

A look inside USC's closed judicial system

Justice USC-style

By Cece von Kolnitz
Editor

Not even Brian Steward's parents know he became a case number in USC's judicial system last year.

Steward, a junior, was charged with smoking marijuana in his dorm room after being accused by a residence hall director. He confessed to the charge, and as a result of his judicial board hearing, he was kicked out of campus housing.

Steward's hearing, like all of USC's judicial board hearings, was closed to the public, despite the fact that the Freedom of Information Act requires groups supported by public funds to hold open meetings.

Steward said during his hearing, he didn't feel like he was really being judged by an unbiased board of his peers.

"They basically had their minds made up before I walked in that room," he said.

Questions about fairness and meetings held behind closed doors are surrounding campus judicial systems across the country. Meanwhile, Congress and news organizations are putting pressure on universities to be more open about their judicial systems.

Fairness and the process

USC judicial board members say the process here is fair.

"Since it's a board of peers, I think we're very fair. I think if they [students who are found guilty] thought we weren't fair they could at least see our logic [in coming up with sanctions]," Neel Shah, a junior and president of the judicial board, said.

Shah said charged students are not presumed innocent until they are proven guilty nor are they automatically presumed guilty.

"It's neither," Shah said.

The board's standard of evidence is not as high as a state or federal court's. Hearsay is admissible.

Nicole Moen, a senior and student member of the judicial board, said the statements of university employees including administrators and residence hall directors are assumed by the board to be true in order to "uphold the authority of the people like residence hall directors in an effort to empower them in their positions."

"What's the point of having an RHD if their opinion has no value?"

A student is judged guilty if the

board finds that it is "reasonably certain the student or student group is responsible for the offense charged." Students can appeal their cases all the way up to the president of the university.

The highest punishment USC's judicial board can pass down is suspension.

Moen said "We agonize over our sanctions. We spend hours coming up with what we think should be the most educational program. It's not really a punishment. We try to make it a learning experience."

Even though they spend hours on their decisions, judicial board members have very little time to review each case before hearings. Shah said they review the written material involved in the case for half an hour to an hour before each hearing.

"The only reason we review it is to know what questions to ask," Shah said.

He said the short time is another reason why the board is able to be so unbiased.

"I don't see how we could be that biased. We find out about the case and shortly thereafter we have the hearing."

Moen said one way the board insures objectivity is to require board members to speak up if they know a student involved in a case. The board is so objective, Moen said, that she's not concerned about what public opinion might be if the hearings were open to the public, though she advocates their closure to protect student privacy.

"I'm not so much concerned about how [the public] views us. I'm very pleased with the unbiased nature of our board," Moen said.

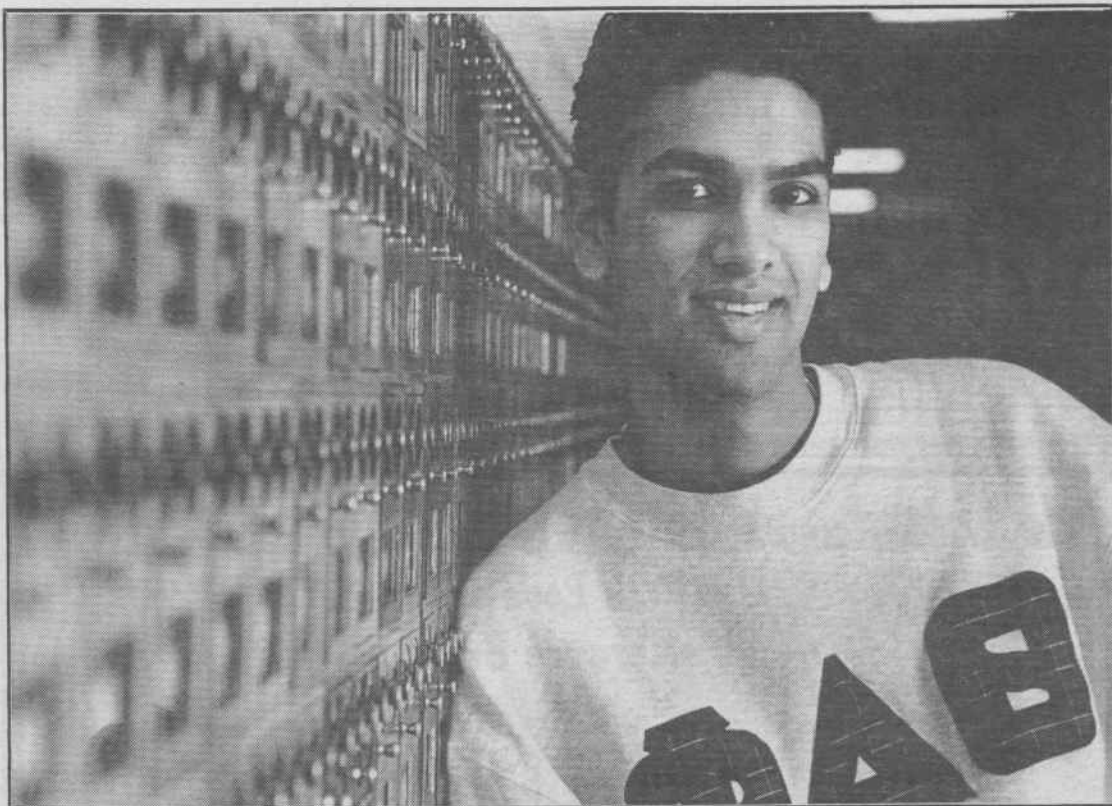
But Steward doesn't agree. In his closing statement at the end of his hearing Steward told the board, "You already had your minds made up."

He said, "I've always been told you get rewarded if you admit your mistakes. It's supposed to be easier," he said. "They didn't make it any easier."

Why its closed

Room 104 in the back of USC's student discipline office is not a courtroom.

But on days when the judicial board is in session, witnesses fill the conference room's chairs, "alleged offenders" make closing statements to a board of their peers and in the end, that board decides whether



Robert Walton/Garnet & Black

Neel Shah, president of the judicial board, said he feels USC's judicial board hearings are fair. "Since it's a board of peers, I think we're very fair. I think if [students] thought we weren't fair they could at least see our logic."

Students at the University of Georgia can use their campus newspaper to challenge judicial board decisions.

- Crystal Paulk, former judiciary reporter for UGA's student newspaper

the accused is guilty or not.

The student who is charged may be accused of theft or drug possession. He may be accused of rape. One thing never changes: no one but those directly involved in the hearing, the members of the board and the office's administrators know that he's there or why he's there.

And as Moen said, "Not even President Palms knows beforehand what happens."

Administrators at universities across the country have traditionally used the part of the Family Educational Rights and Privacy Act known as the Buckley Amendment to defend the closing of judicial board hearings.

The Buckley Amendment provides for the withholding of federal funds for public institutions which permit the release of "educational records." At USC, "educational disciplinary records" include everything from residence hall incident reports to university police department transfers.

USC law professor Eldon Wedlock

said FERPA is "one of those pieces of legislation Congress passes in order to deal with an outrage. They really didn't think through what they were doing when they passed the laws."

Wedlock said Congress was responding to concerns about schools giving out information about students to outsiders and not to parents.

Responding to a U Magazine article about college judicial boards, Dennis Gregory, president of the Association of Student Judicial Affairs, said hearings should not be open because it would be "impossible" to hold hearings without including a portion of an educational record. Therefore, to open such hearings, he said, would be "impossible and illegal without the consent of the accused student."

But Wedlock said the law itself does not include hearings. If a student wanted to attend a specific hearing, according to the Freedom of Information Act, he should be admitted.

The problem with FOIA, Wedlock says, is enforcement. Violation of the act has traditionally carried no criminal punishments.

But the student would have to first know that there was even a specific hearing going on. USC's board does not publicly post notice of their meetings.

Crystal Paulk, a University of Georgia student and former judiciary reporter for The Red and Black, UGA's independent student newspaper, said since UGA's campus court hearings were open by the state of Georgia's supreme court in 1993, UGA students have used examples of cases from the newspaper's "Judicial Watch" columns for their appeals.

Paulk said students who want to appeal their cases can use the examples of the outcomes of other cases to challenge some of the court's deci-

sions.

"How do you know you're being treated fairly as a student unless you can compare your experience to how other students have been treated?" Paulk said.

A case for closure

Jerry Crotty, associate student discipline director, said even if no laws were involved, he would want USC's hearings to be closed.

"I argue for the benefits of confidentiality," Crotty said. "I would want it [the judicial process] to be private even if there wasn't a law addressed in the question."

Moen said she believes one of the main reasons both hearings and records should be closed is to protect the individual student's privacy. She said she thinks allowing public access to hearings would open a charged student's life up to unnecessary public scrutiny.

"My only problem with that [media attention] is it stigmatizes the charged student as being guilty whether he is or not," Moen said.

But Crotty said most student who are referred to the the discipline office either accept responsibility or are found guilty by the board.

"We don't pick these names out of a hat," Crotty said.

Shah said another possible effect of open hearings might be backlash from students who are allowed to attend who may be unhappy about the outcome of a charged friend's case.

"You don't know how disruptive they could get towards you [if the hearings were open]," Shah said. "A lot of it is for our own protection."

Administrators and judicial board members say the process a charged student goes through is supposed to be an educational one.

"I think of my function as much more of an educational encounter rather than a judicial encounter,"