



UNIVERSITY OF MINNESOTA
TWIN CITIES

Senate Judicial Committee

May 24, 1988

Phillips W. Shively, Ph.D.
Chair
Faculty Consultative Committee

Dear Phil:

Enclosed is a copy of the Report from the Study of the Senate Judicial Process at the University of Minnesota for your meeting on June 2, 1988. Thank you for including this report on your agenda and for inviting Carole Bland and me to discuss this study with your committee. The report may appear at first overwhelming, but the actual text is only 29 pages. If you find yourself particularly short of time to read the report, you may find it most helpful to simply read the executive summary and then the discussion, and recommendation sections.

We look forward to a lively discussion.

Sincerely,

Amos Deinard, M.D. / 888

Amos Deinard, M.D.
Chair, Senate Judicial Committee

cc: Carole Bland, Ph.D.
Roger Park, J.D.



Study of the Senate Judicial Process
at the University of Minnesota

May 1988

Carole Bland, Ph.D.
Medical School

Amos Deinard, M.D., M.P.H.
Medical School

Roger Park, J.D.
Law School

With: Data collection assistance from Hans Dekker, B.A.
Data analysis assistance from Arnold Kunian

Executive Summary

The Senate Judicial Committee is composed of faculty members appointed by the Senate Committee on Committees with the advice and consent of the University Senate. It adjudicates disputes arising under the University tenure regulations. The committee typically deals with three types of cases:

1. Probationary faculty members who have been denied tenure;
2. Tenured or probationary faculty members who have been dismissed or suspended for cause;
3. Tenured or probationary faculty members who claim their working conditions have been violated.

Except for cases involving dismissal for cause or cases involving work conditions not heard before, the Senate Judicial Committee does not judge the merit of cases. Rather, it determines if errors occurred in the processes used at lower levels. These determinations along with recommendations for remedying the errors, if any occurred, are forwarded to the President. The President makes the final decision on outcome and, if required, further action.

The Senate Judicial Committee was established in 1946. Over these years, the processes have become more formalized and the number of cases per year has increased. During the 1980's the committee has struggled with several recurring policy issues about its function, role, and effectiveness. This study was conducted to contribute to the discussion on these issues. Specifically, it focuses on two major questions: Are there changes that could be made in the current Senate Judicial Process that would increase the ability of the Senate Judicial Committee to adjudicate faculty disputes and preserve academic norms? Or, are there different processes which should be adopted?

To gather information on these questions, a survey was conducted of persons who had participated in the Senate Judicial Process as a complainant, respondent or a committee member. To identify survey participants we began with the 125 cases that have been initiated since 1946. From this group we eliminated cases in which the complainant filed but withdrew the complaint before a hearing panel was appointed or in which the complainant is now deceased. This decreased the total number of cases to 88. Out of these 88 cases, surveys were sent to all people involved in the cases for whom home addresses could be located, resulting in a total number of 59 respondents, 96 committee members, and 69 complainants. An overall response rate of 62% was obtained from these people.

The results are summarized below by the six subquestions of the study.

1. How effective is the process at achieving the primary goals of the Senate Judicial Committee: preserving the norms of academe (e.g., academic freedom, the integrity of the tenure code); helping to preserve (or restore) productive faculty and academic environments; and adjudicating faculty disputes?

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With regard to the effectiveness of the Judicial Process for meeting its goals, survey participants' opinion was low. On the other hand, they leaned toward being satisfied with the process. Many stated that they would bring a case again to the Senate Judicial Committee themselves, or would recommend to a colleague, if appropriate, to bring a case. These comments suggest that even though the participants find the process less than effective, they feel that the process is of value because it provides at least one avenue to address substantial problems, or to appeal an unfavorable promotion or tenure decision.

2. How satisfied are participants with the process?, and

3. How effective are specific parts of the process?

Survey participants believe the steps done by the panel members are accomplished rather effectively. However, the steps in the process that relate to the activities the complainants, respondents, or President carry out, are rated low.

4. Are there changes participants would suggest for the process?

Given the results described above, it is not surprising that survey participants have significant suggestions for improving the Senate Judicial process. Their suggestions included: adding a formal advisor to the prefiling step to the process; raising the qualifications of advocates and panel members (via training, experience, release time, and handbooks); and educating all faculty on the process as well as the principles, and conditions the Senate Judicial Committee is designed to protect.

It was also suggested that the President confer with the committee if he or she disagrees with the committee recommendation. Survey participants strongly suggested that there is a need for follow-up on the President's orders to see that they are complied with. Also, it was noted that via cases, the Senate Judicial Committee often becomes aware of enduring systemic problems in particular units. It was suggested that the Senate Judicial Committee has a responsibility to alert the administration to such instances. Other suggestions included a need for a mechanism for handling salary complaints, and a method for selecting Senate Judicial Committee members that did not have the perception of bias.

5. Are there completely different processes participants would suggest for achieving the goals of the Senate Judicial Committee?

Here, the predominant suggestion was that the committee should consider following a conciliation model, rather than or in addition to, the due process model currently followed.

6. What are the long term effects of the process on participants?

In general, respondents report no enduring impact of cases, although there are some notable exceptions. Complainants, on the otherhand, reported a significant negative impact on their finances, physical well being, and career goals. There is also a negative impact on their academic environments, relations with their administration, and on their productivity. It should be noted, however, that it is difficult to determine how much of this negative

impact is a result of participating in a Senate Judicial case or a result of the dispute and social context from which the case arose.

The study concludes with recommendations to address issues identified in the study. Some of the recommendations can not be implemented by the Senate Judicial Committee. Still, they are listed here as an initial step to being brought before the appropriate implementary bodies or individuals.

1. Explore possible use of alternate resolution methods for different types of cases.
2. Have a prefiling officer to advise potential complainants as to if they have a valid claim, and if so, the appropriate avenue to pursue.
3. Have two (or more) professional faculty assistance officers (1 FTE) to serve as advocates for complainants.
4. Have two (or more) professional assistance officers (1 FTE) to serve as advocates for respondents.
5. Have training sessions for all Senate Judicial panel members, a handbook to guide them through hearings, and a reference book of past precedents.
6. Determine if the Senate Judicial Committee should be involved in handling salary complaints.
7. Formalize the agreement with the President that he/she will discuss with the Senate Judicial Committee any recommendations with which he/she disagrees before overruling or modifying. We expect the Senate Judicial findings to be accepted in full and only rejected or modified for the most substantial of reasons.
8. Establish a system to follow up adherence with the President's orders.
9. Establish a system to monitor the academic environment of complainants who remain at the University and of others who spoke on complainants behalf.
10. Formalize an arrangement for the Senate Judicial Committee to inform administration of units with recurring or enduring, systemic problems.
11. Establish a system to monitor academic environments which have had frequent complainants or particularly broad ranging or hostile cases.
12. Consider a new method for selection of Senate Judicial Committee Members. Perhaps a random selection from among the tenured faculty, with a system of rewards (lower teaching load, salary supplement) to encourage accepting the position, and a resolution of the Senate stating that it is the duty of a faculty member to serve when called.
13. Decrease the time required to hear cases by establishing strict time limits on each step in the process.
14. Identify means for tenure denial cases to be completed earlier, such as administration mailing notices earlier and providing for Senate Judicial Hearings and Committee to function twelve months a year.

15. Develop a booklet to be distributed to all faculty and administrators describing the purpose and procedures of the Senate Judicial Committee and related lower review and grievance bodies.
16. Provide formal, uniform training for administrators on areas frequently resulting in Senate Judicial Committee cases, e.g., due process procedures required for promotion and tenure review, preparation of job descriptions and evaluations, recruitment procedures, etc.

I. Introduction.

A. Background. The Senate Judicial Committee is a committee of faculty members appointed by the Senate Committee on Committees with the advice and consent of the University Senate. It adjudicates disputes arising under the University Tenure Regulations promulgated by the Board of Regents. The 1985 Tenure Regulations gives permanent status to the Judicial Committee and defines its role and jurisdiction.

The Judicial Committee deals with three types of cases:

1. Cases in which probationary faculty have been denied tenure. This is the most common type of Judicial Committee case. These cases involve claims that procedural irregularities, discrimination, or abridgments of academic freedom have occurred in the tenure review process. Faculty members may bring these claims to the Judicial Committee without first going through other grievance channels.
2. Cases in which tenured faculty members have been dismissed or suspended for cause, or in which the employment contracts of probationary faculty members have been terminated for cause before the expiration of the contract period. These cases involve an adjudication about whether the faculty member is guilty of misconduct or is incompetent. These claims may also be brought directly to the Judicial Committee without first exhausting other grievance alternatives.
3. Cases in which tenured or probationary faculty members claim that their working conditions are in violation of the Tenure Code (for example, because they have been denied academic freedom, subjected to discrimination, or the like). In these cases, faculty members must first pursue their cases before other grievance bodies when other bodies are provided by the University. If another grievance body has already decided the case, the faculty member still has the right to appeal to the Judicial Committee. However, the Judicial Committee will only conduct a limited review, not a full hearing, and will only consider issues relating to the procedural regularity of the other body's processes. In instances where the University does not provide another grievance body to which the faculty member may bring the case, the faculty member may bring it directly to the Judicial Committee and the Judicial Committee will decide the merits of the case.

The Judicial Committee does not make a final, binding decision in the cases brought before it. After hearing a case, the Panel issues its findings and recommendations to the President of the University. The Tenure Regulations encourage the President to give deference to the Panel's findings and recommendations, but allow the President to reject the recommendations when there are "important substantive reasons" to do so. These reasons must be stated in writing and transmitted to the Faculty Senate. Past Presidents have generally accepted the findings and recommendations of the Panel, although there has been an occasional significant exception, and there have frequently been minor modifications of the recommended relief by the President.

In cases of dismissal for cause of a tenured professor or of early termination of a probationary contract for cause, the Senate Judicial Committee Panel decides the merits of the case. For example, if the University seeks to terminate a tenured professor for misconduct or incompetence, the Panel determines whether the misconduct or incompetence actually took place. In cases involving failure to grant tenure to an untenured faculty member, however, the Tenure Regulations provide that the Judicial Committee cannot decide the merits of the faculty member's claim to tenure. In other words, the Committee cannot decide whether the faculty member is professionally worthy of continuous tenure, but merely whether procedural irregularities occurred during the tenure review process, or whether tenure was denied for illegitimate reasons, such as gender discrimination or invasion of academic freedom. When the Judicial Committee finds in favor of a faculty member in such a case, its usual recommendation is that a new tenure review be conducted by a qualified body different from the body that conducted the original review. Similarly, in the case where a department's recommendation in favor of tenure has been denied by an administrator, and the Judicial Committee finds in favor of the faculty member, the Committee will recommend the tenure review decision be reviewed by a different administrator.

The Judicial Committee has Rules of Procedure that provide for a judicial process that is in some ways similar to litigation in state and federal court, while attempting to maintain a degree of flexibility and informality appropriate to an academic setting. The rules provide for the initiation of the case by a complaint filed by the complainant; for the appointment of a Panel of three or five members to hear the case; for exchange of documents by the parties in preparation for the case; for a prehearing conference to define the issues and eliminate frivolous issues; and for a full evidentiary hearing at which witnesses testify. Most Judicial Committee complainants (faculty members claiming violations of the Tenure Regulations) represent themselves or are represented by faculty advocates, although some hire outside attorneys. The parties opposing the faculty members (the respondents) are usually department heads or deans, although they can be other persons who represent the interests of the University administration. When the complainant has retained an attorney, the respondent is represented at the hearing by the University attorney's office; otherwise, the respondent argues his or her own case, or uses a faculty advocate.

The caseload of the Senate Judicial Committee has increased dramatically in recent years. Senior members of the University community remember a Judicial Committee in the 1950's and 1960's that was composed of three persons, who heard all cases themselves, and who had a caseload of less than one case a year. The current situation is quite different (see Table 1.1).

The increase in filings and hearings indicated in Table 1 has increased the workload of the Committee dramatically. Another factor that has increased its workload has been the Committee's decision, now formally incorporated in its rules, to discuss each Panel's case on the merits before the full Committee. This decision came in response to a request from President Keller in the 1985-86 academic year, and its purpose was to assure that Panel decisions were in conformity with the views of the whole Committee. Therefore, while a Panel has the final responsibility for deciding a case, it receives advice from the Committee about issues of

policy that arise before and during hearings. (In return for full Committee consideration of each case, President Keller agreed to meet with the Committee before rejecting any of its recommendations. Interim President Sauer has also agreed to this procedure.)

In the 1980's, the Judicial Committee has faced several recurring policy issues about its function and role:

1. How to achieve greater Presidential deference for Judicial Committee decisions;
2. How to ensure that recommendations accepted by the President are actually implemented -- a problem that has been particularly troubling in the Medical School;
3. How to achieve adequate representation for complainants and respondents;
4. How Committee members should be selected (the Committee's credibility is undermined if the Committee is perceived by the President as a self-selected Committee of persons with grievances against the University administration);
5. How the process of the Committee can be expedited so that complainants receive a speedy decision;
6. Whether the Committee should in some cases have the authority to actually decide the merits of tenure cases (an issue largely mooted by the 1985 Tenure Regulations);
7. How effective are its current procedures;
8. Should the Judicial Committee follow a due process model of adjudication, or should it follow a conciliation model?

B. Purpose and Questions. This study focused on three of the above issues (5, 7, and 8) by addressing two questions. Are there changes that could be made in the current Senate Judicial process that would increase the ability of the Senate Judicial Committee to adjudicate faculty disputes and preserve academic norms? Or, are there different processes that should be adopted? More specifically, we wanted to know:

1. How effective is the process at achieving the primary goals of the Senate Judicial Committee: preserving the norms of academe (e.g., academic freedom, the integrity of the tenure code); helping to preserve (or restore) productive faculty and academic environments; and adjudicating faculty disputes?
2. How satisfied are participants with the process?
3. How effective are specific parts of the process?
4. Are there changes participants would suggest for the process?
5. Are there completely different processes participants would suggest for achieving the goals of the Senate Judicial Committee?

6. What are the long term effects of the process on participants?

To answer these questions, we surveyed the people who had actually participated in the process as a committee member, complainant, or respondent.

II. Survey Participants. "Respondents" is the usual term used to refer to people who complete and return surveys. However, since this is also the term for a major subset of our study group, people who returned surveys in this study are called "survey participants." The potential total pool of survey participants includes the complainants, respondents, and committee members involved in the 125 cases initiated since the Senate Judicial process was established in 1946. From this total pool we eliminated cases that were formally filed but did not go to the next step of having a panel established. Also, cases in which the complainant was known to us to be deceased were not included. This left 88 cases which included 60 respondents, 86 complainants, and 96 committee members. One percent of these cases occurred during Morrill's presidency (1945-1960); none during Wilson's presidency (1960-1967); 15 percent during Moos' presidency (1967-1974); 75 percent during Magrath's presidency (1974-1984) and 8 percent during Keller's presidency (1984-1988).

Last known addresses of potential survey participants according to the University were obtained from Ann Bailey in the Office of Academic Affairs. However, many of the addresses were no longer valid, particularly for those who had left the University. We searched for current addresses of these people by calling their last known address; calling secretaries, Chairs and full professors in their last known University of Minnesota department, and consulting membership lists of relevant professional associations. Through these efforts a few more of our potential participants were eliminated because we learned they had died, were incompetent (e.g., lost memory due to accident, senility), or could not be located. Table 2.1 indicates the final numbers of surveys actually sent. It also lists the subsets into which survey participants were assigned.

The overall response rate for respondents was 66 percent, for committee members 57 percent, and for complainants 64 percent. However, it should be noted that there was a larger return rate from complainants who remained at the University. For example, of the complainants whose cases were completed, 87 percent of those who stayed at the University returned forms, while only 65 percent of those who left returned forms. Similarly, among complainants who began a case but withdrew after a panel was established, 67 percent of those still at the University returned forms,

while only 50 percent of those who left did so. Infact, several of the complainants who did not return surveys and are no longer at the University wrote letters stating, or stated verbally in telephone conversations, that they would not respond to anything sent by the University of Minnesota and strongly requested we not contact them again. Thus, while a reponse rate of 64 percent represents a majority of the complainants, the comments and ratings from this group may be more positive towards the University and Senate Judicial process than would have been the case if there had been a larger return rate from complainants who left the University.

Tables 2.2, 2.3, and 2.4 describe survey participants in terms of their rank, gender, and college at the time they were involved in their case(s).

Tables 2.5 lists the types of cases in which survey participants were involved. Tables 2.6 and 2.7 show panel recommendations and final outcomes based on the President's decision by gender for complainants. The reader should note while looking at the tables in this report that the "N" does not always equal 138 (the total number of questionnaires returned). This is usually because not all survey participants answered all items or because an item would apply to only a subset of the total, e.g., female complainants, or complainants who completed cases.

III. Instrument.

A survey instrument was designed to gather information from participants on the questions listed above under "Purpose and Questions". Five point, Likert type rating scales, yes and no items and open ended questions were used. An intial draft was prepared and circulated to the Senate Judicial Committee members. Based on comments on the initial draft, revisions were made and another draft sent to a pilot sample of 3 complainants and 3 respondants who had completed cases. This group completed the forms and then personally spoke with the investigators about items they found confusing or difficult to answer. Alternative forms which varied slightly were then designed for the 16 types of Senate Judicial case participants to be surveyed. See Appendices A and B for a copy of one of the surveys, and a complete list of items used on all surveys.

IV. Methods.

- A. Data Collection. During June or July of 1987, each potential survey participant was sent a cover letter from the Chair of the Senate Judicial Committee explaining the purpose of the survey and an appropriate form of the survey. Two weeks later, persons who had not returned a form or a written letter saying they could not or would not complete a form were sent a reminder card. Four weeks later another reminder card and another copy of the survey was mailed to persons still not returning form. One month later, all remaining non-returners were telephoned (if numbers could be located for them). If possible they were spoken with personally, if not a message was left asking them to return the call or return their survey. See Appendix C for a copy of the cover letter.
- B. Data Analysis. Frequencies, averages and percentages were computed on demographic, Likert type, and dichotomous items. Analysis of

variance, chi square, and t-tests were used to assess differences among different types of participants on relevant numerical items.

A content analysis was used to summarize written comments. That is, first comments from all survey participants were clustered by item. Then, the major themes revealed in comments were used to summarize responses to each open ended item.

V. Results.

The results are organized by the research questions listed above. Our first two questions are discussed together.

- A. 1. How effective is the process at achieving the primary goals of the Senate Judicial Committee: preserving the norms of academe (e.g., academic freedom, the integrity of the tenure code); helping to preserve (or restore) productive faculty and academic environments; and adjudicating faculty disputes?
2. How satisfied are participants with the process?

Nine items on the survey were related to these two questions. Four asked the survey participants to rate how satisfied they were with general aspects of the process using a five point scale with 1 = very unsatisfied and 5 = very satisfied. Three asked how effective the survey participant thought the process was at achieving the committee's major purposes using a five point scale with 1 = very ineffective to 5 = very effective. Finally, the participants were asked if they would bring a case again or recommend a colleague to bring a case. Tables 5.1 and 5.2 display the responses to these items.

First, we look at how satisfied participants are with the process. As shown on Table 5.1 participants leaned toward being satisfied with the process, the ratings falling generally between "neutral" and "satisfied." Exceptions to this were complainants' rating of the Hearing Panel's recommendation, Presidents' decision, and how this decision was carried out. The average rating here was between unsatisfied and neutral. This more negative rating is perhaps expected since complainants frequently lost their cases, at least in part. Overall, there were significant differences on all the "satisfaction" items with committee members rating the process more satisfactory than either complainants or respondents.

With regard to how effective, in general, the process is, unfortunately, the general opinion is rather low. (see Table 5.1) The ratings typically were between "ineffective" and "somewhat effective". Again, the ratings on these items are significantly different across the major types of survey participants. The most striking difference was between respondent and committee members compared to complainants, although no ratings reached the level "effective" (4.00). All three groups gave low marks to the committee's effectiveness at preserving productive faculty and productive academic environments.

We suspected that gender of complainant or final outcome of case would influence complainants satisfaction and effectiveness ratings. Table 5.2 compares male complainant to female complainants ratings on general

effectiveness and satisfaction items. There was no significant difference. Table 5.3 compares ratings of complainants who had different final outcomes on general satisfaction and effectiveness items. There was no significant difference in how complainants rated their satisfaction of the Senate Judicial process depending on if they "won" or "lost" their case. However, the final outcome did significantly affect the rating of most of the other satisfaction and effectiveness items.

Still, if given the option to bring their case again, overwhelmingly complainants would do so. (See Table 5.4). They, as well as respondents and committee members, would also recommend the process to a colleague. We anticipated that the different groups of survey participants would have different responses to these two questions. However, as seen in Table 5.4 that was not the case.

Survey participants were also asked to provide written comments as to why they would or would not use the Senate Judicial process again, and if they would recommend a colleague to use the Senate Judicial process. Table 5.5 summarizes their written comments. Again, in their comments, respondents, complainants, and committee members alike said "yes" they themselves would pursue a case again, and they would recommend a colleague to pursue a case. Comments included: "the process is more important almost than the reason or rationale. Everyone gets their turn in court." Another said simply, "it is the best available forum for a fair hearing by one's peers." Another said, "the procedure offers an opportunity for more thoughtful consideration of the issues involved." Two commentators pointed out that it was the only way to get substantive grievances addressed University wide, "The University is no "ivory tower" especially in terms of the ethical and moral behavior of some of its faculty...at present, the only way to stop this behavior is to make a public stance through the committee."

The next most common response was again "yes". But this time commentators qualified their "yes" by saying complainants should only bring a case when all other honest efforts have failed, when it's a last resort move, when it's the final step before Federal court. An additional seven commentators commented simply "yes", this seems to be the only avenue for grievances.

People who said "no" in their written responses frequently went on to say this was because they felt the Senate Judicial Committee heard only cases involving procedural errors. They thought that frequently the problems that result in enduring conflicts are not based in procedural errors so that there would be no point in bringing these problems to the Senate Judicial Committee.

Interestingly, of the respondents who provided written comments to this question, only two wrote that they would not bring a case themselves or recommend a colleague to do so. Committee members and complainants were spread across both 'yes' and "no's" for various reasons as displayed in Table 5.5.

B. 3. How effective are specific parts of the process?

To provide some insight as to what caused survey participants to rate the overall process less than "effective," we turn to our next three research questions. How effective are specific parts of the process? Are there

changes participants would suggest for the process? Are there completely different processes participants would suggest for achieving the goals of the Senate Judicial Committee?

To answer the question about the effectiveness of each part of the process, we asked participants to rate the effectiveness of specific steps in the process. We thought their ratings would alert us to problem areas or areas in need of improvement. We also asked for their comments via open ended questions. Table 5.6 displays the average "effectiveness" rating by major participant type for specific steps in the process. Several striking results are revealed in this table. First, there are distinct differences of opinion among the participant groups on the items. Overall, committee members believe the specific steps in the process are more effective than do the other groups. As for areas that seem to be thought effective by all groups, only 3 steps received a 3.5 or better (between "somewhat effective" and "effective") from all three groups:

- How effective do you think the Panel members were at directing the hearing process?
- How effective do you think the Panel members were at facilitating complete hearing of facts and issues?
- How effective do you think the Panel members were at maintaining a mutually respectful climate?

No other items achieved a rating of 3.5 or higher from all three groups. In fact, nine steps were rated, on the average, below "somewhat effective" (3.0) by one or more of the three groups:

- How effective do you think the respondent (and their advocate/attorney) were at identifying the major issues?
- How effective do you think the respondent (and their advocate/attorney) were at bringing the facts out?
- How effective do you think the complainant (and their advocate/attorney) were at identifying major issues?
- How effective do you think the complainant (and their advocate/attorney) were at responding to facts brought forth by others.
- How effective do you think the President's orders were at remedying the problem from your viewpoint as the faculty member complainant?
- How effective do you think the President's orders were at providing a fair remedy?
- How effective do you think the President's Orders were at correcting the problem for the department (if applicable)?
- How effective do you think the President's Orders were at reinstating or continuing you as a productive faculty member (if continued at the University of Minnesota)?

- How effective do you think the President's Orders were at reinstating or continuing the department as a productive environment (if applicable)?

Notable, none of these relate directly to panel member activities. Rather, most relate to respondent, complainant, or President activities. Interestingly, as seen in both Tables 5.6 and 5.7 respondents believe they perform their role well, an opinion not shared by complainants, and complainants believe they are even more effective at their role, an opinion not shared by respondents. Everyone is in complete agreement that the process is inadequate for addressing problems that are department-wide.

C. 4. Are there changes participants would suggest for the process?

Table 5.8 displays the written comments to the question "Are there aspects of the prehearing conference, hearing and panel recommendation process that you would change?" This question appeared on all surveys except for Complainant Survey Type #37-40. These are the forms sent to complainants who filed, but either settled or withdrew before any further action. As can be seen in Table 5.8, survey participants provided a variety of answers to this question. However, the majority of them can be clustered into six categories.

The first category includes comments that relate to the qualifications and availability of a faculty advocate. Twenty-four comments were made in this area by all types of study participants. Specifically, ten survey participants stated that an attorney should be available as an advocate for faculty (four respondents, three committee members, three complainants). Five survey participants on the other hand, thought specifically that attorneys should not be included in the Senate Judicial process (four committee members, one complainant). Seven survey participants thought the greatest difficulty for the complainant was in finding suitable advocates. They recommended that a list of suitably trained, experienced advocates must be available for complainants (five committee members, two complainants). Two additional comments were in this category, each from one survey participant. One recommended that the University should pay for a professional advocate for faculty members--that faculty would be better served by having someone with experience with the process. The second simply said that it was important to have better advocates.

The second most frequent type of comment was for survey participants to write in that they had no suggestions for changes. This does not include people who left this item blank.

The third most common comment dealt with pre-filing. Twenty survey participants commented that it was important for there to be a pre-filing officer or ombudsman available to help the faculty member assess the merits of the case, and understand the applicable portion of the tenure code. One respondent specifically said this might help faculty members who think that just because they have been denied tenure they have grounds for a case when in fact they do not. One participant simply said, "conduct more careful pre-conference review of case." Similarly, a

committee member wrote that a University attorney should serve as a source of advice and information source for faculty members.

The fourth most frequent type of comment involved panel members' abilities, make up, and qualifications. Here, the most frequently mentioned comment was that at least one panel member should have legal qualifications. Six survey participants made this comment. Two participants said that the panel should have better training. Two survey participants stressed the importance of the hearing officer having experience with the Senate Judicial process. Two survey participants also stressed that the panel should not be larger. The following comments were each made by one participant: preserve the widespread make up of the panels, have panel members backgrounds better matched with the issues of the case, have panels better supervised by the committee as a whole and the Chair, have a highly experienced hearing officer, have an odd number of persons on each panel, and appoint a non-faculty person to serve as monitor and to conduct hearings and come up with recommendations rather than use faculty members.

The fifth category of comments involved providing more information on the process. Eight comments were made in this area. Four survey participants (all committee members) commented that it was important to have better mechanisms and more complete information provided to faculty members. Some suggested that there be a brochure for faculty members. Others recommended that there be better written directions for everyone: the administrators, the panel members, and the faculty members. One complainant commented that it would help if there was better information as to what constitutes academic freedom and conditions that are grounds for bringing a case on the basis of interference with academic freedom. Similarly, it was expressed that clarification on other issues that are appropriate for Senate Judicial cases would be helpful.

Finally, six survey participants went out of their way to say that they thought the Senate Judicial process was excellent the way it is when they experienced it.

Many other comments made in response to this question do not fall into logical groupings. Also, most of the remaining comments were only made by one survey participant. This is not to say that we should not attend to comments that are made by one survey participant. For example, the following comments were made: Reduce Senate Judicial Committee to include hearing officers only, in order to allow for more efficiency at the committee level, especially when there are many cases involved. Or, have more of the hearing process occur in a written form. Two survey participants commented on the problem with the President having the veto over the recommendations. Also, two survey participants commented on the problem with faculty winning cases, but losing large sums of money when they had to pay for attorneys. A complete summary of the written comments is set forth in Table 5.8 .

D. 5. Are there completely different processes participants would suggest for achieving the goals of the Senate Judicial Committee?

To gather information on different processes for accomplishing the committee's goals, all survey participants were asked to respond to the questions "Can you suggest a process that would have been more effective

than our current judicial process for resolving your problem (or the complainant's problem)?" and "Can you suggest a final action that would have been more effective than what the President ordered for remedying the complainant's (or your) problem?"

1. Table 5.9 displays a summary of the comments to the first of the above questions and the frequency of each comment by type of survey participant. Unfortunately, it can not capture the complete richness of the total written comments. As seen in Table 5.9, the most frequently made comment was that the participant had no suggestions for making the process more effective. A "no" was recorded when the survey respondent specifically said "no," or said "none." These numbers do not represent blanks on the survey page. In all, thirty-three people said "no," and an additional three went further to say that they thought the procedures were fine, or excellent.

The second most frequently made comment was that the process should include some form of mediation. Some participants went so far as to suggest that this mediation is probably best used for cases other than discharge or lack of tenure, but rather for salary disputes and the like. Some commented that having the Chair of the Senate Judicial Committee serve as mediator may be a conflict of roles. Also, it should involve someone as the mediator that is external to the department, perhaps even external to the college or the University.

An additional five people suggested that there should be an arbitration process. Several of these people referred to the arbitration process that is in place under the unionized colleges, and thought that this was a process we might adopt. Actually, it is unclear if the survey participants had common definitions for the words "mediation," and "arbitration." The commentators who referred to the union arbitration process likely had a common definition of arbitration i.e., a binding arbitration. However, the people who commented that mediation should be an addition to our dispute resolution process did not sound as if they had a common definition. Rather, it seems as though mediation connoted anything between helping the parties reach a mutually agreeable resolution to nonbinding arbitration.

Most of the people recommending mediation seemed to be doing that because they thought that it would be less slow and less traumatic for the complainant. For example, one commentator said, "if mediation can be effective, it is preferable, for the current system is slow and often traumatic for the complainant." Another commentator said "more mediation attempts earlier, perhaps mediation panels that could work swiftly. By the time most cases get to the Judicial Committee, great damage has been done to the faculty person and the department." Similarly, another commentator said, "I'm not certain how effective the internal grievance process is, but it does seem greater effort needs to be put on mediation with objective (external to the department) individuals to attempt to resolve issues fairly before the lines get hardened to a point where legal adversarial stances really damage outcome and aftermath."

Along the same lines, two commentators made a statement about the use of counseling for people with conflicts. For example, one commentator

said, "our case really needed both sides to think of the others as people. The respondent himself, even though an M.D., had no sense of his faculty members as people. I think ninety percent of the time grievance could be avoided by people counseling and talking early on."

The third most common suggestion was that the time frame be shortened and the process be streamlined. This suggestion came from all three of the major types of survey participants. Unfortunately, none of them gave any specifics as to how to do this, except to say the time frame needed to be shorter to decrease the potential damage to both the complainant and the respondent, and the department.

The fourth most frequent comments addressed the need for a University ombudsman. Unfortunately, as with mediation the definition of ombudsman seems to vary. Commentors sometimes talked of this person as an office to resolve cases, or an assistance office to help people in knowing whether and how to bring cases, or an office that does intermediate negotiation. The most frequent comment suggested the University ombudsman as someone to help potential complainants know whether they have a reasonable case and, if so, how to proceed.

Five people commented on the need for better trained, and more care in appointing panelists. Most frequently it was respondents who thought that panel members need to be better selected. One respondent said, "more care in appointment. The majority of the members that I encountered were fine, but there were a couple of clinkers. In many cases they themselves were formally aggrieved and striking back. For that reason, I think the committee might be very reluctant (or careful) in taking volunteers...." Another respondent said, "In one case, I was confronted with two 'hanging judges,' so intent in rescuing the faculty member that they never even got the facts straight." One of the complainants put it this way, "I felt that many of the respondent's arguments were wide ranging attacks on personalities rather than responses to the issues which we raised. It seems to me that the panel should have made a greater effort to focus testimonies on relevant matters and should have limited the vitriolic attacks on personalities. It appeared that the panel was intimidated by the respondent...."

Several of the commentors thought the Senate Judicial procedure was fine, but the problem was with the President's ability to overrule the the Panel's recommendations. Specifically, four of the survey participants thought that the President should not have the ability to veto recommendations. In fact, two of them reported that the President vetoed the Senate Judicial Committee recommendations, and when they began lawsuits against the University the President reversed himself, and agreed to the recommendation of the Senate Judicial Committee. Four other survey participants didn't go so far as to say the President's veto power should be removed, but that a problem does reside with the President's ability to override Senate Judicial recommendations because they perceive the President as..."leaning backwards to protect administration." Not surprisingly, none of the recommendations in this category came from respondents; rather, they all came from committee members or complainants.

Four survey responders commented on the lack of follow-up by the administration or by the committee to see that the President's orders are carried out. Certainly, this is not a problem when the order is to terminate the faculty member. But in cases involving a change in policy or behavior on the part of the administration, it does seem to be a significant problem that the President's orders are not being followed. One survey participant said, "following the President's orders, those of us involved in the grievance were frequently castigated and now we felt as though we had no where else to turn. We could not expect any assistance from the school because further persistence would likely antagonize the authorities and jeopardize our academic future. Therefore, we hoped someone from the Judicial Committee or the President's office would oversee the compliance with the recommendations by the President and the Senate Judicial Committee. This was not forthcoming, and thus the situation now seemed worse than before."

In a similar vein, four survey participants stated that there needs to be a way to protect complainants and testifiers against harassment during and after the case. One complainant reported that after the case, "those disloyal to the administration by stating true testimony have been retrenched by an administration who sought to retain only those who had given favorable administrative testimony or support." Another survey participant said, "during all this time [apparently the time of the case] we were under considerable stress. On numerous occasions, our departmental meetings were characterized by shouting, accusation, and ridicule of those of us involved in this grievance. We were castigated for not discussing the details of this grievance in these meetings which were chaired and controlled by the department head [against whom they had complaints] while at the same time it was our understanding that these details should not be discussed until the grievance was heard and to do so would jeopardize the grievance process." Two similar comments attest to the apparent need to provide support for the complainants. One complainant said, "it would be important as part of the Senate Judicial Process to advise potential complainants of the inevitable high cost, stress, loss of friends, and lack of faculty support that occurs during this time." Similarly, one of the survey participants, a respondent, thought the University needed to have a system that better supported faculty while going through the Senate Judicial process, rather than discouraging them. Specifically he said, "I recommend a University attitude and policy be developed whereby grievances be encouraged to be brought before a Judicial Committee for quick resolution."

Three of the commentators recommended that the University provide legal counsel for the faculty on a par with that available to administrators.

Finally, three commentators noted that there was a need for administration to monitor and police their own mid- and lower-level administration without putting the burden on vulnerable faculty to control abuse by administrators. At the very least these commentators thought that the administration should have a formal mechanism for reviewing departments or colleges which have had frequent, broadranging, or particularly hostile cases. To quote one of the survey participants, "I'm not sure that the Senate Judicial Committee

is the appropriate vehicle. I don't think much can be done unless people in high authority say that abusive use of power by department heads will not be tolerated... I feel that at some higher level, people of good will could have looked at our situation and helped us resolve this without going through what turned out to be a very frustrating, time consuming and emotionally draining process." Another survey participant put it this way, "One of our greatest problems was how to convert our concerns into issues which could be considered in the more formal framework of the Senate Judicial Committee. In retrospect, I don't think we were able to achieve this conversion. We had hoped to focus on a general pattern of behavior that was deleterious to an academic milieu, but we ended up concentrating on details of individual incidents. The remedies therefore, did not seem to address the root causes of our difficulties in a manner that would prevent reoccurrences."

Many other excellent suggestions were made by one or two people (Table 5.9). They range from such things as one survey participant pointing out that "we should not consider ourselves (the Senate Judicial Committee) in the conflict resolving business. We are in the business of preserving academic freedom and academic due-process. Conflict resolution usually involves compromise. The values we are charged with protecting rarely permit compromise." Two comments related to the need for better prewritten standards against which to measure faculty performance.

2. With regard to how the process could be changed, survey participants were also asked, "Can you suggest a final action that would have been more effective than what the President ordered for remedying the complainants (or your) problem?" Since this question would apply only to people who completed cases, only complainants 31 through 33 answered this question. Table 5.10 summarizes their comments.

Not surprisingly, the most frequent response to this question was "no, they could not recommend a remedy that was better than what the President recommended." This was overwhelmingly the most frequent response from respondents, and this accounted for 50% of the responses from committee members. It must be remembered, however, that complainants who lost their cases and left the University are under represented in the survey answers.

The next most frequent recommendation was that the President should pay more attention to the recommendations of panel members. This was made by six committee members and three complainants. One committee member said "neither the Vice President nor the President had been in on the hearing. They should have accepted the recommendation of the hearing panel or else have been requested to show cause for disagreement." Another committee member said "in at least two cases I remember the President was, in my view, far more lenient than the panel and far more willing to provide the faculty member with additional time to improve. I do not know if this produced positive results." This issue may already be partially addressed by first President Keller and then Interim President Sauer agreeing to meet with the full committee when there are disagreements with the recommendations coming from a panel.

Five commentators were emphatic about the importance of the President's orders being followed. One committee member put it this way..."The President's directives must be given some "teeth," so that, e.g., when a department chairman is ordered to stop harassing a faculty member, significant consequences will follow non-compliance. I have seen too many cases in which the President's order was ignored with impunity." Another committee member said "enforce the President's decision! Pure and simple! Is the Medical School part of the University of Minnesota or not? If yes then they should follow the rules."

Several comments related to the need for the President to follow-up in the Units or Departments that have had substantial complaints. For example, one committee member said "The President needs to temper justice with mercy. To often, we were reduced to saying that the faculty person had been treated shabbily by the administrators involved although the letter of the law was on their side." Another complainant thought the President's orders would have been significantly improved by..."making sure the respondent did not effectively try to damage my career with the removal of duties, lack of any real position assignment or responsibility for our systems program - something I was originally hired to do was subsequently denied after my successful judicial case." Finally, another complainant said "I think follow-up and supervision [of the department head] might have made all of our efforts worthwhile. This follow-up would have included...interviewing those involved in this grievance regarding subsequent harassment following the hearing."

Most other comments were made by only one survey participant. However, several ideas for unusual remedies were mentioned such as providing a lateral transfer for the complainant to another unit. One committee member mentioned that a financial settlement often seems a remedy offered by the President and he was unaware that that was a possible recommendation that could be made. Of course, several of the terminated faculty thought that an appropriate remedy for them would have been for them not have been terminated, or to have been given more time or another year.

D. 6. What are the long term effects of the process on participants?

Data was gathered on this question in two ways. First, complainants and respondents were asked to rate the impact of the process on aspects of their life using a five point Likert type scale where 1 = extremely negative, 3 = neutral (no impact), and 5 = extremely positive. Committee members were also asked their perception of the impact on complainants and respondents.

Second, complainants and respondents were asked to comment further on the impact of the case on their life.

Table 5.11 shows the average rating of impact items. With a few exceptions, committee members' ratings of the impact on complainants and respondents is similar to the self ratings by these groups.

In general, respondents report no enduring impact of cases. If anything, the case appears to have a somewhat positive effect with six

of the fourteen items receiving an average rating above the neutral point (3.00).

Complainants, on the other hand, had an average rating below 3.00 on thirteen of the sixteen impact items. Complainants report the greatest negative impact is on their finances, physical well being, and career goals. Also there is quite a negative impact on their academic environment, relations with their administration and their productivity.

They do report the case having a positive effect on two items: relations among other faculty and on their self esteem. It is important to remember that these ratings and the following summary of related comments, although from a majority of complainants, are from a disproportionately greater number of complainants who won their case and remain at the University.

Survey participants were asked to provide comments to two questions in this area. "Please comment on aspects of your life on which this case had a significant impact." "Describe any other positive or negative effects this case has had on your career." (For committee members, these questions read, "on respondents' or complainants' life or career") Table 5.12 summarizes the written comments to these questions. Comments to these questions did not fall into convenient clusters. Rather, these statements were highly idiosyncratic and specific. Thus, Table 5.12 has many comments any one of which was made by only a few people. Also, because of the highly idiosyncratic, specific, and emotional comments to this question, Table 5.12 fails to reveal a lot of the richness in the complete comments. Still, some patterns of answers do show up. The most obvious trend is that many more negative impacts were reported than positive. Perhaps this is to be expected, but the almost total lack of positive comments is notable. A total of seven positive comments were made from all survey participants. One stated that morale improved among colleagues who had been similarly discriminated against. Another reported having learned to cope with stress. Another was sure that truth could prevail and had a renewed commitment to the University. One person reported continuing with great success and enthusiasm and feel no encumbrances as a result of the case. One person reported increased respect from others. Finally, four wrote comments of the order that the case had increased their self-esteem because they had faced the worst and survived. One complainant described their final positive outcome this way, "I was reinstated as a tenured Assistant Professor in January of 1983. I was healing. A part of me is very free-the worst happened and I survived...my enrollments are very high, I'm a terrific (most of the time) teacher and advisor, and also am consistently teaching. I am doing research and writing again, in new areas and with new people, where there is colleague support and consistency which I absorb like a sponge. I love to write and I am delighted with new kinds of research, lots of career satisfaction, and I'm only now, I think beginning to hit my stride."

A most troublesome comment, oft repeated, is the feeling of harassment and isolation on the part of the complainants, with regard to their colleagues, their department, and their department head. Eleven survey participants, (seven complainants and four committee members)

reported that harassment occurred against the complainant as a result of the case. More specifically, six complainants noted that their faculty colleagues are now afraid of them, have withdrawn, have removed their support, or will not work with them. Another four complainants report that the department has continually disinvolved them in any meaningful way. All of these comments are from complainants who have had cases, supposedly won, and remain here in the University.

Another group of comments report the severe drain of energy and enormous emotional agony that both respondents and complainants feel as a result of these cases. Nine survey participants (five respondents, three complainants and one committee member) report that the case takes incredible time and energy. An additional two respondents and three complainants described it as being something that had enormous emotional agony. Seven respondents describe it as having had an overwhelming pervasive negative impact. This language was used by one respondent and by six complainants. The respondent put it this way, "The dynamics of social intercourse, political acumen (however subtle and denied) supercedes quality of work, research, teaching and ethics. This has had an overwhelming disappointing impact on me. Rather than itemize the too numerous effects I'll simply state that the negative impact on my life-including beyond the academic environment-is pervasive." A complainant described the emotional agony this way, "There were several crises in my life at the time I lost my case. At the end of my hearing I remember sitting in a colleague's home where I had gone to pick-up one of my two kids, feeling paralyzed...unable to move, or stand-up or get my other child and go home. It was a terrible feeling from which I thought, disease would eventually sprout." Six additional complainants described the emotional impact on them as enduring. One complainant said, "The case has had a severely negative impact on my life...I have always considered myself to be a strong person and I repressed my feelings for a long time. But I finally sought help and after three years of therapy I seem to be making some progress with depression." Another says, "I was totally depressed during the three-to-four years it took to resolve the problem. It is a blank spot in my life that I try to erase and never think about."

Other comments tied the enduring negative impact to the continuing departmental harassment. "Overall, I feel that bringing my case to the Senate Judicial Committee has had a negative impact on my life and career. I feel that this action created strong feelings of animosity toward me on the part of the administration, and because of that, there is no chance that I will ever be promoted or ever again hope to earn a decent salary. I have had to endure continual harassment from my department chair and my colleagues." Another complainant said, "People in my department were angry about the publicity around the issue, they've cut me out of things and stayed away from me. They treat me with fear, not respect, for having defended academic freedom. The administration has continued to harass me and my program. The strain of the issue destroyed my marriage. My depression has made it very hard to work. I no longer have colleagues to work with, being alone adds to the depression. Its very hard to develop the energy to do research, run my program, and teach. Continued harassment adds to this pressure and depression. This has resulted in a decline in

publications in research over what I had planned-and the resulting loss of career status and accomplishment-now leading to a questioning of even continuing this career." Another faculty said it clearly, "Cases like this bring out the worst in other faculty. Other Assistant Professors perceive you as a persona non-grata and cease talking to you and say negative things about you to students. Associate Professors who have limited credentials, and want to become full [professors] avoid you for the same reason. Only two out of twenty-five faculty acted the way I would have expected an honest human being to act."

Nine of the survey participants reported that the case had no effect on the complainant or respondent, either negative or positive. It is noteworthy, however, that of the nine, seven were respondents, one was a committee member, and only one of the complainants said this.

Nine complainants and no respondents reported a significant effect on their family. Two reported they thought it had destroyed their marriage and another reported that her husband had died of a heart attack shortly before the case ended, and she had thought the stress had contributed to his death.

Eight of the complainants reported significant financial loss as a result of the case. Four of them reported it because of having lost their position at the University. But four of them are still at the University. One of the complainants still at the University said, "By the time of the Rajender settlement, I had gone through my retirement funds and was about to go in debt because of insufficient income. With the settlement I paid off the debt and my attorney and had a temporary cushion of a few thousand dollars. I regret not having negotiated for a reinstatement of my past pension funds." Another complainant still at the University said, "My financial status has also been negatively impacted. I have taught at UMM since 1966. In 1967 I was promoted to Associate Professor and was denied promotion to Full Professor even though I was recommended for such a promotion several times. Since the hearing there have been years when I received zero salary increase, the rest of the time I have received a minimum token increase. My salary for 1987-1988 is \$25,400.00. This is lower than many new faculty are receiving and indeed lower than the amounts earned by many of the custodial staff. My decreased financial status, of course, had a negative impact on my family's standard of living and will affect my retirement also." Nearly all survey participants who were terminated report significant loss of income, some temporarily, some permanently. Unless they are in the technical fields most of them suffer permanent loss of income and are underemployed or part-time employed. Frequently they went through their retirement account before finding another position. As one former University faculty member put it, "It has been difficult because my academic experience has not been transferable to other areas. Employers do not see this type of experience as being to relevant. Academia stresses scholarship in both teaching and research. Proficiency in these areas is not of a high priority in nonacademic positions. I was considered overqualified for many positions. This can be as disadvantageous as being unqualified. Normally there were from forty to two-hundred applicants for each position that I applied for."

A decline in health as a result of the case was noted by two complainants and three respondents. One said, "I experienced a decline in health from which I have never recovered (heart attack, infections, diabetes all followed within three months of the case)." Another reported "stress extended beyond hearings and finally induced severe headaches and hypertension."

The reader should peruse Table 5.12 for other comments that were made less frequently. Also, it is notable that several survey participants wrote under this question that they would not feel comfortable writing about the impact on a survey. They would be willing to talk with someone, but they were not willing to risk putting it down on paper.

VI. Conclusions and Discussion

What does this data have to say with regard to our original study questions?

1. How effective is the process at achieving the primary goals of the Senate Judicial Committee: preserving the norms of academe (e.g., academic freedom, the integrity of the tenure code); helping to preserve (or restore) productive faculty and academic environments; and adjudicating faculty disputes? and,
2. How satisfied are participants with the process?

Survey participants' opinion of the effectiveness of the Judicial process for meeting any of the three goals of the Committee was low (somewhere between "very ineffective" and "somewhat effective"). On the other hand, they lean toward being satisfied with the process (somewhere between "neutral" to "satisfied"). Also, most would themselves bring a case again or would recommend a colleague to bring a case, if appropriate. These opinions suggest that even though survey participants find the process less than effective, it provides at least one avenue to address substantial problems or to appeal and unfavorable promotion or tenure decision.

3. How effective are specific parts of the process? and,
4. Are there changes participants would suggest for the process?

It is the answer to these two questions and the following one that reveal why the general ratings above on the effectiveness of the Senate Judicial process were low. In general, survey participants thought the steps done in the process by panel members were accomplished effectively, for example, directing the hearing process, facilitating complete hearing of facts and issues, and maintaining a mutually respectful climate. These are critical aspects of the hearing process and it is gratifying that these are perceived as being relatively well done.

However, it is discouraging that no other steps in the process were perceived as being effective. Particularly low ratings were given to complainants' and respondents' abilities to be able to identify major issues under dispute, respondents' abilities to bring out facts, complainants' abilities to respond to facts, and the ability of the President's order to correct department problems or reinstate (continue)

the department as a productive environment, remedy the problem, or reinstate (or continue) the faculty member as a productive person.

Given these results it is not surprising that survey participants had suggestions for improving the process.

A pervasive theme throughout the suggestions to improve the process was a desire to increase the effectiveness and timeliness of the process, as well as the fairness and effectiveness of the outcomes, while minimizing the personal and economic costs to all involved. The suggested means to do this included adding a formal prefiling advisor to the process, raising the qualifications of advocates and panel members (via training, experience, release time, and handbooks), and educating all faculty on the process as well as the principles, procedures, and conditions it is designed to protect. Also, it was suggested that the President confer with the Committee if he or she disagrees with a committee recommendation.

Having a prefiling advisor step and an official person to contact in the University for prefiling advice is a recommendation that would likely increase the efficient use of the process.

Having experienced and trained advocates and panel members would likely increase the effectiveness of various steps, decrease time wasted due to unfamiliarity or inexperience with the process, develop a core of personnel with a memory of past precedents, and eliminate the cost of attorneys. Similarly, written handbooks of procedures and a reference book of past precedents to which participants could refer, would be helpful. Part of the "qualifications" issue pertained to the selection of Senate Judicial Committee members. The complaint of some respondents about the composition of the Judicial Committee suggests that some believe the committee is dominated by past complainants. Currently the Committee on Committees selects members from a list of faculty who have indicated on an all-faculty survey an interest in serving on the Senate Judicial Committee. This system may allow the perception to occur that the Senate Judicial Committee includes a disproportionate number of members with an axe to grind.

Some survey participants perceive that the President frequently overrules the Senate Judicial panel's recommendations and that the process is thus a waste of time. Former President Keller in response to this concern, requested that the entire committee review recommendations before they are forwarded to the President's office and in return he would not overturn or modify recommendations without first talking to the Committee. Interim President Sauer has also agreed to this. These changes assure the President that not only has the panel spent considerable time hearing a case and creating appropriate recommendations but the entire committee has reviewed the panels findings and recommendations. These changes also assure the Committee that the President will accept their recommendations except for unusual and substantial circumstances. In such cases, the President will personally discuss the circumstances with the Committee before a final action is taken. In the one case in which this did occur under President Keller, after the discussion, the President accepted the panel's recommendations.

Clearly the process is much too time consuming, and some of the suggestions referred to above will help this problem. However, there are

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Clearly the process is much too time consuming, and some of the suggestions referred to above will help this problem. However, there are

additional strategies that could help shorten the time it takes to complete a case.

Developing a means to educate all faculty on the purpose and procedures of the Senate Judicial Committee would likely decrease inappropriate use of the process by complainants and raise both faculty members' and administrators' awareness of expected academic norms. It would also have the added benefits of increasing the image of the University as an institution concerned with preserving the norms of academe, and of articulating the common values of academe that underlie the Senate Judicial Process. Several of the current books on academe (The American Professor: A National Resource Imperiled, by Bowen and Schuster and The Academic Culture: Small Worlds, Different Worlds, by Burton Clark) have described the corporatization and fragmentation of today's Universities that have resulted in a loss of a shared culture with commonly understood, underlying values. They suggest that principles and values of academe which were previously commonly acquired via similar socialization will now need to be formally written down and widely disseminated.

Survey participants also strongly suggested that there is a need to follow up on the President's orders to see that they are complied with. Also, it was noted that the Senate Judicial Committee often becomes aware of enduring systemic problems in particular units as a result of hearing cases. It was suggested that the Committee has a responsibility to alert the administration to such instances. Other suggestions included a need for a mechanism for handling salary complaints, and a method for selecting Senate Judicial Committee members that did not have the perception of bias.

5. Are there completely different processes participants would suggest for achieving the goals of the Senate Judicial Committee?

Here the predominant suggestion was that the Judicial Committee should follow a conciliation model, rather than or in addition to the due process model currently followed. A further look at incorporating alternative resolution methods into the Senate Judicial processes seems called for.

6. What are the long term effects of the process on participants?

In general, respondents report no enduring impact of cases, although there are some notable exceptions. Thus, we shouldn't draw the conclusion that the Senate Judicial process is completely painless for respondents. Complainants, on the other hand, report significant negative impact on their finances, physical well being, and career goals. There is also a negative impact on their academic environments on their relations with their administration and/or their productivity. Hopefully, many of the items discussed above and their related recommendations in the next section will offset the negative impact to such things as finances and physical well being. The problem of enduring impact on complainants, particularly those who "win" and stay at the University, and on faculty who testified on behalf of successful complainants is a troubling finding. It appears that many complainants, in spite of winning, go back to environments that essentially make it impossible for them to succeed because of harassment and isolation, usually by their department head, but also by other colleagues. Only one study was found in the literature that followed up persons who had brought grievances in an academic system.

That study also reported a significant negative impact on complainants both during and after the case. In addition, that study reported a greater negative impact on women complainants. Most of this was attributable to the lack of woman colleagues in general in a University which became even less as faculty colleagues tend to withdraw from persons who bring cases whether justified or not. However, in our study there was no significant difference between the negative impact on woman complainants versus men complainants. It seems, that both genders equally experience a negative impact. It should be noted, however, that it is difficult to separate how much of the negative impact is due to participating in a case and how much is due to the dispute and social context from which the case arose.

VII. Recommendations

The following are recommendations to address issues identified in this study. Some of these recommendations can not be implemented by the Senate Judicial Committee. Still, they are listed here as an initial step to being brought before the appropriate implementing bodies or individuals.

1. Explore possible use of alternative resolution methods for different types of cases. Under a due process model, the focus is on protecting rights and clarifying principles. In general, the features of a due process model are formalized, public proceedings; the opportunity to compel the testimony of witnesses and cross-examine opposing witnesses; the following of precedent; a neutral decision-making body that decides only on the basis of evidence presented to it; the full opportunity to rebut evidence offered by the other party, and therefore the acceptance of strictures against informal, ex parte proof-taking (that is, against discussing the merits of the case with one party in the absence of the other); and some degree of party control over the way the issues are framed and presented (the adversary system). The features of a conciliatory model are informal, "delegalized" processes; a preference for healing and reconciliation rather than determination of fault; protection of the privacy of the parties; the search for an acceptable compromise; counseling of the parties by the neutral decision-maker, which may include informal conferences with opposing parties in the absence of each other; a preference for settling cases without creating precedent or clarifying principles.

The general trend of the Judicial Committee in the 1980's has been toward fuller acceptance of the due process model. One step in this direction occurred in 1981-82, under Chairman Rippie, when the Committee, partly in response to University of Minnesota Education Association demands, decided to make its hearings and opinions public, permitting any person, including press representatives, to attend the hearings except in exceptional circumstances. Public hearings, while they tend to protect rights and principles by subjecting processes to scrutiny and publicizing the principles endorsed by the decision-making body, also tend to harden positions and reduce possibilities for informal conciliation. Another step occurred during the chairships of Greenberg and Park in 1983-86, when the Committee found itself taking the position that the University's sexual harassment enforcement process, which used non-adjudicatory procedures designed to protect privacy and to encourage both complaints and the

informal resolution of complaints, raised significant due process dangers. One consequence of this controversy was the confirmation of the Judicial Committee's authority to review sexual harassment decisions at the request of the accused faculty member in cases involving suspension or dismissal. The Judicial Committee did take one such case in 1984-86, decided in favor of the accused, and ultimately prevailed with President Keller, despite efforts of the Sexual Harassment Committee to convince the President to disregard the Committee's recommendations. Another step has been the establishment, in the 1985 Tenure Regulations, of a duty of faculty members to testify before the Committee when called upon to do so. Finally, it is probably true that the actual proceedings of the Committee, during the 1980's have tended toward greater formality, longer hearings, and more careful observance of due process safeguards. Certainly the present year (1987-88) has seen a greater number of cases go to full formal hearings than any previous year; in prior years, cases were often settled informally without a hearing, or simply withdrawn by the complainants before a hearing.

This trend toward acceptance of the due process model has costs as well as benefits. A full due process model can discourage peaceful settlement, increase stress, and have a harmful impact upon the parties. (It may also slow down the resolution of cases, though this effect is not clear, since failed conciliation efforts also slow down the resolution of cases.) Under Dr. Deinard, the Chair has made greater efforts to mediate cases before they go to a full hearing, and Committee members have raised concerns about over-legalization of our process. It is probably only appropriate for the Senate Judicial Committee to consider conciliation model (e.g., mediator or arbitration), rather than a due process model, for cases where the Committee hears and makes judgments on the merits. This includes dismissal and suspension for cause cases and working condition cases not previously heard by a lower grievance committee.

Cases involving denial of tenure or promotion heard by the Senate Judicial Committee only to determine if correct processes were followed by the lower merit review bodies. For this, a due process model is required. A task force of the Senate Judicial Committee should explore the use of a conciliatory model for appropriate cases and prepare guidelines and procedures for when and how this model should be used.

2. Have a pre-filing officer to advise potential complainants as to if they have a valid claim and, if so, the appropriate avenue to pursue. Dr. Charlotte Streibel has been ably fulfilling this role in the recent past in her capacity as faculty ombudsman. If that role is not continued, another advisor should be established. Likely, this is a 50 percent time commitment.
3. Have two (or more) professional faculty assistance officers (1 FTE) to serve as advocates for complainants. It is recommended that two persons serve in this role because of the case load that would not allow one person to serve as an advocate for several cases simultaneously. This person would need professional training in the Senate Judicial process and familiarity with past Senate Judicial Committee precedents. It is expected they would be supported by the

University and serve in this capacity over a period of time. Possibly, this role could be taken on by a retired faculty member. (A flexible number and percent time of persons may be preferable to two (50%) faculty members.)

4. Have two (or more) time professional assistance officers (1 FTE) to serve as advocates for respondents. The same training, support and stability conditions would apply to these advocates as above.
5. Have training sessions for all Senate Judicial panel members, a handbook to guide them through hearings, and a reference book of past precedents. This recommendation has already been partially realized via a policy proposed by Park and endorsed at the March, 1988, Senate Judicial Committee meeting. In this policy, it was decided that there would be a workshop on Judicial Committee rules and procedures at the beginning of each academic year for all past committee members. Also, a reference set of past panel opinions and case abstracts for panel members is being assembled. However, a task force should be appointed to prepare a more detailed handbook than presently exists.
6. Determine if Senate Judicial Committee should be involved in handling salary complaints. This recommendation is retained to reflect the original response to participant comments. However, since the first version of this report was written, salary complaints have been removed from Senate Judicial Committee jurisdiction.
7. Formalize the agreement with the President that he/she will discuss with the Senate Judicial Committee any recommendations with which he/she disagrees before overruling or modifying. We expect the Senate Judicial findings to be accepted in full and only rejected or modified for the most substantial of reasons.
8. Establish a system to follow-up adherence with President's orders.
9. Establish a system to monitor the academic environment of complainants who remain at the University and others who spoke on complainant's behalf.
10. Formalize an arrangement for the Senate Judicial Committee to inform administration of units with recurring, enduring, or systemic problems.
11. Establish a system to monitor the academic environments which have had frequent complainants or particularly broad ranging or hostile cases.
12. Consider a new method for selection of Senate Judicial Committee Members. Perhaps a random selection from among the tenured faculty, with a system of rewards (lower teaching load, salary supplement) to encourage accepting the position, and a resolution of the Senate stating that it is the duty of a faculty member to serve when called.
13. Decrease the time required to hear cases by establishing strict time limits on each step in the process.

14. Identify means for tenure denial cases to be completed earlier, such as administration mailing notices earlier and providing for Senate Judicial Hearings and Committee to function twelve months a year.
15. Develop a booklet to be distributed to all faculty and administration describing the purpose and procedures of the Senate Judicial Committee and related lower review and grievance bodies.
16. Provide formal, uniform training for administrations on due process procedures required for promotion and tenure review, preparation of job descriptions and evaluations, recruitment procedures, etc.

Table 1.1*

Caseload and Size of the Judicial Committee

Year and Chair	Cases Filed	Full Hearings	Committee Size
1983 - 1984, Greenberg	10		
1984 - 1985, Greenberg	8	1	
1985 - 1986, Park	7	0	
1986 - 1987, Deinard			
1987 - 1988, Deinard			

*This data was unavailable at the time of mailing of this report. We will provide complete numbers at our June 2, 1988 meeting.

Table 2.1
Surveys Sent and Received by Type of Survey Participant

Frequency by Type of Survey Participant

Comment	Respondents						Committee	Complainants										All	
	11	12	13	14	15	Combined	21	31	32	33	34	35	36	37	38	39	40	Combined	Combined
Total Possible						60	96	16	35	6	9	5	3	2	3	2	5	86 ⁺	242
Total Sent	29	9	8	9	4	59	96	15	26	6	4	5	2	2	3	2	4	69	224
Returned	20	5	5	6	3	39 [*]	55	13	17	4	2	3	0	1	1	1	2	44	138
Response Rate (%)	67	56	63	67	75	66	57	87	65	67	50	60	0	50	33	50	50	64	62

Types of Survey Participants:

Respondents

- 11 Named in one case that was heard.
- 12 Named in two cases that were heard.
- 13 Named in over two cases that were heard.
- 14 Named in a case withdrawn after panel established.
- 15 Named in a case settled after panel established.

*Actually 42 were returned but 3 were blank because of out the country or subbatical.

⁺Even though there were 88 cases, there were only 86 complainants because 2 were involved in 2 cases.

Committee Members

- 21 All committee members.

Complainants

- 31 Initiated a case that was heard - stayed at University
- 32 Initiated a case that was heard - left University.
- 33 Withdrew case after panel established - stayed at University
- 34 Withdrew case after panel established - left University.
- 35 Settled case after panel established - stayed at University.
- 36 Settled case after panel established -left University.
- 37 Withdrew case after filing - stayed at University.
- 38 Withdrew case after filing - left University.
- 39 Settled case after filing - stayed at University.
- 40 Settled case after filing - left University.

Table 2.2

Rank (Number and Percent) of Survey Participants
by Type of Participant

Type of Participant

Rank	Respondent	Complainant	Committee Member
	Number (Percent)*	Number (Percent)	Number (Percent)
Instructor	0	1 (3)	0
Assistant Professor	0	17 (57)	1 (3)
Associate Professor	4 (12)	8 (27)	6 (15)
Full Professor	27 (79)	2 (7)	32 (82)
Research Associate	0	0	0
Other	3 (9)	2 (7)	0

N = 101 Number of cases used in computing tables varies depending on the number of survey participants who provided the respective information.

*Column Percent

Table 2.3

Gender (Number and Percent) of Survey Participants
by Type of Participant

Gender	Type of Participant		
	Respondent Number (Percent) *	Complainant Number (Percent)	Committee Member Number (Percent)
Male	34 (87)	23 (52)	43 (78)
Female	5 (13)	21 (48)	12 (22)

N = 138

*Column Percent

Table 2.4
College Locations of Survey Participants

Type of Survey Participant

College*	Respondent	Complainant	Committee Member
Biological Sciences	1	1	2
Continuing Education and Extension	1		
Education	4	2	5
General	1		
Humphrey Institute	1	1	
Law School			4
Liberal Arts	8	12	18
Institute of Technology	1	4	7
Libraries	1	5	
Duluth	1	1	
Morris	3	2	
Agriculture	4	3	3
Home Economics	1	1	
Crookston		1	
Dental School	2	1	
Medical School, Mpls.	3	6	7
Medical School, Duluth			1
Nursing School	1	1	1
Pharmacy		1	
Public Health	1		
Veterinary	1	1	
Other	4	1	7

*Only colleges that had survey participants are listed

N = 138

Table 2.5
 Number (and Percent) of Survey Participant Type
 by Type of Case in Which They Took Part

Type of Case	Type of Participant		
	Respondent	** Committee Member	Complainant
	Number (Percent)	Number (Percent)	Number (Percent)
Dismissal for cause	1(3)	8(14)	3(7)
Non-Reappointment	20(51)	17(31)	23(52)
Non-Promotion	9(23)	5(9)	9(21)
Grievance	7(18)	9(16)	9(21)
Multiple Cases/Multiple Issues*	2(5)	0	0
Never on a case or did not indicate or said cannot remember type of case or name of complainants	0	16(29)	0

*Some respondents were on 3 or more cases with multiple issues and asked to respond to the survey given their overall impression.

** Committee members who were on more than one case or Respondents on two cases were asked to select one case when responding.

N = 138

Table 2.6
 Number (and Percent) of Type of Panel Recommendation
 by Gender of Complainant

Recommendation	Complainant Gender	
	Male	Female
Favorable to Complainant	7(50)	4(31)
Negative to Complainant	1(7)	6(46)
Split to Complainant	6(43)	3(23)

No significant difference between genders.

N = 27 This only includes complainants who completed cases and for whom we had this information.

Table 2.7
 Number (and Percent) of Type of final Outcome
 by Gender of Complainant

Recommendation	Complainant Gender	
	Male	Female
Favorable to Complainant	3(14)	4(20)
Negative to Complainant	4(18)	5(25)
Split to Complainant	6(27)	4(20)
Withdrew	5(23)	3(15)
Settled	3(14)	3(15)
Other	1(5)	1(5)

No significant difference between genders.

N = 42

Table 5.1
Average Rating by Major Type of Survey Participant
on Items Related to Satisfaction with Senate Judicial Process
and its Effectiveness.

Average Rating by Type of Survey Participant⁺

Item	Respondent	Committee Member	Complainant
How satisfied were you with the:			
• Senate Judicial Process	3.35	3.98	3.33*
• Hearing Panel Recommendations	3.52	4.17	2.92*
• Presidents Final Decision	3.56	3.63	2.63*
• Way in which Decisions Carried out	3.60	3.65	2.56*

How effective do you believe the Senate Judicial Process is in accomplishing:			
• Preserving the Norms of Academe	3.45	3.71	2.90*
• Helping to Preserve (or restore) productive faculty and environments	2.77	2.98	2.29*
• Adjudicating faculty disputes	3.32	3.50	2.67*

⁺Items rated on a five point likert-type scale where 1 = very unsatisfied or very ineffective to 5 = very satisfied or very effective.

*Significantly different ratings among the three types of survey participants at < .05 level.

Table 5.2
Average Rating by Male and Female Complainants
on Satisfaction and Effectiveness Items

Average Rating by Gender of Complainant⁺

Item	Male	Female
How satisfied were you with the:		
• Senate Judicial Process	3.67	3.00
• Hearing Panel Recommendations	3.42	2.42
• Presidents Final Decision	2.90	2.38
• Way in which Decisions Carried out out	2.58	2.54

How effective do you believe the Senate Judicial Process is in accomplishing:		
• Preserving the Norms of Academe	3.00	2.81
• Helping to Preserve (or restore) productive faculty and environments	2.40	2.17
• Adjudicating faculty disputes	2.73	2.40

⁺Items rated on a five point likert-type scale where 1=very unsatisfied or very ineffective to 5=very satisfied or very effective.

No significant difference between any ratings.

Table 5.3
Average Rating by Complainants on Satisfaction and Effectiveness
Items by Final Outcome of Case

Item	Average Rating by Final Outcome ⁺		
	Favorable to Complainant	Negative to Complainant	Half/Half
How satisfied were you with the:			
• Senate Judicial Process	4.33	2.57	2.87
• Hearing Panel Recommendations	3.83	1.71	2.87*
• Presidents Final Decision	4.17	1.29	1.71*
• Way in which Decisions Carried out	4.33	1.14	1.75*
-----	-----	-----	-----
How effective do you believe the Senate Judicial Process is in accomplishing:			
• Preserving the Norms of Academe	3.67	1.50	3.14*
• Helping to Preserve (or restore) productive faculty and environments	2.33	1.16	2.28
• Adjudicating faculty disputes	3.33	1.00	3.29*

⁺Items rated on a five point likert-type scale where 1=very unsatisfied or very ineffective to 5=very satisfied or very effective. (Complainants who settled or withdrew their case before a Presidential decision are not included.)

*Significant at < .05 level.

Table 5.4
 Number (and Percent) of Yes or No Responses by Survey Participant Types
 to Categorical Items Related to Satisfaction with or Effectiveness of
 Senate Judicial Process.

Number and Percent

Item	Respondent		Committee Member		Complainant	
	Yes	No	Yes	No	Yes	No
Knowing what you do now, would you bring this case to the Senate Judicial Committee again?	----	----	35(80)	9(20)	24(75)	8(25)
-----	-----	-----	-----	-----	-----	-----
Would you advise a colleague to bring a case before the Senate Judicial Committee?	25(89)	3(11)	37(86)	6(14)	24(75)	8(25)

Table 5.5 (cont.)

Frequency by Type of Survey Participant

Comments	Respondents					Committee Member	Complainants										Total
	11	12	13	14	15	21	31	32	33	34	35	36	37	38	39	40	
No - President only accepts convenient decisions.						1											1

No - if mobile I would advise leaving the University-of course that leaves poor administration and bad practices in place.						1											1

No - system is stacked against faculty.								1		2							3

Table 5.6
Average "Effectiveness" Rating on Specific Steps
in the Senate Judicial Process by Major Survey Participant Type⁺

	Respondent	Committee Member	Complainant
How <u>effective</u> do you think the Pre-hearing Conference was at:			
identifying areas on which parties agreed and areas in dispute?	3.67	3.83	3.33*
identifying the major issues in the case?	3.59	3.94	3.13*
identifying the portion of the tenure code which was said to be violated?	3.42	4.02	3.39*

How <u>effective</u> do you think the hearing was at allowing complete information to be heard?	4.08	4.28	3.33*

How <u>effective</u> do you think the respondent (and their advocate/attorney) were at:			
identifying the major issues?	4.00	3.69	2.63*
bringing the facts out?	4.00	3.66	2.32*
responding to facts brought forth by others?	----	3.56	2.63*

How <u>effective</u> do you think you, the complainant (and your advocate/attorney) were at:			
identifying the portions of the tenure code which was violated?	3.07	3.47	4.17*
bringing the facts out?	3.11	3.44	4.17*
identifying major issues?	3.22	3.38	4.29*
responding to facts brought forth by others?	2.89	3.28	4.25*

Table 5.6 (cont.)
Average "Effectiveness" Rating on Specific Steps
in the Senate Judicial Process by Major Survey Participant Type⁺

	Respondent	Member	Complainant
How <u>effective</u> do you think Panel members were at:			
directing the pre-conference process?	3.50	4.04	3.43*
directing the hearing process?	3.46	4.15	4.00*
facilitating complete hearing of facts and issues?	3.48	4.17	3.54*
maintaining a mutually respectful climate?	3.85	4.36	4.23
summarizing in their report possible tenure code violations, facts, and major issues?	3.54	4.33	3.38*

How <u>effective</u> do you think the Panel members were at:			
fully and completely evaluating evidence in reaching their conclusion?	3.38	4.39	3.05*
reaching a fair conclusion?	3.46	4.47	3.14*
recommending an appropriate resolution (final action) to the President?	3.50	4.36	3.00*

How <u>effective</u> do you think the President's Orders were at:			
providing a fair remedy?	3.64	3.40	2.83
remedying the problem from your viewpoint as the faculty member complainant?	3.08	3.25	2.57
remedying the problem from the viewpoint of the administrator(s) respondent?	3.12	3.39	3.65*
correcting the problem for your department (if applicable)?	2.62	2.85	1.50*

How <u>effective</u> do you think the President's Orders were at:			
reinstating or continuing you as a productive faculty member (if continued at the University of Minnesota)?	1.44	2.36	2.72*
reinstating or continuing the department as a productive environment?	2.80	2.58	2.00

⁺ Items rated on a five point likert-type scale where 1 = very ineffective to 5 = very effective.

^{*} Significantly different ratings among the three type of survey participants at < 0.05 level.

Table 5.7
 Complainants' and Respondents' Average Rating
 of Their Own and Each Others Effectiveness
 in Performing the Same Judicial Process Tasks

Item	Complainants' Ratings+		Respondents' Ratings+	
	Respondent	Complainant	Respondent	Complainant
· identifying major issues.	2.63	4.26*	4.00	3.19*
· bringing the facts out.	2.32	4.00*	4.00	3.11*
· Responding to facts brought forth by others.	2.63	4.16*	----	----

+Items rated on a five point likert-type scale where 1 = very ineffective to 5 = very effective.

*Significant difference at < .05 level.

Table 5.9

Survey Participants' Written Comments to the Question,
 "Can You Suggest a Process that Would be More Effective than Our Current Judicial System for Resolving Complainant's
 Problem?"

Frequency by Type of Survey Participant

Comments:	Respondents					Committee	Complainants					Total					
	11	12	13	14	15	21	31	32	33	34	35		36	37	38	39	40
<u>No Changes</u>																	
No	7	1		2		15	2	4		1	1						33
----- Procedures were fine.	1		1					1									3
<u>Mediation or Arbitration or Counseling</u>																	
Compulsory mediation, or mediation (not by Senate Judicial Committee Chair) for cases other than discharge (e.g. salary) external mediation	1					7	1		1					1			11
----- Arbitration.						1	1	1	1					1			5
----- Some kind of counseling.						2											2
<u>Shorter, Streamline Process</u>																	
Better time frame, streamlined, handled in 30 days.	2					1	1	1	1						1	1	8

Table 5.11
Average Ratings of Survey Participants on the Impact of the Case on Aspects of their Life.
(For committee Members this Item Read "on Respondents' or Complainants Life or Career.")+

Item	Committee Member			
	Respondent	Respondent	Complainant	Complainant
Your leadership ability.	3.13	2.90	----	----
Your productivity, e.g., grants, articles, teaching innovation, works of art.	----	----	2.44	2.42
The productivity of others in your department/unit.	2.84	----	2.86	2.94
Your relations with colleagues in your dept./unit.	3.32 [*]	2.84	2.22	2.90 [*]
The relations among faculty in your department/unit	2.81	----	----	3.11
Your relations with administrators in your dept.	----	----	1.83	2.45 [*]
Your relations with other administrators.	3.45	3.39	----	----
The academic environment in your department/unit.	2.97	----	2.41	2.67
Your relations with students.	----	----	3.04	3.16
Your relations with your family.	----	----	2.45	2.64
Your commitment to your department/unit.	3.22	3.07	2.13	2.91 [*]
Your commitment to the University.	2.97	3.20	2.31	2.65
Your commitment to being a faculty member/admin.	2.81 [*]	3.06	2.79	2.70
Your self esteem.	2.94	2.93	2.62	3.06
Your physical well being.	2.88	2.69	2.41	2.42
Your career advancement.	3.03	2.81	2.40	2.32
Your career goals.	3.03	2.86	2.25	2.36
Your financial status.	2.97	----	----	2.30

+Items rated on a five point likert-type scale where 1=very negative impact, 3=no impact, and 5=very positive impact.

*Significant difference between committee member preceptions' of impact on respondent versus respondents' own, same for complainant at <.05 level.

Table 5.12

Please Comment on Aspects of your life on which this case had a significant impact?
 Describe any other positive or negative effects this case had on your career.
 (For committee members questions read "on respondents' or complainants' life or career.")

Frequency by Type of Survey Participant

Comments:	Respondents					Committee	Complainants										Total
	11	12	13	14	15	21	31	32	33	34	35	36	37	38	39	40	
It caused faculty to lose confidence (Question my leadership).	1																1
Decline in health.	3					2			1				1				7
Severe drain in time and energy.	3	2				1	1	2									9
Mentally draining.								2			2						4
Serious effect on productivity during case.								1	1						1		3
Enormous emotional agony.	2					1	2	1									6
I was fired.	1																1
Gave me insight into problem so the next time I will recognize it earlier.				1													1
Overwhelming, pervasive negative impact.					1		2	3		1							7

General Coding Information:

COMMITTEE

1 = Yes
2 = No
9 = NA/Missing

columns

SENATE JUDICIAL STUDY COVER SHEET

(Committee Member) Id # V1 (1-3)

Type of Respondent:

Respondent 1 Code 11
2 12
3 13
4 14
5 15

Complainant 1 31
2 32
1WP 33
2WP 34
1SP 35
2SP 36
1SF 37
2SF 38
1WF 39
2WF 40

Committee Member 21
V2(4-5)

Location of person completing survey: Department _____

Code college only
2-digits

→ College/School _____
Office _____
Other _____

V3(6-7)

Type of Case: Dismissal for Cause 1
Non-reappointment 2
Non-promotion 3
Grievance 4

Gender of person completing form:
Male 1
Female 2 V5(9)

-Salary 1
-Harassment 2
-Work Conditions 3 V6(10)

Rank of person completing form:

Instructor 1
Assistant Prof 2
Associate Prof 2
Full Prof 4
Research Asst 5
Other 6 V7(11)

Panel recommendation with regard to complainant:

Favorable 1
Negative 2
Half/Half 3 V8(12)

Final Outcome with regard to complainant:

Favorable 1
Negative 2
Half/Half 3
W/Drew 4
Settled 5
Other 6 V9(13)

Senate Judicial Committee Study of Judicial Process
Committee Member Form

I. BACKGROUND

A. When were you a member of the Senate Judicial Committee?

V10(14-19) mo/day/yr

Start date				

to V11(20-25)

End date				
----------	--	--	--	--

B. Were you on a panel(s) that partially or completely participated in a hearing?

V12(26) $\frac{2}{-1-}$ No
Yes, if yes please name the case(s)

II. JUDICIAL PROCESS

Please answer the following questions based on your experience on a panel. If you were on more than one panel, asterisk the one above to which you will relate the following items. If you were not on a panel, answer the following questions based on your observations as a Senate Judicial Committee member.

A. How satisfied were you with the:

- | | |
|--|---|
| | Very Unsatisfied
Unsatisfied
Neutral
Satisfied
Very Satisfied
Don't know |
| | (circle one) |
| 1. Senate judicial process | 1 2 3 4 5 V13(27) |
| 2. Hearing panel's conclusions (findings and recommendations to the President) | 1 2 3 4 5 V14(28) |
| 3. President's final decision | 1 2 3 4 5 V15(29) |
| 4. Way the final decision was carried out | 1 2 3 4 5 DK V16(30) |

The Senate Judicial Process includes two major activities--the Pre-hearing Conference and the Hearing, and four types of participants--the Complainant, the Respondent, the Panel Members, and the President.

B. How effective do you think

The Pre-hearing Conference was at:

- | | |
|---|--|
| | Very Ineffective
Ineffective
Somewhat Effective
Effective
Very Effective |
| | (circle one) |
| 1. Identifying areas on which parties agreed and areas in dispute | 1 2 3 4 5 V17(31) |
| 2. Identifying the major issues in the case | 1 2 3 4 5 V18(32) |
| 3. Identifying the portion of the tenure code which was said to be violated | 1 2 3 4 5 V19(33) |

B. How effective do you think: (continued)

Very Ineffective
Ineffective
Somewhat Effective
Effective
Very Effective
Not Applicable

The Hearing was at:

4. Allowing complete information to be heard

1 2 3 4 5 V20(34)

The Respondent (and their advocate/attorney) were at:

5. Identifying the major issues

1 2 3 4 5 V21(35)

6. Bringing the facts out

1 2 3 4 5 V22(36)

7. Responding to facts brought forth by others

1 2 3 4 5 V23(37)

Complainants (and their advocate/attorney) were at:

8. Identifying the possible violations and major issues

1 2 3 4 5 V24(38)

9. Bringing the facts out

1 2 3 4 5 V25(39)

10. Identifying major issues

1 2 3 4 5 V26(40)

11. Responding to facts

1 2 3 4 5 V27(41)

The Panel members were at:

12. Directing the pre-conference process

1 2 3 4 5 V28(42)

13. Directing the hearing process

1 2 3 4 5 V29(43)

14. Facilitating complete hearing of facts and issues

1 2 3 4 5 V30(44)

15. Maintaining a mutually respectful climate

1 2 3 4 5 V31(45)

16. Summarizing in their report possible tenure code violations, facts, and major issues

1 2 3 4 5 V32(46)

17. Fully and completely evaluating evidence in reaching their conclusion

1 2 3 4 5 V33(47)

18. Reaching a fair conclusion

1 2 3 4 5 V34(48)

19. Recommending an appropriate resolution (final action) to the President

1 2 3 4 5 V35(49)

President's Orders were at:

20. Providing a fair remedy

1 2 3 4 5 V36(50)

21. Remedying the problem from your viewpoint as a Senate Judicial Committee member

1 2 3 4 5 V37(51)

22. Remedying the problem from the viewpoint of the administrator(s) respondent

1 2 3 4 5 V38(52)

23. Correcting the problem for the involved department (if applicable)

1 2 3 4 5 NA V39(53)

24. Reinstating or continuing the complainant as a productive faculty member (if continued at the University of Minnesota)

1 2 3 4 5 NA V40(54)

25. Reinstating or continuing the involved department as a productive environment (if applicable)

1 2 3 4 5 NA V41(55)

We would like to know both: (1) what specific changes you would suggest in the current process to improve it and (2) if you think a different process entirely might be better.

C. Are there aspects of the Pre-Hearing Conference, Hearing and Panel Recommendation process you would change (e.g., have attorneys consistently present, or not; have larger panels; have a pre-filing advisor available for advising faculty on such things as likely merits of case, applicable tenure code sections, etc.)?*

D. Can you suggest a process that would have been more effective than our current judicial process for resolving faculty conflicts?*

E. Can you suggest a final action that would have been more effective than what the President ordered for remedying the complainant's problem?*

*Additional paper is provided at the end of this form, should you need more space to comment.

F. Knowing what you do now:

1. Would you bring a case to the Senate Judicial Committee?*

V42(56) $\frac{1}{2}$ Yes, please explain why
 $\frac{2}{2}$ No, please explain why not

2. Would you advise a colleague to bring a case before the Senate Judicial Committee?*

V43(57) $\frac{1}{2}$ Yes, please explain why
 $\frac{2}{2}$ No, please explain why not

III. LONG TERM IMPACT

A. In your observations as a committee member, what enduring impact, if any, do you think the judicial case has on the following:

The Complainant's:

	Very Negative	Negative	No Impact	Positive	Very Positive
1. Productivity (e.g., grants, articles, teaching innovation, works of art)	1	2	3	4	5 V44(58)
2. Departmental colleagues productivity	1	2	3	4	5 V45(59)
3. Relations with colleagues in their department	1	2	3	4	5 V46(60)
4. Relations with the administration in the department	1	2	3	4	5 V47(61)
5. Departmental academic environment	1	2	3	4	5 V48(62)
6. Relations with students	1	2	3	4	5 V49(63)
7. Relations with their family	1	2	3	4	5 V50(64)
8. Commitment to their department	1	2	3	4	5 V51(65)
9. Commitment to the University	1	2	3	4	5 V52(66)
10. Commitment to being a faculty member	1	2	3	4	5 V53(67)
11. Self-esteem	1	2	3	4	5 V54(68)
12. Physical well being	1	2	3	4	5 V55(69)
13. Career advancement	1	2	3	4	5 V56(70)
14. Career goals	1	2	3	4	5 V57(71)
15. Financial status					V58(-)

*Additional paper is provided at the end of this form, should you need more space to comment.

The Respondent's:

	Very Negative	Negative	No Impact	Positive	Very Positive	
15. Leadership ability	1	2	3	4	5	V59(72)
16. Relations with faculty in their unit	1	2	3	4	5	V60(73)
17. Relations with other administrators	1	2	3	4	5	V61(74)
18. Commitment to their unit	1	2	3	4	5	V62(75)
19. Commitment to the University	1	2	3	4	5	V63(76)
20. Commitment to being an administrator	1	2	3	4	5	V64(77)
21. Self-esteem	1	2	3	4	5	V65(78)
22. Physical well being	1	2	3	4	5	V66(79)
23. Career advancement	1	2	3	4	5	V67(80)
24. Career goals	1	2	3	4	5	V68(81)

B. Please expand on aspects of the complainant's and respondent's life, such as those listed above, on which you think a case has a significant impact. Especially comment on items rated 1 or 5 above.*

IV. SENATE JUDICIAL PURPOSE

How effective do you believe the Senate Judicial Process is in accomplishing the following purposes:

	Very Ineffective	Ineffective	Somewhat Effective	Effective	Very Effective	
1. Preserving the norms of academe (e.g., academic freedom, tenure code)	1	2	3	4	5	V69(82)
2. Helping to preserve (or restore) productive faculty and academic environments	1	2	3	4	5	V70(83)
3. Adjudicating faculty disputes	1	2	3	4	5	V71(84)

We would like to follow up this survey with a confidential interview of as many survey respondents as possible. Would you be willing to be interviewed?

V72(85) $\frac{1}{2}$ yes
no

Thank you for completing this form. Return it in the enclosed envelope to Amos Deinard, Senate Judicial Committee Chair, Box 85 UMHC, University of Minnesota, Minneapolis, MN 55455.

Master List of Merged # Number and Respective Survey Item

Merged # 1 Identification Number.
Merged # 2 Type of person responding to form.
Merged # 3 Location of person completing survey at time of case.
Merged # 4 Type of case.
Merged # 5 Gender of person completing form.
Merged # 6 Type of grievance.
Merged # 7 Rank of person completing form.
Merged # 8 Panel recommendation with regard to complainant.
Merged # 9 Final outcome with regard to complainant.

How satisfied were you with the:

Merged # 10 Senate judicial process?
Merged # 11 Hearing panel's conclusions (findings and recommendations to the President)?
Merged # 12 President's final decision?
Merged # 13 way in which the final decision was carried out?

How effective do you think the Pre-hearing Conference was at:

Merged # 14 identifying areas on which parties agreed and areas in dispute?
Merged # 15 identifying the major issues in the case?
Merged # 16 identifying the portion of the tenure code which was said to be violated?

Merged # 17 How effective do you think the Hearing was at allowing complete information to be heard?

How effective do you think the respondent (and their advocate/attorney) were at:

Merged # 18 identifying the major issues?
Merged # 19 bringing the facts out?
Merged # 20 responding to facts brought forth by others?

How effective do you think you, the Complainant (and your advocate/attorney) were at:

Merged # 21 identifying the portions of the tenure code which was violated?
Merged # 22 bringing the facts out?
Merged # 23 identifying major issues.
Merged # 24 responding to facts brought forth by others.

How effective do you think the Panel members were at:

Merged # 25 directing the pre-conference process?
Merged # 26 directing the hearing process.
Merged # 27 facilitating complete hearing of facts and issues.
Merged # 28 maintaining a mutually respectful climate.
Merged # 29 summarizing in their report possible tenure code violations, facts, and major issues.

How effective do you think the Panel members were at:

- Merged # 30 fully and completely evaluating evidence in reaching their conclusion.
- Merged # 31 reaching a fair conclusion.
- Merged # 32 recommending an appropriate resolution (final action) to the President.

How effective do you think the President's Orders were at:

- Merged # 33 providing a fair remedy?
- Merged # 34 remedying the problem from your viewpoint as the faculty member complainant.
- Merged # 35 remedying the problem from the viewpoint of the administrator(s) respondent.
- Merged # 36 correcting the problem for your department (if applicable).
- Merged # 37 reinstating or continuing you as a productive faculty member (if continued at the University of Minnesota).
- Merged # 38 reinstating or continuing the department as a productive environment (if applicable)

- Merged # 39 Knowing what you do now if you had it to do over again, would you bring this case to the Senate Judicial Committee?
- Merged # 40 Knowing what you do now would you advise a colleague to bring a case before the Senate Judicial Committee?

What enduring impact, if any, did your involvement in the judicial case have on the following:

- Merged # 41 your productivity (e.g., grants, articles, teaching innovation, works of art)?
- Merged # 42 the productivity of others in your department?
- Merged # 43 your relations with colleagues in your department?
- Merged # 44 the relations among other faculty in your department?
- Merged # 45 your relations with the administration in the department?
- Merged # 46 the academic environment in your department?
- Merged # 47 your relations with students?
- Merged # 48 your relations with your family?
- Merged # 49 your commitment to your department?
- Merged # 50 your commitment to the University?
- Merged # 51 your commitment to being a faculty member?
- Merged # 52 your self-esteem?
- Merged # 53 your physical well-being?
- Merged # 54 your career advancement?
- Merged # 55 your career goals?
- Merged # 56 your financial status?

How effective do you believe the Senate Judicial Process is in accomplishing the following purposes:

- Merged # 57 preserving the norms of academe (e.g., academic freedom, tenure code)?
- Merged # 58 helping to preserve (or restore) productive faculty and academic environments?
- Merged # 59 adjudicating faculty disputes?

Merged # 60 Would you be willing to be interviewed?

What enduring impact, if any, did your involvement in the judicial case have on the following:

- Merged # 61 your leadership ability?
- Merged # 62 the productivity of others in your unit?
- Merged # 63 your relations with faculty in your unit?
- Merged # 64 the relations among other faculty in your unit?
- Merged # 65 your relations with other administrators?
- Merged # 66 the academic environment in your unit?
- Merged # 67 your commitment to your unit?
- Merged # 68 your commitment to the University?
- Merged # 69 your commitment to being an administrator?
- Merged # 70 your self-esteem?
- Merged # 71 your physical well-being?
- Merged # 72 your career advancement?
- Merged # 73 your career goals?
- Merged # 74 your financial status?

- Merged # 75 Are you currently in an academic position?
- Merged # 76 What are your current teaching responsibilities (percent time)?
- Merged # 77 What are your current research responsibilities (percent time)?
- Merged # 78 What are your current administration responsibilities (percent time)?

- Merged # 79 Other responsibilities (percent time)?
- Merged # 80 Did you wish to continue your career in an academic setting?
- Merged # 81 Did you apply for academic positions?
- Merged # 82 When were you a member of the Senate Judicial Committee (Start Date)?
- Merged # 83 When did you end your membership of the Senate Judicial Committee (End Date)?
- Merged # 84 Were you on a panel(s) that partially or completely participated in a hearing?

Senate Judicial Committee Study of Judicial Process Complainant Form - IWP

Please check one or more of the the following as to why you withdrew the complaint you filed (~~in which a panel was appointed~~).

- Merged # 85 The problem was resolved satisfactorily?
- Merged # 86 While not specifically addressing the initial problem, other sufficient arrangements were offered.
- Merged # 87 I accepted another position.
- Merged # 88 Upon further reflection, I thought I had an inadequate case to win.

While I believe I had an adequate case:

- Merged # 89 I thought I would still likely lose.
- Merged # 90 I thought I would win, but would sustain too many personal and professional repercussions.
- Merged # 91 the task of mounting the case was too great.
- Merged # 92 I could not find an appropriate faculty advisor.
- Merged # 93 no one (or too few) people would testify on my behalf.

While I believe I had an adequate case:

Merged # 94 I could not envision a remedy the University could provide that would resolve the problem.
Merged # 95 other, please describe.

Merged # 96 In retrospect, was withdrawing the complaint a good decision?

Senate Judicial Committee Study of Judicial Process Complainant Form - 1SP

Please check one or more of the the following as to why you settled the case before the case was completed.

Merged # 97 The settlement resolved the problem about which I complained.
Merged # 98 While not specifically addressing the initial problem, other sufficient arrangements were offered.
Merged # 99 I accepted another position.
Merged # 100 Upon further reflection, I thought I had an inadequate case to win.

While I believe I had an adequate case:

Merged # 101 I thought I would still likely lose.
Merged # 102 I thought I would win, but would sustain too many personal and professional repercussions.
Merged # 103 the task of mounting the case was too great.
Merged # 104 I could not find an appropriate faculty advisor.
Merged # 105 no one (or too few) people would testify on my behalf.
Merged # 106 I could not envision a remedy the University could provide that would resolve the problem.
Merged # 107 other, please describe.
Merged # 108 In retrospect, was settling the complaint a good decision?
Merged # 109 Please complete the following on your current position. If you are not working, check here and go to item III.B.#.

- a. Institution
- b. Department of Division
- c. Title
- d. Brief description of major responsibilities.



June 8, 1987

Richard A. Swalin
Vice President of Technology
Eltra Corporation
Two Pennsylvania Plaza
New York, New York 10001

Dear Professor Swalin:

The Senate Judicial Committee is studying the impact of judicial cases on prior Complainants and Respondents. Also, we are interested in knowing past Complainants' and Respondents' opinions on the faculty senate judicial process and on possible alternatives to judicial hearings for resolving conflicts. Since you participated in a past case, we need your help. You can assist us by completing the enclosed form which asks about your experience during and since the case and your thoughts on alternative resolution procedures.

Any information you provide will be held confidential. Your name is on this form only to allow us to send you reminders and to group data by such things as college, type of case, and final outcome. All data will be reported in aggregate. We are surveying all Complainants and Respondents from 1951 to 1987. It is very important that we receive your input. No individual responses will be reported. Please return your completed form in the self-addressed envelope by June 24, 1987. If you have any questions, please contact me. If you are interested in receiving a copy of our summary report, please so indicate.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Amos Deinard'.

Amos Deinard, M.D.
Chair, Senate Judicial Committee
Box 85, Mayo
University of Minnesota Hospital
Harvard Street at East River Road
Minneapolis, Minnesota 55455

ASD/dm

Caseload and Size of the Judicial Committee

Year	Chair	Cases Filed	Cases Heard	Presidential Decision	Settled	Withdrawn	Committee Size
6/16/83 - 6/15/84	Greenberg	7	2	2	4	1	24
6/16/84 - 6/15/85	Greenberg	3	1	1	2	0	26
6/16/85 - 6/15/86	Park	5	1 - 1988 (Pending)	0	3	1	20
6/16/86 - 6/15/87	Deinard	13*	9 (1 Summary Judgment)	2	2	1	23
6/16/87 - 6/15/88	Deinard	5**	1	0	0	0	36

* One case has yet to complete prehearing conference

** Three cases filed 5/15/88 - 5/31/88; one case has completed prehearing conference

SENATE JUDICIAL COMMITTEE SUMMARY

(Does not include Letters of Intent)

- A. Non-Reappointment of a Regular Probationary Appointment (N=54)
Completed - 27
 Panel's Finding
 Favored Respondent 9
 Favored Complainant 12
 Split 6
 President's Decision
 Favored Respondent 12
 Favored Complainant 6
 Split 9
Settled - 12
Withdrawn - 11
Jurisdiction Denied - 4
- B. Non-Renewal of Non-Regular Appointment (N=18)
Completed - 6
 Panel's Finding
 Favored Respondent 2
 Favored Complainant 2
 Split 2
 President's Decision
 Favored Respondent 3
 Split 3
Settled - 6
Jurisdiction Denied - 5
Dismissed - 1
- C. Non-Promotion (N=15)
Completed - 6
 Panel's Finding
 Favored Respondent 2
 Favored Complainant 2
 Split 2
 President's Decision
 Favored Respondent 2
 Favored Complainant 2
 Split 2
Settled - 1
Withdrawn - 4
Jurisdiction Denied - 2
Not Heard - 2
- D. Dismissal for Cause - Non-Regular Appointment Prior to End
of Appointment (N=3)
Completed - 1
 Panel Favored Complainant 1
 President Decision Split 1
Settled - 2

E. Dismissal for Cause - Regular Appointment (N=11)
 Completed - 8
 Panel's Finding
 Favored Respondent 6
 Favored Complainant 1
 Split 1
 President's Decision
 Favored Respondent 7
 Favored Complainant 1
 Split 0
 Settled - 2
 Withdrawn - 1

F. Grievance - Academic Freedom (N=6)
 Settled - 2
 Withdrawn - 1
 Jurisdiction Denied - 3

G. Grievance - Salary (N=8)
 Completed - 4
 Panel's Finding
 Favored Respondent 1
 Favored Complainant 2
 Split 1
 President's Decision
 Favored Respondent 1
 Favored Complainant 2
 Split 1
 Withdrawn - 3
 Jurisdiction Denied - 1

H. Grievance - Workplace (N=10)
 Completed - 4
 Panel's Finding
 Favored Respondent 1
 Favored Complainant 2
 Split 1
 President's Decision
 Favored Respondent 1
 Favored Complainant 2
 Split 1
 Settled - 4
 Not Heard - 2