Yale, which follow in section III.

- *Yale needs to be clearer about, and communicate more forcefully and more promptly, its commitment to an environment that is respectful and supportive of all, challenging conduct or speech that is degrading to women.* The Committee does not suggest, and

stalking, and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person or persons. When there is a lack of mutual consent about sexual activity, or there is ambiguity about whether consent has been given, a student can be charged with, and found guilty of, committing a sexual assault or another form of sexual misconduct. Much sexual misconduct includes nonconsensual sexual contact, but this is not a necessary component. Threatening speech, which is sufficiently serious to constitute sexual harassment, for example, will constitute sexual misconduct. Photographs, video, or other visual or auditory records of sexual activity made without explicit consent constitute sexual misconduct, even if the activity documented was consensual. Similarly, sharing such recordings without explicit consent is a form of sexual misconduct. For example, forwarding a harassing electronic communication may also constitute an offense. Sexual misconduct also includes a violation of Yale's Policy on Teacher-Student Consensual Relations." We recognize that there may be other behavior, such as binge drinking, that makes sexual misconduct more likely. We do not explore these closely related areas (see Attachment B), but do make reference to them where necessary.

- ¹³ The prevalence of excessive consumption of alcohol is particularly troubling. Many students' social interactions with each other involved alcohol. As one student put it: "It is unusual for someone to say, 'I had a sober hang out.'" Although alcohol and substance abuse are beyond the scope of our work (see Attachment B), they are inextricably linked to sexual misconduct, including exploitation, violence, lack of consensual clarity, suppression of natural inhibitions, the absence of good judgment, and a diminution of self-protection. Any attempts to create a campus climate of sexual respect will necessarily have to continue to confront the prevalence of binge drinking and associated conduct on and off Yale's campus.
- ¹⁴ See, e.g., Scot B. Boeringer, "Associations of Rape-Supportive Attitudes with Fraternal and Athletic Participation," *Violence Against Women* 5 (1999): 87; and Deborah M. Capaldi et al., "Aggression Toward Female Partners by At-Risk Young Men: The Contribution of Male Adolescent Friendships," *Developmental Psychology* 37 (2001): 70.

would reject any suggestion, that degrading conduct related to race, national origin, religion, sexual orientation, or other defining characteristics, is less important. The Committee does suggest that the campus conversation concerning inappropriate, harmful, or illegal *sexual* conduct has been less robust and deserves particular attention in light of the shift in attitudes toward sex in the wider society. Denouncing the form or content of degrading speech does not diminish Yale's enduring commitment to free expression. (See section III: H, below.) Yale's administrative and faculty leaders on the one hand, and student leaders on the other, need to be outspoken in opposing degrading speech, actions, and attitudes toward women. To improve the campus climate, the voices of student leaders who have the respect of their peers must be especially prominent; they must embrace efforts to create a culture of sexual respect on Yale's campus.¹⁵

- *Yale should work more consistently and intentionally with students, especially student leaders, to foster responsibility for one's own conduct as a core Yale value.* As Yale educates students, in the words of one Master, to be "thoughtful, mature, and well-educated individuals who make good decisions for themselves and society," it must more intentionally challenge students – male and female – not to avoid responsibility for their own conduct by hiding behind a group or club mentality,¹⁶ or to act with the expectation that there will be no consequences, either personal or disciplinary, for bad behavior.¹⁷ Becoming part of a community, the Yale community, requires assuming responsibility for what happens in that community. The safety of students who engage in dangerous activity – binge drinking in particular – is important, even urgent, and Yale continues to address this serious challenge. However, students must accept responsibility for their own conduct – as many appear not to – and be held responsible if they place themselves and their fellow students at risk by participating in dangerous behavior.

15 As one student noted: "Make respectful conversations and behavior cool. Start student-led drives to make it cool to be aware of sensitivities and hostile environments for women; this should start with the frat leaders." Female and male students we spoke to were clear that any student-led initiatives should be gender-blind, and that men must be more active in fostering a campus climate of sexual respect.

16 As one administrator commented: When students arrive at Yale they are "frantic" in their "need to become part of, to belong to a group." Being accepted as part of a group is "all-important." The need to "find a place" at Yale seems to "overwhelm" any sense of individual responsibility for dangerous (binge drinking) or illegal (under-age drinking) conduct for some students.

17 In our conversations with students we found a disturbing belief that certain egregious behavior (such as binge drinking), even when repeated, will have no consequences for those who engage in it.

Our specific recommendations follow in section III. In summary, the changes we believe will improve the social climate at Yale and strengthen a culture of sexual and gender respect on the campus are these:

- Improve the mechanisms for addressing claims of sexual misconduct so that every Yale student understands clearly where to make a claim; the procedures that will ensue; when she or he may expect a disposition of the claim; and the presumptive discipline or other consequence that will result if the claim is substantiated (section III: A);
- Provide appropriate resources for students who wish to obtain information about their options, including for those who wish to do so anonymously, or who seek counseling or other support; and communicate widely with students about these resources (section III: B);
- Expand opportunities for students to have engaged discussions—in the first year and beyond—to explore the topics of consent, healthy sexual relationships, and appropriate behavior, in addition to focusing on the harmful conduct Yale already teaches students to eschew (section III: C);
- Adopt new guidelines for student activities held on campus *and* off campus (section III: D and E); and
- Enlist student leaders and administrative leaders from across the University to be vocal about, and to model behavior of, sexual and gender respect (section III: F, G, and H).

III. RECOMMENDATIONS

WE ARE PLEASED THAT NEW INITIATIVES touching on some of these matters are already under way at Yale, and we have noted and endorsed those relevant to our recommendations.¹⁸ There remain other areas where new approaches are needed. We recognize that Yale seeks to be a leader in creating a culture and community respectful of all. We believe that is possible, and we have carried out our work with that outcome in mind.

A. Responses to and remedies for claims of sexual misconduct

1. Formal and informal claims

It is widely reported that only a small percentage of victims of sexual misconduct, including sexual violence, report the abuse they have suffered, and an even smaller percentage pursue legal or other avenues of formal redress.¹⁹ We nevertheless believe that Yale must have in place the best systems to address formal and informal complaints of sexual misconduct to encourage reporting, to provide redress where appropriate, and to guarantee due process to those accused of sexual misconduct.

We were told repeatedly that students who felt they had been victims of sexual misconduct did not understand clearly how or where to lodge a complaint and what the process would be once the complaint was lodged.²⁰ Students described what seemed to them a confusing array of committees, boards, departments, offices, and individuals, all having some responsibility for receiving or resolving complaints, with the result that students often are unsure about their options.²¹ The creation of multiple avenues

¹⁸ A summary provided to us by the Office of the Secretary of recent Yale initiatives related to sexual misconduct prevention and response is appended (Attachment C).

¹⁹ See, e.g., U.S. Department of Justice, *Research for Practice: Sexual Assault on Campuses: What Colleges and Universities Are Doing about It* (Washington, D.C., 2005), 3; Lindsay M. Orchowski, Douglas H. Meyer, and Christine A. Gidycz, “College Women’s Likelihood to Report Unwanted Sexual Experiences to Campus Agencies: Trends and Correlates,” *Journal of Aggression, Maltreatment & Trauma* 18 (2009): 839–58; Bonnie S. Fisher et al., “Crime and Sexual Victimization on College and University Campuses: Ivory Towers or Dangerous Places?” in *Restorative Justice on the College Campus* (Springfield, Ill.: Charles C. Thomas, 2004), 217, 227.

²⁰ A typical student observation is that “the problem at Yale is not a dearth of resources, but a lack of knowledge about how to access these resources.”

²¹ Some of the entities with some responsibility for, or jurisdiction to receive, complaints of sexual misconduct include: the Yale University Police, the Sexual Harassment Grievance Board; the Executive Committee of the Yale College Dean’s Office; the SHARE Center; residential college

to address claims of sexual misconduct likely came about because of Yale's decentralized campus and because the University has attempted to provide a wide range of options to students to encourage reports of sexual misconduct. We believe that the clarity and focus of one central location to handle formal and informal complaints of sexual misconduct is preferable. Although it is too soon to assess results, the establishment of the new University-Wide Committee on Sexual Misconduct (UWC) seems the right approach, and we endorse the direction Yale is taking.²² It will be essential for Yale to build community awareness of, and confidence in, this new resource by communicating widely about the UWC, and to do so every year so that all students understand clearly the "how, where, and when" of bringing a claim of sexual misconduct. We suggest that, at a minimum, residential college deans inform students about the UWC at student registration every semester.

The disciplinary systems at Yale have benefited in the past from faculty and student involvement. However, we believe that the University has previously relied too heavily on volunteers to serve as fact finders, advisers, committee or board chairs, and members for cases involving sexual misconduct, where the issues are often complex and time-consuming to resolve. The UWC process will involve dedicated roles for fact finders, and we endorse the decision to have designated staffing for fact-finding in cases that come to the UWC. Some interviewees expressed concerns about the involvement of students in disciplinary proceedings. We note the continued participation of students as members of the UWC and believe that the new UWC will continue to benefit from their participation: students know firsthand the environment in which students are acting and can provide important contextual information about the campus climate and appropriate discipline.

We recommend that the UWC work expeditiously to resolve all complaints. We were informed that in the past, disciplinary systems seemed to have lengthy proceedings and a lack of timely action on claims of sexual misconduct.²³ This is difficult for accuser

masters and deans; graduate and professional school deans of students and/or registrars; and Title IX Coordinators.

²² The University-Wide Committee on Sexual Misconduct is designed to address allegations of sexual misconduct of every kind and is available to all students, faculty, and staff. The UWC provides an accessible, representative, and trained body to answer informal inquiries and fairly and expeditiously address formal and informal complaints of sexual misconduct. The UWC consists of students, faculty, and administrative members drawn from throughout the University. See <http://provost.yale.edu/uwc>.

²³ A typical student comment noted that for a student registering a complaint, "the process feels very distant and impersonal. The time line for resolution is very drawn out, and this hampers the victim from moving on and negatively affects her educational experience."

and accused. We commend the UWC for setting presumptive time periods for the disposition of all complaints. We suggest that there be regular assessments of compliance with the presumptive time periods, and that reports of these be made to the Yale community.

Concerns were also expressed about inadequate reporting of the progress and outcomes of disciplinary proceedings. We recommend that the UWC report on its activities to the Yale community once each semester, including information on claims not yet resolved. There is a delicate balance between transparency and confidentiality, and we urge the University to find ways to communicate effectively the actions of the UWC, while protecting to the extent possible the privacy of those who participate in the disciplinary and related processes. It will be important that reports by the UWC be communicated in a way that commands the attention of recipients to ensure that the reports are in fact read.

Graduate and professional students who report claims of sexual harassment and other misconduct from faculty and other advisers and supervisors may be particularly vulnerable because of the potential impact on their careers. We heard that graduate students felt that reporting such claims placed the student at particular risk in cases where the report had to be lodged in the student's own department, school, or unit. We are hopeful that creation of the UWC will reduce this problem, and we recommend that graduate and professional students be specifically apprised of the new avenues available to them through the UWC.

Next, Yale needs to be clearer about the rules governing sexual conduct and the consequences for violating those rules. Students reported that there is no consistent understanding of the contours of unacceptable behavior or what sanctions are imposed for sexual misconduct. The recent revisions to the *Undergraduate Regulations* will help (see n. 12). Further efforts to promote awareness of the regulations will improve clarity and understanding of sexual misconduct. We also recommend that the Provost work with the deans of the graduate and professional schools to adopt the same or closely similar regulations.

We discovered a general perception that sanctions for engaging in sexual misconduct are not consistently or uniformly applied.²⁴ While each case, of course, turns on its facts, consistency and transparency are important, and to this end we recommend that the UWC make known to the Yale community the sanctions it imposes for sexual misconduct. Just as students understand that particular sanctions generally will be

24 Similar observations were made concerning excessive alcohol or illegal drug consumption.

imposed for plagiarism or cheating, so they should understand that particular sanctions generally will be imposed for sexual misconduct.

2. Other resources

a. Sexual Harassment and Assault Resources & Education Center (SHARE)

Students who have concerns about sexual misconduct need, among other things, to have ready access to information about options available to them or referrals for assistance they may need. In 2006 Yale established the Sexual Harassment and Assault Resources & Education Center (SHARE) to provide a range of services for these students. According to SHARE, it provides counseling, information, and advocacy on behalf of survivors of sexual violence, as well as people dealing with sexual harassment, stalking, or intimate partner violence. SHARE's services include counseling; assisting students to pursue medical, legal, and disciplinary action; accompanying students to meetings with police; providing ongoing support to students and their families; and providing education to the student community.

You did not ask us to evaluate SHARE or any of the services it provides. But many made a similar point concerning SHARE: to the extent that students are aware of SHARE at all, they see it as a counseling center only. We know that few victims of sexual misconduct seek counseling,²⁵ and we may therefore presume that those who do not want counseling are unlikely to contact SHARE. To the extent that the University relies on SHARE to provide more than counseling services, we recommend that Yale widely promote SHARE's *multiple* purposes and resources. We understand that presently SHARE is listed on a Web site as a subcategory of mental health resources at Yale Health. We endorse the plans conveyed to us to create a dedicated Web page for SHARE that is more easily located through Yale's and other search engines. The changes should make clear to all students the full range of services offered by SHARE, and make that information readily accessible.

b. Title IX Coordinators

We recognize the important role of the University's Title IX Coordinators in receiving and investigating complaints of sexual misconduct; providing information about resources available to students; monitoring trends and patterns, and identifying areas that need attention; and providing referrals to the disciplinary process. We recommend that the University reinvigorate the role of the Title IX Coordinators, and then

25 See, e.g., Debra Patterson, Megan Greeson, and Rebecca Campbell, "Understanding Rape Survivors' Decisions Not to Seek Help from Formal Social Systems," *Health and Social Work* 34 (2009): 127.

communicate clearly to students and others their role and how they relate to other available resources.

c. Anonymous access to information about Yale's resources

Among the range of options that the best systems have in place, and what we believe should be included at Yale, is the availability of anonymous access to information about various resources, or the option for a student simply to talk anonymously about her or his concerns. Anonymity means that the identity of the student is not revealed when she or he reaches out to obtain information or assistance. Many of the students we met believe that reports of sexual misconduct are low, and that students do not avail themselves of Yale's existing resources, because they believe they cannot do so anonymously.²⁶ Students consistently expressed a need for a victim of sexual assault to process anonymously what had happened to her or him before deciding how best to proceed. Conversations with administrative staff who are required to report or take disciplinary action with or without the person's consent inhibit some students from seeking support, we were told. We note again the special vulnerability of graduate and professional students, for whom reporting sexual misconduct by a faculty or other adviser or supervisor may have career-long negative ramifications. While Yale does and should encourage the reporting of all sexual misconduct, we believe that the enhanced availability of anonymous or "zero barrier" access to services will help students who otherwise are left to their own resources.²⁷

In addition to the availability of anonymous access to services at SHARE, Yale already has in place an anonymous hotline service known as Walden, in which *peer* counselors are available for students to call anonymously to discuss a wide variety of situations.²⁸ Walden counselors are trained to offer nonjudgmental listening on any topic, including issues related to sexual misconduct, to provide information, and to offer appropriate referrals.²⁹ We were informed that some peer-to-peer services have been

26 See, e.g., Nicole Allan, "Confusion and Silence," *Yale Alumni Magazine* (July/August 2011), 39 et seq., discussing reasons why women students do not seek disciplinary or legal redress.

27 We are mindful of the requirements of the Clery Act, 20 USC § 1092(f) that Yale, like all universities, report the incidents of sexual and other assaults on its campus. We are informed that Yale has collected required data from anonymous and confidential reporting. See also the University Ombudsman Office at Harvard University Web site, <http://www.universityombudsman.harvard.edu>, stating that the Office "provides the Provost with a confidential annual statistical report that summarizes the activity of the Office and may identify systemic problems."

28 See http://www.yalehealth.yale.edu/med_services/Walden.pdf.

29 We have not reviewed the training peer counselors receive. We recommend that the Yale administration review that training to ensure that peer counselors are aware of *all* of the new initiatives at Yale concerning sexual misconduct.

successful.³⁰ Yet, in the many conversations we had, no one suggested Walden as an avenue for help. Different explanations were given for this: that Yale is a small community, and Yale students may not feel comfortable talking to their peers, fearing that their concerns might not remain confidential. Others suggested that students perceive Walden as a resource for “minor” issues only. Whatever the explanation, Walden and another peer support program, Peer Health Educators,³¹ could be more effective as a resource for students who seek access to Yale’s procedures or resources anonymously, and we think they should continue to receive Yale’s support.

We do recommend that Yale communicate more widely with students – undergraduate, graduate, and professional – about the availability of anonymous services offered by SHARE and Walden. The former may be a helpful option for students who seek nonjudgmental listening and advice about available options from persons other than their peers. Other models to provide similar services should be explored.³²

d. Office of organizational (university-wide) ombudsman

Yale is committed to a campus culture where all incidents of sexual misconduct are reported and addressed as appropriate. But we know that at Yale, as elsewhere, many students will not use existing resources to address such incidents. Our conversations and research suggest that the establishment of an office of organizational (university-wide) ombudsman has proven effective on some university campuses,³³ and there is a substantial literature on this subject.³⁴ The availability of “zero barrier” services may be

30 Other peer-to-peer counseling offices outside Yale report favorable outcomes, but the Committee did not explore these claims. See, e.g., SPILL, <http://www.spillnow.com>.

31 Peer Health Educators are undergraduates who volunteer to work with fellow students under the guidance of Yale Health. They provide health-related outreach programs, discussions, and workshops on campus on various topics including safer sex, STIs, stress management, and alcohol education. Programs are designed for individuals, special student groups, residential colleges, athletic teams, and interested parties within the Yale community.

32 One model that allows for anonymous calls to a central hotline is in place at the University of Chicago. The Sexual Assault Dean-on-Call (SADOC) Program provides sexual assault advocates who are trained through the State of Illinois’ Rape Victim Advocates program. Students may contact the SADOC directly through a hotline, and/or the university police will contact the SADOC on the student’s behalf once he or she has reported a sexual assault. The SADOC answers general questions and explains university, city, and state procedures and practices. The SADOC supports students as much as necessary and keeps all information confidential within the limits of the law. For more information, see <http://deanoncall.uchicago.edu/sadoc.shtml>.

33 The MIT Ombuds Office, which serves as an “independent, confidential, neutral and informal resource to the diverse MIT community,” where “every voice” at MIT can be “heard and...receive impartial attention without fear of loss of privacy,” is often cited as an exemplary model. See <http://web.mit.edu/ombud/index.html>. See also the University Ombudsman Office at Harvard University Web site, <http://www.universityombudsman.harvard.edu>.

particularly important for students (among others) who seek a confidential, neutral, informal place to bring their concerns.³⁵

An option to report sexual misconduct anonymously may be particularly important for graduate students: we were informed that many may not bring claims of sexual misconduct against their advisers and supervisors because of a fear of negative repercussions on a victim's career, and graduate and professional students are less likely to make use of the services they perceive as focused on undergraduates, such as Walden. It is important that Yale provide options to receive such reports, even if anonymous, so that it is able to identify patterns of misconduct and act on them. A university-wide ombudsman may be able to serve this function.

We understand that in the past, certain parts of Yale have made some use of ombudsmen with mixed success. We nevertheless recommend that Yale explore the possibility of establishing an office of organizational (university-wide) ombudsman, one that will be integrated into Yale's conflict management system.

*B. Increased communication
and training about Yale's
expanded resources*

We endorse Yale's clarification of unambiguous mandates for the UWC, SHARE, Walden, and other resources as follows:

- The UWC will serve as the University-wide formal and informal complaint and disciplinary body.
- SHARE will offer information about avenues (disciplinary, legal, or other) available to students who claim to be victims of sexual misconduct and assistance to those who wish to pursue such avenues.³⁶ SHARE will also provide counseling to all students—including those who wish to remain anonymous—whether or not

³⁴ See, e.g., Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations—A Legal Guide* (Chicago: American Bar Association, 2010).

³⁵ See, e.g., Mary Rowe and Corinne Bendersky, "Workplace Justice, Zero Tolerance, and Zero Barriers," in *Negotiations and Change: From the Workplace to Society*, ed. Thomas A. Kochan and David B. Lipsky (Ithaca, N.Y.: Cornell University Press, 2003).

³⁶ SHARE may suggest that a student claiming sexual misconduct file a report with the Yale University Police. A victim of sexual misconduct may, of course, contact the Yale University Police directly. Its officers have in the past and will in the future receive specialized training in how to respond to claims of sexual misconduct. We benefited greatly from our discussions with Chief of Police Ronnell A. Higgins and some of his colleagues, who bring unique and helpful insights to the issues we were pursuing. As with other parts of the University, we did not examine the procedures the Yale Police Department has in place for handling claims of sexual misconduct. We do commend the recent creation of a position within the Yale Police Department to address sensitive crimes, including those related to sexual violence and harassment, and note that a woman police sergeant already has been appointed to that role.

they pursue disciplinary or legal relief. SHARE does not, and will not, serve an investigative or disciplinary function.

- Walden is a service for those who seek anonymous peer conversation or advice.
- Peer Health Educators are volunteer student leaders sponsored and trained by Yale Health to provide health-related outreach programs, discussions, and workshops on campus, on topics such as safer sex, STIs, stress management, and alcohol education.

To dispel the existing confusion among students, and to provide greater support for victims of sexual misconduct, communications about these entities and any new programs that are established must be greatly enhanced and include clear descriptions of their respective purposes and functions to help students navigate among them.³⁷ University administrators – masters, deans, directors of undergraduate studies, directors of graduate studies, deans of student affairs, registrars, and others in Yale College and the graduate and professional schools with regular contact with students – must be well trained on the differences in these approaches so they know how to direct students who may approach them. Active support from friends is a primary factor determining whether or not a victim will report incidents to authorities or campus administrators,³⁸ and education about Yale's resources for all students and how students can support each other if sexual misconduct occurs will be important.

*C. Engaged discussions
with students on
healthy sexual relations
and appropriate behavior*

There is a larger task that is equally important and potentially much more challenging: engaging students on issues of appropriate behavior, healthy relationships, and personal responsibility. We believe that this must be ongoing and take place across the spectrum of class years; it should not be limited to freshman orientation or first-year students.³⁹

In many conversations we were told that there is a limit to the amount, kind, or degree of freshman orientation that is likely to produce any lasting effect, and it is apparent to all that there is a limit to what new students can absorb during their first few days on

37 It appears to us that Yale is moving in this direction. See <http://yalecollege.yale.edu/content/sexual-harassment-assault-resources>. We endorse this action and encourage Yale to continue to enhance its communication with students.

38 See, e.g., Heather M. Karjane, Bonnie S. Fisher, and Francis T. Cullen, *Campus Sexual Assault: How America's Institutions of Higher Education Respond*. Final Report, NIJ Grant # 1999-WA-VX-0008 (Newton, Mass.: Education Development Center, Inc., 2002).

39 We recognize and respect the views of some of Yale's most thoughtful administrative leaders that increasing the amount or intensity of education on these topics, whether in discussion groups,

campus.⁴⁰ For this reason, we believe that members of each freshman class need multiple opportunities throughout their first year for thoughtful reflection and education about sexual behavior, relationships, and responsibility, with their peers, upperclassmen/women, masters, deans, faculty, coaches, chaplains, and others, and recommend that these opportunities be increased and formalized.

As students enter their sophomore year and move away from a structure of freshman counselor oversight, they need additional opportunities for similar conversations. We believe this, too, should be a formal program, not as extensive as the attention to campus climate at freshman orientation, but just as intentional. Sophomore engagement should be mandatory, should involve leaders from the junior and senior classes, and should continue throughout the sophomore year. One model recommended to us was engaging sophomores in discussions in small groups led by moderators who, as one student said, “are not patronizing.” Students in their junior and senior years also need, and should be provided with, opportunities to engage in similar conversations.

There is an important role for student leaders to play in educating their peers and speaking out against sexual misconduct. We recommend that each year the leaders of all undergraduate groups and organizations, both on- and off-campus, receive training relevant to issues of sexual misconduct, sexual respect, and building a culture of gender respect. We commend the new program of the Yale College Dean’s Office to introduce training about sexual assault prevention and campus climate more generally for the leaders of the more than 375 registered undergraduate organizations, helping student leaders identify the dynamics of sexual misconduct and hazing, offering guidance in planning safe and appropriate events, and teaching specific strategies for creating a climate of sexual respect that does not tolerate or condone sexual misconduct of any kind.

We also commend the creation of new positions and the expansion of existing positions to focus on education and other services: the recent increase from part-time to full-time status, and with direct access to the Dean of Yale College, of the Special Adviser to the Dean on Gender Issues; the hiring of two new Student Affairs Fellows⁴¹ to focus on high-risk drinking and sexual misconduct and to offer special support to

public forums, administrative pronouncements, or blue ribbon panels, will not be effective. We believe that more can be done and can be effective.

⁴⁰ In our conversations with students and administrators alike, a common theme emerged that freshman orientation was “information overload” on topics “all over the map.”

⁴¹ The Student Affairs Fellows live on Old Campus. Their role is to develop and implement primary prevention, bystander intervention, and risk-reduction strategies for sexual violence, sexual

freshmen; and the creation of thirty-six new positions of Communications and Consent Educators (CCEs),⁴² undergraduates who will work up to ten hours each week offering prevention and intervention programs for other students.⁴³ It will be important to assess the effectiveness of these new positions after the first year.

Graduate and professional students must also understand the values inherent in Yale's community. Most graduate and professional school students will likely have formed views and patterns of sexual behavior by the time they arrive at Yale. But the University should not assume that these students know how to navigate their own relationships or deal with situations involving sexual misconduct. We recommend that the graduate and professional schools develop or refine substantive approaches to communicate expectations about appropriate behavior in the context of relationships – personal, professional, and academic – to their students, as well as educating them about Yale's policies and procedures for dealing with sexual misconduct. The models and approaches being developed in and by the Yale College Dean's Office could serve as templates, with appropriate modifications for the graduate and professional schools. We leave it to the Dean of Yale College, the Dean of the Graduate School, and the several deans of the professional schools, working with the Office of the Provost, to determine the appropriate method of collaboration and coordination.

We also recommend that each year the leaders of all graduate and professional student groups and organizations receive training relevant to issues of sexual misconduct, sexual respect, and building a culture of gender respect. Some professional schools already have such programs in place; we suggest that those responsible for these programs receive training on the new Yale procedures in place, especially the UWC.

harassment, and other forms of sexual misconduct, and the use of alcohol and other drugs by students. They work closely with students, especially freshmen and freshman counselors, the masters of residential colleges, college deans, student educators, SHARE, and Yale Health. The Fellows have full-time appointments and a schedule that includes late evenings and weekends.

⁴² The CCEs are a team of highly trained, paid, peer educators. They work with their classmates to share concrete skills for preventing and intervening in sexual misconduct, and for responding to reports of sexual misconduct, and to foster a campus culture of sexual respect. They provide information about Yale's resources for responding to incidents of sexual misconduct and participate in broad-based events such as Freshman Orientation and Undergraduate Organization Leadership Training. They also conduct smaller, more focused programs across campus. There are three CCEs assigned to each residential college. We recommend that these undergraduate educators receive training directed specifically to issues of sexual misconduct on the one hand and sexual equality on the other.

⁴³ Peer Health Educators also provide an important function, although their charge includes many aspects of student health, not just sexual health. Their role should continue and be supported, even as the new CCEs are introduced.

We suggest that those schools that have such programs become resources for those that do not, and that the Provost be responsible for coordinating the training of all graduate and professional student leaders. “Local option” is no longer viable, either in Yale College or in the graduate and professional schools. Although the form of the education may vary from school to school, during their first year at Yale all entering graduate and professional students should participate in some formally organized conversation about appropriate relationships, a culture of respect, and Yale’s policies and expectations.

*D. Guidelines for
off-campus and
on-campus
student organizations*

One of the hallmarks of a Yale education is the capacious array of opportunities to participate in activities beyond the classroom: athletics, community service, publications, singing and theater groups, cultural organizations, and numerous clubs and other organizations. Many of these extracurricular offerings are an invaluable component of learning at Yale, for both undergraduates and graduate and professional students. Events and activities take place on and off campus, arranged and sponsored by the University, registered student organizations, individuals, and ad hoc groups. Although there are procedures for registering all student organizations, many groups, especially those off-campus, operate outside established guidelines and oversight by the University. We learned that social events sponsored by off-campus organizations often involve excessive drinking, including by those who are under 21, the age for the legal consumption of alcohol in Connecticut.⁴⁴ Students and others also informed us that off-campus social events have a disproportionate impact on the reality and the perception of the social climate at Yale. Because excessive drinking is a leading cause of sexual violence and other sexual misconduct, it is important that Yale continue to take measures to address this problem.

We recommend that Yale engage with student organizations and groups that operate off-campus in ways that will ameliorate unacceptable or dangerous behavior. Setting the standards for recognition and oversight for such groups will be important. Some off-campus groups, including fraternities and sororities, register with the Yale College Dean’s Office; many do not.⁴⁵ We strongly recommend that *all* off-campus groups using the Yale name or existing for the assumed benefit of Yale undergraduates be

⁴⁴ PA 85-264 raised the age of majority for liquor purchases in Connecticut to 21, where it has remained since that act’s effective date, September 1, 1985.

⁴⁵ Registration is an annual requirement for all undergraduate student organizations if they conduct meetings periodically or sponsor activities on campus, provide a service (presumably to Yale or to students or others), or raise funds within the University for charitable or other purposes (see <http://yalecollege.yale.edu/content/manual-undergraduate-organizations>). Non-undergraduate

required to register with the Yale College Dean's Office or the Office of the Secretary, to provide information about their leadership, and to indicate their willingness to abide by University regulations for student organizations, such as the new hazing regulations.⁴⁶

We further recommend that no undergraduate organization, whether registered or not, be allowed to recruit and enlist Yale students unless its officers affirm in writing that they will be bound by the rules of the College in their off-campus housing and activities.⁴⁷ Last, we recommend that the College explore ways to strengthen the ties between students who live off-campus and their residential college, so that they remain active and engaged members of their college community. We know that some colleges provide regular opportunities for off-campus students to have dinners in the college at no charge. We recommend that others explore this, as well, since meals in the college dining halls draw students together. Currently, the most inexpensive meal plan offered to off-campus students provides for them to eat lunch on campus, but not in their colleges; it may be worthwhile to explore whether an in-college, lower-cost plan is feasible.

*E. Other off-campus
and on-campus
student activities*

We heard over and over from students, faculty, and staff that “Sex Week at Yale,” a student-sponsored event, is highly problematic. A student-initiated event begun in 2002, it has described itself as “a campus-wide interdisciplinary sex education program.”⁴⁸ Over time, this event clearly has lost the focus of its stated intention. Although “Sex Week at Yale” continues to promote consideration of some serious topics, like inter-

student organizations must register with the Office of the Secretary and may also register with the Office of Graduate Student Life, and affiliate with the department that will provide their funding, or with their professional school. Any organization must have permission from the Office of the Secretary in order to use the Yale name in its title.

⁴⁶ See especially the *Yale College Undergraduate Regulations* section on “General Conduct and Discipline,” <http://yalecollege.yale.edu/content/general-conduct-and-discipline>, providing among other things that it is a disciplinary offense for any student to engage in illegal activities. The regulations governing General Conduct and Discipline provide: “Yale College is an academic community dedicated to the advancement of learning. Students freely associate themselves with the College and in doing so affirm their commitment to a philosophy of mutual tolerance and respect. All students admitted to Yale should understand the responsibility thus placed upon them. If any member of the community should interfere with its functions or show himself or herself unable or unwilling to assist in them, the community may find it necessary to protect itself by suspending or terminating his or her membership.”

⁴⁷ As noted (see n. 46), it is a disciplinary offense for any Yale student to engage in any illegal activities, which include providing alcohol to underage students.

⁴⁸ The Web site <http://sexweekatyale.com>, accessed August 2011, is no longer active.

national sex trafficking, in recent years it has prominently featured titillating displays, “adult” film stars, and commercial sponsors of such material. We recommend that “Sex Week at Yale” be prohibited from using Yale’s name and any Yale facilities. We recognize the role of events that promote healthy discourse and help students explore issues of intimacy, love, and relationships as they relate to their own lives but feel that the most recent iterations of “Sex Week at Yale” cannot accomplish this. Administrators and student organizers must be thoughtful about working together to create a new program that is consistent with a climate of respect and responsibility (and thus worthy of the University’s support).

Next, while we understand the need for celebratory and social events, it is clear that some of the major sponsored events have become less celebration and more focused on binge-drinking parties where sexual inhibitions are lowered and behavior is often out of control and out of bounds. We recommend that students be required to work with the Yale College Dean’s Office and with residential college masters and deans to assume more responsibility for these events. The Yale College Dean’s Office already works collaboratively with student leaders planning for Spring Fling and some other activities, but both student leaders and administrators must redouble their efforts to find ways to eliminate the troublesome, often illegal behavior that compromises the safety of the community at these events. Prior to every event that history suggests will give rise to particularly troublesome behavior—Spring Fling and The Game are two such examples—senior administrators should continue to find persuasive ways to remind students of their obligations and responsibilities.

*F. Student leadership
on gender and
sexual equality*

Students have an essential role to play in addressing the hard questions of (1) how to improve the social climate on campus with respect to any sexual harassment, violence, or other misconduct that makes it difficult for students to function in the environment because of their gender, (2) how to encourage reporting of sexual misconduct so that it can be dealt with appropriately, and (3) how to confront the destructive practice of excessive, often illegal, alcohol consumption, and its attendant increase of sexual violence and other sexual misconduct on and near campus. Student leaders have enormous influence; they are role models, and Yale should expect them to be good role models, showing what admirable behavior looks like, talking with their peers about it, and having the courage to challenge bad behavior.⁴⁹ The leaders of student

⁴⁹ “Bystander education” programs offer promising results in educating and supporting students to take active roles in preventing inappropriate behavior. We understand that Yale is exploring the implementation of such a program and endorse these efforts.

organizations must be involved, trained, and supported in speaking out about and demonstrating in their own lives the practices of healthy sexual relationships.

The Yale Women's Center has been an important campus resource, and we commend its leaders for the efforts they have made to address some of the negative aspects of the sexual climate on campus. As much as it is able to, the Women's Center tries to speak on behalf of all students about issues important to women, but it does not and cannot represent all students. We met with many other student leaders, women and men, whose thoughtful perspectives could contribute so much, and whose voices should be heard.⁵⁰ Many of those we spoke to felt that all parts of the Yale student community need to step forward and join in the effort to exert visible leadership in advocating a healthy climate on campus as an important value for the University. We agree. This is not a women's issue; it is a community issue, and all student leaders should be engaged in it.

To facilitate a broader discussion among student leaders, we recommend the creation of leadership councils of similar organizations: for example, one for fraternities and sororities, one for athletic groups, one for senior societies, etc., much like the council of singing groups. This was recommended for fraternities and sororities in the *Final Report of the Committee on Hazing and Initiations*. We recommend that leadership councils be established for other groups of related student organizations to help students build support networks for leadership and to articulate appropriate expectations and aspirations for one another. The topics should include, but not be limited to, appropriate sexual conduct, engaging student leaders in discussions about the responsibilities, as well as the privileges, of leadership. A council comprised of leaders from each council of similar organizations could meet to monitor one another, as well as share effective strategies. In that way, each organization's council could, to a degree, be held accountable for the activities of its group.

*G. Administrative leadership
on gender and sexual equality*

Residential college masters and deans can and do offer leadership to their students in building a community of respect and dignity for all. But we learned from our discussions that there is much variation among residential colleges in the approaches taken to issues of sexual misconduct or disrespect. We appreciate and celebrate the individual character of each college. However, here, too, there should be no "local option" regarding sexual misconduct or how alleged offenses will be handled. Accordingly, we recommend sessions for all masters, both newly appointed and of long-standing tenure,

⁵⁰ We were told that some men's organizations on other campuses have had promising results: e.g., "Men Care" at the University of Southern California and "Men Acting for Change" at Duke University.

devoted to issues of preventing sexual misconduct, understanding the requirements of the law and the campus disciplinary process, and developing clear and consistent messages about sexual respect and healthy relationships.⁵¹ Students in at least one college were quick to note how important it had been to have timely and decisive communications from their master, who made explicit the kinds of behavior that are not acceptable following a particularly troubling event.

Although the circumstances regarding graduate students are different because of the age (and presumptive maturity) of students and the prevalence of off-campus living, the deans of the graduate and professional schools can and should play a similar role; those students can also benefit from conversation with and through their deans about these matters.

We think it particularly important that academic leaders make clear their opposition to any form of sexual misconduct by advisers and supervisors of graduate students, and that they not turn a blind eye to such misconduct even when carried out by distinguished members of the Yale community. We have several times made reference to the unique difficulties for a graduate student to bring a claim of sexual misconduct against an adviser or supervisor. Academic leaders should make clear that such conduct will not be tolerated at Yale, and must act forcefully when they become aware of any such misconduct even when a graduate student decides not to bring a formal claim against his or her adviser.

H. Gender-offensive speech One contributor to sexual and gender concern on campus has been the well-publicized incidents of gender-offensive speech, followed by a perception that the Yale administration has been too slow to respond to these incidents. We have no doubt that the leaders of Yale value community and are deeply committed to a climate of safety, respect, and dignity. Even so, we believe that senior administrators need to be more vocal and prompt in responding to offensive speech and behavior as soon as the facts are adequately, if not completely, known. Information quickly goes viral, and the absence of an immediate response by Yale's senior leaders can make it appear that no one cares and that nothing is happening to address troublesome situations. It may sometimes be difficult to ascertain the full facts of an incident in the hours and even days after it has first happened, and we recognize the serious consequences that premature judgments and public statements may have for individual reputations and the University's legal liability. Nonetheless, administrators ought to err on the side of

⁵¹ We suggest that this be done this year, as Yale is in the process of implementing so many changes, including the operation of the UWC, which took effect on July 1. We recommend that in the future such sessions be conducted periodically, but at least annually.

prompt response, with statements that fully reflect the University's values, even if they are appropriately nonjudgmental about individual culpability pending a full review of facts.

The central value of freedom of expression is not compromised when Yale institutionally rejects the form and content of offensive speech and conduct.⁵² This has been a consistent position of Yale's most senior officials. Going forward, senior administrators should respond to offensive speech⁵³ with a swift and focused response, denouncing it in an articulate way that can help educate the entire community about the underlying values of civility and community expectations. Yale can acknowledge the right of its community members to express offensive, even hateful ideas,⁵⁴ while making clear that such expressions may be inconsistent with principles Yale seeks to promote. In a community that values, protects, and promotes free speech, as Yale rightly does, it is important to be clear that speech and speech-related conduct can be hateful and hurtful, and counter to Yale's values.

⁵² Two examples of speech that many to whom we spoke found particularly offensive to women at Yale are the reports (1) that certain students crossed Yale's campus shouting "No means yes; yes means anal," a thinly disguised invitation to rape, and (2) that other students displayed signs outside the Yale Women's Center that read "We love Yale sluts."

⁵³ We need not explore here the line between protected hateful speech on the one hand and incitement or threatening speech that appropriately may be the subject of disciplinary action by the University.

⁵⁴ See *Report of the Committee on Freedom of Expression at Yale*, 1975, at http://www.yale.edu/yale300/collectiblesandpublications/specialdocuments/Freedom_Expression/freedom1975.pdf.

IV. CONCLUSION

WE RECOGNIZE THAT CHANGING THE CAMPUS CLIMATE will not happen overnight. Important steps have been taken in the past few years to implement new procedures at Yale concerning sexual misconduct and related issues. We believe these changes are beginning to show positive results. For the benefit of Yale and the larger higher education community, we recommend that Yale undertake regular assessments of its campus climate, seeking input from the campus community on how well things are working and advice on what might be improved.

Throughout this Report we have more than once commented on the need for more effective communications. E-mail notices to students seem no longer to be fully effective; more must be done to ensure that messages on these important matters penetrate the barrage of other information directed at Yale students every day. Because so much hinges on this, we believe that it will be important for Yale to implement an ongoing and coordinated communications strategy to give full effect to the many initiatives presently under way, and to those that will be implemented in the future.

It has been a privilege for us to engage with the Yale community on issues so vital to Yale and to the students Yale educates for positions of leadership in our country and around the world. The challenges confronting this generation of Yale students when they graduate are great: they will enter a world that has become ever more interrelated, yet ever more complex. Developing and maintaining core values of respect for the dignity of all is surely essential to the future success of our graduates as they navigate their way in this new world.

During the course of our work we have learned a great deal. We thank those members of the Yale community, present and past, who so generously gave their time to educate us, to share their expertise, and to convey their concerns and ideas. The recommendations we make to you and the members of the Yale Corporation, and our discussion surrounding those recommendations, are ours alone. We hope that they will be helpful.

Respectfully submitted,

Margaret H. Marshall '76 J.D., *Chair of the Committee*

Kimberly M. Goff-Crews '83 B.A., '86 J.D.

Libby H. Smiley '02 B.A.

Seth P. Waxman '77 J.D.

ATTACHMENT A

YALE UNIVERSITY

OFFICE OF THE PRESIDENT

105 WALL STREET, PO BOX 208229
NEW HAVEN CT 06520-8229

April 20, 2011

The Honorable Margaret H. Marshall (Ret.)
1010 Memorial Drive
Cambridge, MA 02138-4854

Re: Advisory Committee on Campus Climate

Dear Margie:

Thank you for agreeing to serve on, and chair, Yale's Advisory Committee on Campus Climate. I am convening this Committee, ad hoc and external to Yale, as part of the University response to the recent notice from the Office for Civil Rights of the U.S. Department of Education that it will be investigating a complaint regarding the University's compliance with Title IX of the Higher Education Act. Although we have not received a copy of the complaint, we believe that the investigation will focus on Yale's policies and practices concerning sexual harassment and misconduct.

As I mentioned when we spoke, I would like the Committee to advise me and the Yale Corporation how sexual harassment, violence or misconduct may be more effectively combated at Yale, and what additional steps the University might take to create a culture and community in which all of our students are safe and feel well supported. I would ask that you and your fellow committee members spend time listening to members of the Yale community about the situation as they live it. We do have policies in place, and are implementing recommendations developed during the last year. Nevertheless, I am confident that there is more that we can do.

I would ask that your Committee advise me directly of your findings and recommendations by way of a report to be completed early this coming Fall. I will plan to review your report with the Yale Corporation, and then to make your findings public.

Linda Lorimer, as Vice President and Secretary, and Dorothy Robinson, as Vice President and General Counsel, will take the lead at Yale. They and their staffs stand ready to support the Committee in its work in any way. Please feel free to call on them as you see fit.

I am grateful to you and the other members of the panel for contributing your time and wise counsel.

Sincerely yours,



Richard C. Levin

RCL:mg

ATTACHMENT B

A Note on the Scope of this Report

We are concerned in this Report with sexual harassment, violence, and other forms of misconduct as these concern *students*.

Next, there are clear links between sexual misconduct and alcohol use and hazing-type behavior,¹ and we find much merit in an observation made to one Committee member that “the whole problem of harassment and related consequences is unlikely to be resolved until the culture of binge drinking fades.”² We are aware that Yale, like its peer institutions, has devoted considerable attention to addressing these most challenging issues,³ and were heartened to learn that Yale has joined a consortium of peer institutions to work together to reduce high-risk drinking.⁴ We have not, however, delved deeply into these important topics and make no recommendations that specifically concern binge drinking or hazing, although we think it important that the University is working on both fronts.

Finally, any suggestions we make to combat more effectively sexual harassment, sexual violence, or other sexual misconduct on the campus necessarily implicate how Yale manages conflicts in other areas. Yale has in place comprehensive enterprise risk programs, and our recommendations will, of course, need to be considered in light of those and other conflict and risk management systems.

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- 1 See, e.g., *Wasting the Best and the Brightest: Substance Abuse at America's Colleges and Universities*, Report of the National Center on Addiction and Substance Abuse (NCASA) at Columbia University (March 2007), 31, 108, hereinafter NCASA Report. See also Melinda G. Novik, Donna E. Howard, and Bradley O. Boekeloo, “Drinking Motivations and Experiences of Unwanted Sexual Advances among Undergraduate Students,” *Journal of Interpersonal Violence* 26 (2011): 34–49; Antonia Abbey, “Alcohol-Related Sexual Assault: A Common Problem among College Students,” *Journal of Studies on Alcohol* 14 (2002): 118–28; and William F. Flack, Jr., et al., “Risk Factors and Consequences of Unwanted Sex among University Students: Hooking Up, Alcohol, and Stress Response,” *Journal of Interpersonal Violence* 22 (February 2007): 139–57.
 - 2 In a letter dated April 20, 2011, to the Committee, the founder and chairman of NCASA, Joseph A. Califano, Jr., stated that “much of the problem of sexual violence, misconduct, and harassment on college campuses is linked to alcohol and other drug use.”
 - 3 See *Report of the Committee on Alcohol Policy in Yale College* of February 20, 2006, at <http://www.dartblog.com/documents/Yale%20Alcohol%20Report.pdf>. Also, the Alcohol and Drug Advisory Committee, a group of faculty members and students, meets frequently to discuss substance abuse issues on campus and advises the Dean of Yale College. Events aimed at reducing problem drinking have included: activities and programming during high-risk events such as Safety Dance, Freshman Dance, and Halloween; joint funding from the Dean and the masters of all

twelve colleges and coordination across the colleges for alcohol-free events such as a freshman night at the men's basketball game the same night as the Freshman Dance; and increased adult presence at the Safety Dance and the YSO Halloween Show to provide support to police and security. The Student Affairs Fellows and the Dean's Office are working with masters and deans to suggest ways to reduce drinking and what approaches work best, e.g., what are the pros and cons of taking a hard stance against activities such as liquor treating, and how can the masters and deans gain student support for actions that reduce risk? The Dean's Office developed a swift and effective approach to halt the use of caffeinated alcohol beverages, which have since been banned from the market.

The Dean's Office has implemented a program known as the Parent Intervention Program. This evidence-based high-risk drinking prevention program, developed by Rob Turrisi at Penn State, involves contacting parents of incoming freshmen before the beginning of their freshmen year to engage them in the task of problem-drinking prevention. A series of letters to parents from the Dean of Yale College indicate the scope of the drinking problem on college campuses and the importance of parent engagement, and a handbook guides parents through the process of talking with their children about alcohol use. Yale College administrators then continue this conversation with parents at Parents' Weekend and send additional letters around the winter holidays.

See also *Final Report of the Committee on Hazing and Initiations*, dated April 21, 2011, making several key recommendations including: revising the *Undergraduate Regulations* to hold student organizations, their leaders, and responsible members accountable for hazing activities, including those that affect third parties; requiring organizations to be in "good standing" in order to recruit new members; creating an easy-to-find Web page containing the policies on hazing, education about hazing, and student narratives/examples of hazing and its outcomes; forming an Inter-Fraternity & Sorority Council (IFSC); adopting pledge practices that correspond with national guidelines and the practices of peer institutions; naming advisers to work with groups on positive initiation practices, helping them understand and avoid hazing violations, and creating new orientation programs to coincide with scheduled pledge, tap, and rush activities; exploring the creation of a fund for undergraduate organizations to promote positive initiation practices such as team-building and leadership activities; and integrating hazing-prevention into the roles of relevant Student Affairs positions. We understand that adoption of many of these recommendations is under way, including new regulations, and we encourage full implementation of them.

- 4 In June 2011 Yale joined the National College Health Improvement Project's Learning Collaborative on High-Risk Drinking. The project brings together thirty-two institutions of higher education in a commitment to reduce high-risk drinking and its related harms on their campuses. See <http://www.nchip.org/alcohol>.

ATTACHMENT C

Recent Yale Initiatives Related to Sexual Misconduct Prevention and Response

1. Formation of the University-Wide Committee on Sexual Misconduct (UWC): one board that handles both formal and informal complaints of sexual misconduct between faculty, students, and some staff across the entire University.

- Adopted fall 2010. Implemented on July 1, 2011.
- External professional fact finders for formal investigations engaged.
- Fall 2011 training on detailed procedural and regulatory instruction for wide array of Yale staff with responsibilities for students.
- Major communications within Yale to build community awareness of and confidence in this new resource.

2. Clarification of SHARE's scope; raising SHARE's profile: to correct misperception that SHARE is only for counseling and to raise awareness of range of services.

- Academic year 2011–2012 major communications linked to the rollout of the UWC. New textual graphic (SHARE: Advocacy, Information, Support) to be included in digital and print campaign. New Web site to launch October 2011.
- Advanced advocacy training for SHARE Director and Assistant Director. Refresher training for crisis line counselors.
- Training administrators to name the full range of SHARE's services when they refer students to the SHARE Center.

3. Increased support for and program of student education: expansion of staffing in the Yale College Dean's Office.

- Special Adviser to the Dean on Gender Issues reassigned to full-time role in July 2011, working on policy development and implementation on a range of issues, with sexual misconduct as a particular focus.
- Two Student Affairs Fellows working with students to prevent high-risk drinking and sexual misconduct.
- Thirty-six Communication and Consent Educators, undergraduates who will be paid for up to 10 hours per week of prevention and intervention programming on campus. Trained and supervised by the Special Adviser and the SAFs; team hired August 2011 for one-year pilot program.

- New sergeant-level position within the Yale Police Department of a Sensitive Crimes and Support Coordinator, to participate in the various educational efforts described above and respond to police reports of sexual misconduct.
- New training initiatives:

Freshman Orientation, revised for fall 2011: Introduction to campus resources by residential college deans and masters. Risk reduction workshop, including discussion of sexual respect, in small groups with freshman counselors and CCEs. Mandatory for all incoming freshmen.

Student Leadership Training: Primary prevention workshop, helping students identify the dynamics of sexual misconduct and hazing; includes concrete strategies for building organizational and community cultures that do not tolerate such behavior, as well as event planning guidelines. Each registered student organization and athletic team will be required to send three representatives (including two officers or the captain) to the training. Multiple sessions throughout October 2011, hosted by high-ranking administrators.

Sophomore Bystander Intervention Training planned for early 2012.

Communications with parents of incoming freshmen about sexual misconduct, alcohol issues; reinforced at parent sessions during orientation.

Training enhanced for other student counselors and peer educators – Freshman Counselors, Peer Liaisons, Walden Peer Counselors, etc. – to help them address sexual misconduct; expanded training includes new section on identifying faculty-student harassment.

4. Title IX Coordinators: clarifying the roles and responsibilities for Title IX Coordinators and better communicating them (e.g., through new Web description).

- Increased training for, and communication of, responsibilities of Title IX Coordinators throughout the fall term 2011.
- Clarifying the relationship and responsibilities between Title IX Coordinators and UWC.
- Established protocol wherein all University officials (including faculty, student educators, deans, and masters, etc.) must share any knowledge they gain of sexual misconduct with Title IX Office, so that the University can take responsive action; educating campus about this new protocol over the fall term 2011.

5. Addressing Hazing Practices: implementing the recommendations of the 2010–2011 hazing committee.

- Revisions to the *Undergraduate Regulations* and the *Manual for Student Organizations* in summer 2011 to strengthen regulations against hazing and establish criteria for an organization to be in good standing, including signing an attestation saying that they understand and agree to comply with the University’s rules on hazing.
- Hosting Greek Roundtable in Fall 2011, with national leadership of fraternities and sororities with Yale student membership.
- Incorporating anti-hazing strategies into the new student leadership “primary prevention” training.
- Built initial Web site to clarify definitions, regulations, and disciplinary possibilities, with links to encourage easy reporting. Working in conjunction with student groups toward a more extensive site that will allow transparency: a public record of disciplinary actions taken against groups that haze.

6. Increased Training in Responding to Sexual Misconduct: procedures and training for Yale personnel with responsibility for responding to complaints and allegations.

- Additional training of line officers and investigators within Yale Police Department.
- Increasing the knowledge base and skill set of residential college masters and deans, as well as other administrators who may be first responders.
- Campus response team of administrators and students to help guide community response to acts of public or high-profile harassment or assault.
- Revised *Undergraduate Regulations* Definitions of Sexual Misconduct and Sexual Consent to add clarity.

Office of the Secretary

August 2011

ATTACHMENT D

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