

THE UNIVERSITY OF MISSISSIPPI

# Incident Review Committee

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Public Report

**Leslie Banahan and K.B. Melear, Co-Chairs**

**January 25, 2013**

## **Introduction**

This report serves as the University of Mississippi's account of incidents that occurred on the Oxford campus the night of November 6, 2012. A committee of faculty and staff reviewed written, electronic, and video documentation of the incidents and interviewed students and police officers who were present at one or more key campus locations that night. The findings of the committee's investigation are contained in the report. Students' names have been removed from this version of the report so that it may be made available to the campus community and other interested parties.

Members of the Incident Review Committee:\*

- Kerry Brian Melear, Associate Professor of Leadership and Counselor Education, Co-Chair
- Leslie Banahan, Assistant Vice Chancellor for Student Affairs, Co-Chair
- Carol Boyd, Chair and Professor of Social Work
- Don Cole, Assistant Provost, Assistant to the Chancellor for Multicultural Affairs and Professor Mathematics
- Julian Gilner, Assistant Director of Alumni Affairs
- Donna Gurley, Associate University Attorney
- Marvin King, Associate Professor of Political Science
- Dewey Knight, Associate Director of Financial Aid
- Charles Ross, Director of African American Studies and Associate Professor of History
- Marc Showalter, Director of the University Counseling Center and Associate Professor of Leadership and Counselor Education

\*Susan Glisson was appointed to the committee but resigned due to work conflicts.

The Incident Review Committee served as a fact-finding entity. Committee members were asked to interview students involved in the events on the evening of November 6, 2012, and the early morning of November 7, 2012; to submit a report outlining the facts of the evening's

events based on the interviews and other documentation; and to recommend whether any students should be referred for judicial review by identifying behaviors or acts that are inconsistent with our *Student Code of Conduct* or to participate in a restorative justice or similar educational non-punitive intervention. The Committee was mindful of students' First Amendment rights and balanced their free speech and expression rights against violations of University policy and the Student Code of Conduct. Because this committee was strictly investigatory in nature, it has no role in any judicial process resulting from its referrals. The Office of Student Conduct is responsible for determining if any judicial action should be taken. The Office of the Provost is responsible for determining if any academic sanctions should result from Committee referrals.

### **Process**

The Incident Review Committee met for the first time Thursday, November 15, 2012. At this meeting, Dr. Brandi Hephner LaBanc, Vice Chancellor for Student Affairs, explained the charge to the committee and distributed packets of information regarding the incidents that occurred on campus the night of November 6, 2012.<sup>1</sup> The information included police incident reports; Student Housing staff's timeline of events; students identified by the Office of the Dean of Students as being present at the November 6 incidents; Twitter<sup>2</sup> posts and media quotes collected by University Communications; Facebook posts; and screen shots and video footage.

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<sup>1</sup> See Appendix 1 for documents contained in the packet. (Omitted from public report.)

<sup>2</sup> Twitter is a social media platform through which users send and read messages limited to 140 characters known as "tweets." Registered users may choose to "follow" other users, meaning that "followers" receive any messages tweeted by users they follow. Some students interviewed had hundreds, even a thousand, followers. Unregistered users can also read publicly available tweets. The limitation on characters was identified through committee deliberation as

Melinda Carlson, associate dean of students, explained the student conduct/judicial process to the committee. Members also were briefed on the restorative justice process.

Committee members agreed to read and view all materials provided by the University and the Office of the Dean of Students. Members also agreed that interviews with students and police officers should be scheduled as soon as possible. Members decided to attend as many interviews as personal schedules would allow rather than break into small groups for the interviews. A list of common questions to be used in the interviews was created by the committee.<sup>3</sup>

After reviewing all of the information provided to the committee, a list of interviewees was developed. The next day, an electronic message was sent to identified students asking that they write a summary of their actions and observations from November 6, and submit these statements to the co-chairs.<sup>4</sup> Members of the Office of the Dean of Students began scheduling interviews for the committee. The first interviews were held November 21, and interviews continued through December 3. More students were added to the schedule as names emerged from interviews.

Committee members were asked to submit summaries of their interview notes to the co-chairs. These notes were used to draft a report outline and summary account of the campus

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problematic because students often tweeted inaccurate information or their tweets were oblique because of constraints on the size of the message.

<sup>3</sup> See Appendix 2 for list of interview questions.

<sup>4</sup> See Appendix 3 for copy of electronic message, list of students who were sent the message, and statements received. (Omitted from public report.)

events occurring the night of November 6. The draft documents were shared with committee members for feedback.

The committee met December 10 to discuss possible student referrals to either Student Conduct and/or a non-punitive intervention program. Co-chairs solicited discussion regarding the report, members' observations, and conclusions. Co-chairs drafted the report and shared with committee members for feedback. The final report was submitted to Vice Chancellor Hephner LaBanc on December 17, 2012.

### **Summary of Events**

Just before midnight on Tuesday, November 6, 2012, the University of Mississippi became embroiled in events that have called national attention to our community's posture on race. In the wake of many successful events commemorating the University's fiftieth anniversary of integration during 2012, the events of November 6 cast an unfortunate pall over those successes locally, regionally, and nationally. What began as a political disagreement became racially charged, as the unconscionable actions of a small number of students evolved into a larger gathering through which racial tension was woven.

Although not a "riot," as erroneously suggested by social media and news media outlets,<sup>5</sup> the events carry with them the duty of reflection on racial concerns in the University and society

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<sup>5</sup> Members of the student media picked up the term "riot" from students' tweets and used "riot" in their coverage (including tweets) to describe the events. Student media tweets were re-tweeted by students and then re-circulated by the regional and national media. At a November 27, 2012, symposium held on campus, "Ole Miss: Perception vs. Reality: Examining the Role of the Media and Race in Covering the Events of November 6," journalist Kym Clark of Action News Five in Memphis indicated that she relied on erroneous early morning information

as a whole. This section serves as a summary of those events as developed by the Incident Review Committee (IRC) through review of relevant evidence, including social media reports, police and housing reports, and interviews with students and University Police Officers.

The IRC conducted 30 interviews with University students and staff including responding University Police Department (UPD) officers, Housing staff and student residence hall assistants, as well as students identified through the interview process. Most students were freshmen and identified by means of social media, most notably Twitter, while others were identified through video, halls of residence, or referral from other students.<sup>6</sup> There were common themes throughout the course of interviews: the role of social media and its effect on the incident, University Police response, racially charged comments and actions, the role of student media, freshman involvement, and the impact of the events on students and the community. These themes will be discussed throughout this summary of events.

At 10:39 p.m. on November 6, the Associated Press called the election in favor of President Barack Obama. Approximately 30 minutes later, students reported hearing loud percussive sounds near Stockard Hall. The noise was caused by firecrackers, but some students thought the sounds were gunfire and erroneously reported on Twitter that guns were being fired on the Ole Miss campus.<sup>7</sup>

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provided by producers and later ceased using the term. She also noted that “once I say it, it’s out there.”

<sup>6</sup> See Appendix 4 for the list of students and UPD Officers interviewed. (Omitted from public report.)

<sup>7</sup> See tweet 11:32p.m., November 6, 2012: “Shots have been fired..Riots everywhere ole miss is going crazy!”; tweet 12:03a.m., November 7, 2012: “Riots, shots fired, setting things on fire, police in all the dorms.. Why does this not surprise me?”; tweet 12:15a.m., November 7, 2012:

Prior to their shift that evening, UPD Officers Lieutenant Matthew Samuels and Officers Jason Welch, Gage Vance, and Josh Sherman were told by Captain Michael Harmon to remain diligent concerning the election because of conflict that took place when President Barack Obama was elected in 2008, but the officers did not expect anything beyond isolated incidents, similar to what they witnessed in 2008.<sup>8</sup>

At 11:30 p.m., a fire alarm was triggered at Brown Hall as a result of an overloaded circuit caused by a hairdryer, and the building was evacuated. This was unrelated to the events of the evening, but the presence of a fire truck caused some students to assume the truck was on campus because of the actions of students gathered outside Kincannon Hall and Stockard Hall or that acts of violence had taken place. Shortly after 11:30 p.m., students supporting Governor Mitt Romney began to assemble in the Grove near the Walk of Champions for a “Romney Rally;” UPD Officers learned that students were gathering there from a student journalist. When

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“Gunshots or fireworks?!?!”; tweet 12:47a.m., November 7, 2012: “riots have broken out where I am. hundreds of people burning signs, jumping on cars, being maced, gunshots, screaming, fighting, chanting...”; tweet 12:49a.m., November 7, 2012: “Tonight Gas was thrown, shots were fired, people were tased and arrested...Bc THEY chose to be stupid...I was a witness!”; tweet 1:09a.m., November 7, 2012: “rioting, tasers, gun shots, and tear gas.”

<sup>8</sup> Tweets, inflammatory, inaccurate, or both, began being posted robustly during this period just as the election was called for President Obama. *See* tweet 10:28p.m., November 6, 2012: “black girls crying on TV because they’re so happy they STILL don’t have to get jobs and government get to be their baby daddy”; tweet 10:28p.m., November 6, 2012: “had to walk out the dorms. White girls was mad as hell Obama won!!!”; tweet 10:31p.m., November 6, 2012: “The South Will Rise Again!”; tweet 10:33p.m., November 6, 2012: “I dare him to take my guns now..I swear I’ll shoot for my rights”; tweet 10:36p.m., November 6, 2012: “History will repeat itself. The Confederacy will be back b\*\*\*\*\*h”; tweet 10:44p.m., November 6, 2012: The south is fixing to rise and history is repeating itself and we are all slowly becoming racist because they voted for him”; tweet 10:39p.m., November 6, 2012: “If the south have won 147 years ago, then we wouldn’t have this problem”; tweet 10:40p.m., November 6, 2012: “Y’all happy he won! I’m just praying I don’t have to smack the f\*\*k out one of these folks on OleMiss campus tomorrow”; tweet from 10:42pm, November 6, 2012: “Kincannon about to live as f\*\*k tonight lol”; tweet 10:42p.m., November 6, 2012: “S\*\*t might go down at ole miss tonight....”

Officers Welch and Vance arrived, there were approximately 40-50 students divided into two groups along political lines: Obama supporters and Romney supporters. There were significantly more Romney supporters than Obama supporters at this location. Officers concluded that students did have the right to peaceably assemble, but shortly after midnight as the crowd grew larger and more vocal, they decided to disperse the crowd based on University policy that states the Grove closes at midnight.<sup>9</sup>

UPD Officers told students the Grove was closed, and they tried to move students back to the residential halls. UPD Officers were centered between the two factions that eventually dispersed after repeated directives to do so. Although the gathering was political in nature at its inception, at some point between midnight and 12:15a.m., a racial tone emerged. The Romney coalition was composed predominantly of white males, though there were many onlookers. Through an interview with one student, it was noted that a racial slur, “the shout heard round the world,” was directed toward the predominantly African-American Obama supporters. This appears to be the turning point in the evening. From this point on, the antagonisms switched from being purely political to being racialized with the presidential election serving as a pretext for racially-charged verbal confrontations.

Instead of returning to their residence halls as directed, students moved down Student Union Drive toward the intersection with Rebel Drive.<sup>10</sup> While most students were “onlookers,” their mere presence exacerbated the situation because it made it more difficult for UPD officers

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<sup>9</sup> Even before the smaller group of students assembled in the Grove, students tweeted about riots on campus: *see* tweet 10:52p.m., November 6, 2012: “The ole miss campus is rioting holy s\*\*t WHAT SHOULD I DO”; tweet 10:53p.m., November 6, 2012: “There’s going to be a riot in Kincannon.”

<sup>10</sup> See Appendix 5 for campus map.

to disperse the crowd. Nearly everyone present was guilty of “failure to comply” and disobeying police orders to disperse. There was a clear disrespect for police authority for much of the evening.

During this time period the crowd grew considerably to approximately 400 students as social media, primarily Twitter, fueled speculation about what was happening on campus. Inflammatory and inaccurate statements were being broadly distributed that stoked students’ curiosity.

For example, some tweets held that a police car had been overturned on campus, students had been sprayed with tear gas and pepper spray, people had been shot, and students had been tazed.<sup>11</sup> None of this took place, but through interviews with students, some of whom reported these events while never leaving their rooms or observing anything first hand, it became clear that the veracity of a statement had little bearing when deciding to report it through Twitter. Students appeared to be naïve about the consequences of tweeting and re-tweeting information that had not been verified even for those students who had hundreds or a thousand Twitter “followers.”

Street traffic also increased considerably, and students were in the roadways blocking traffic. UPD officers indicated that the overwhelming majority of students were present as curious spectators, and most students present were freshmen living on campus. Of the students interviewed, most said that they had received tweets that there were “riots” taking place on the Ole Miss campus as a result of President Obama’s re-election and had come from their rooms to

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<sup>11</sup> See the University Communications Department’s Social Media Report in Appendix 6. (Omitted from public report.)

see what was happening. Nearly all denied participating and said that they were there as spectators.<sup>12</sup>

Near the Student Union, it was reported that racial slurs and epithets were heard from passengers in moving vehicles, shouted at African-American students. Students also heard “Dixie” played from the vehicles and chants of “the South shall rise again.” White students also were reported to have chanted “Hotty Toddy” periodically as a way to further divide students along racial lines. Two *Newswatch 99* reporters from the Student Media Center captured a driver in a white pickup truck saying a particularly offensive racial slur. A student journalist from the *Daily Mississippian* also was present and described it as “an out of body experience.”<sup>13</sup> Lieutenant Samuels drove through the Union parking lot and after several minutes, the crowd began to move west past Deaton Hall.

As the students moved down Union Loop to the intersection of Rebel Drive, there was another group of students who were outside chanting at each other, and reports vary on whether

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<sup>12</sup> The Incident Review Committee holds that although the majority of students were present to satisfy their curiosity, couching them as “observers” belies the fact that their presence, in ever-increasing numbers, was a significant factor in the escalation of the events of election night. We think it more appropriate to refer to these students as “passive participants,” because by their mere presence they played a role that contributed to difficulties with crowd control and negative media coverage. However, this report will alternately use terms such as “observer” and “spectator” in reference to quotations from interviews with students and UPD Officers.

<sup>13</sup> The differing effects of this incident on University students were evident through our interviews. While no student interviewed used the term “riot” to describe the event (and most adamantly argued that it was NOT a “riot,” rather an incident “blown out of proportion” by the media), its effect on our students and community was profound. Some students were embarrassed, others incensed, and some students of color confused or frightened after facing racist comments on campus for the first time. The majority of interviewees held that the event had been “blown out of proportion” by the media, but that does not mitigate its impact on our students, University, and community. This might also reflect a failure to comprehend the University’s unique history regarding race relations.

or not racial epithets were heard. Black students heard racial epithets broadly lodged, while white students suggested they did not hear racial remarks directed at students; rather, white students regularly reported hearing the chant “F\*\*k Obama” and the returning chant “F\*\*k Romney.” Black students also reported hearing the “F\*\*k Obama” chant. One UPD officer reported hearing a racial slur shouted from a window on the fourth floor of Kincannon Hall.

Because of the size of the crowd, estimated at 400 students, UPD Officers attempted to get students to return to their rooms.<sup>14</sup> The four officers on duty were all at the intersection of Rebel Drive and Union Loop. One officer turned on his vehicle’s blue lights and siren in an attempt to get the students’ attention. He used a loud speaker to try to disperse the crowd.

While there were pockets of disruptions, most of the students were present out of curiosity---passive participants, as previously noted. At this point in the evening, UPD officers had been trying to disperse the crowd for more than 30 minutes. In an attempt to impress upon the students the seriousness of their orders, Officer Sherman produced a can of pepper spray and shook it, but only to encourage the students to leave the premises and return to their rooms. Police officers did not witness any acts of violence, neither did most of the students interviewed. A number of acts of violence reported on Twitter, including an overturned police car, the release of tear gas, the use of pepper spray, and the throwing of rocks, were shown to be false. Some of

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<sup>14</sup> Twitter remained a primary, but largely inaccurate, information source at this point: *see, e.g.*, tweet 11:13p.m., November 6, 2012: “There’s a legit #racewar outside Stockard and Compton” [Kincompton is a racially-tinged nickname for the Kincannon Residence Hall]; tweet 11:13p.m., November 6, 2012: “d\*\*n they beating somebody door down on tha real...maybe he shouldn’t have been out the window talking s\*\*t”; tweet 11:14p.m., November 6, 2012: “Civil War”; tweet 11:15p.m., November 6, 2012: “Well ole miss is officially a riot right now.”

these tweets came from individuals who were not even present, but simply repeating what they had been told or read on Twitter or Facebook.

Local media and social media were among the first to publish the word “riot” to reference the event, which was then re-circulated by regional and national media. One student journalist defended the decision to do so by saying that she was quoting the term as it was being used by other students. Unfortunately, this did not resonate through her messages and later the broader news media also picked up the term. This same student journalist asked others what had been occurring and then tweeted out their reports. Unfortunately, most of these tweets proved to be inaccurate. She noted that, if she had it to do over again, she would only tweet what she personally witnessed.

As for the actual acts of violence witnessed by students, one male student reported seeing a young African American woman slap or hit, although not forcefully, a white male in the face when the white male was arguing with her boyfriend about the election outcome. The altercation did not appear to escalate beyond this point. Another student reported seeing two young women start to fight, but that it only lasted about 15 seconds before police illuminated the area and the women separated. At one point, a full plastic soft drink bottle was thrown at the tailgate of a pickup truck and made a loud noise, but did not appear to cause any damage to the truck. Many students reported hearing the noise and interpreting it as a gunshot. Various students also reported seeing a beer can, a juice bottle, a sign, and seed pods from a sweet gum tree thrown. No one reported being struck by any object thrown and no property damage was reported.

Once students were dispersed from the four-way stop, many appear to have moved on to the Stockard/Martin area, although, according to social media, activity had been taking place

there since earlier in the evening.<sup>15</sup> The crowd was smaller, estimated at 100 people or less. It was here that photographs of two students burning Obama-Biden campaign signs were taken and then circulated via Twitter. One of the students photographed with a burning campaign sign indicated in an interview that he did not initially burn the sign; rather, he said that he picked up the burning sign, which had been discarded by another student, so that a female student could photograph it. The other student photographed holding a burning campaign sign denied having anything to do with a burning sign. The Stockard Hall resident director reported that many students returned to the lobby with melted wax on their hands from the burning Obama-Biden yard signs.

There also was a moment of heightened racial tensions when a group of black students from Kincannon Hall walked down the hill to confront a group of white students from Stockard Hall. In the opinion of one student it was at this moment when “if something happens, this is where it will happen.” The situation was quickly diffused upon the arrival of UPD Officers. It again appears that the majority of students present were curious onlookers, or passive participants, and that the number of aggressive participants was small.

UPD Officers reported that the majority of students did not appear intoxicated, although a handful of students had been drinking. In clearing the area, UPD Officers arrested two students, one for public intoxication and disorderly conduct for failure to disperse when ordered to do so, and another for disorderly conduct, also for failure to comply with UPD directives to disperse. Students then began to move inside the building, and it required almost an hour to fully clear the

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<sup>15</sup> See tweet 10:56p.m., November 6, 2012: “Riots in stockyard”; tweet 10:58p.m., November 6, 2012: “There’s a group of drunk students yelling f\*\*k Obama”; tweet 10:58p.m., November 6, 2012: “Party in front of stockard.”

lobby at Stockard Hall. Resident Assistants tried to get students to return to their rooms, but the students present were uncooperative. The group was finally dispersed by UPD Officers assisted by Resident Assistants from Stockard Hall.

While many of the white students interviewed did not report hearing any racial slurs, nearly all the African American students we interviewed did hear racial epithets. While most of the white students witnessing the events reported that they did not fear for their safety on election night (although one young white woman stated that she would not have worn an Obama t-shirt or button out in the crowd), several black students reported being afraid. A black journalism student reported removing her Obama button from her clothes to avoid drawing attention to herself, stating that the white males present appeared to be very angry and she found this frightening. She reported that this was the first time on campus that she ever felt vulnerable. Another black student also reported being afraid while walking past a group of intoxicated white males who were chanting, noting that he never remembered feeling that way before or since.

Several white students expressed surprise at hearing racial slurs being yelled and several also expressed embarrassment on behalf of their race and the institution. Since most of the students who witnessed these events were freshmen, these events may well influence their perception of Ole Miss for years to come. One student said the Hotty Toddy chant will never be the same to her again. The incidents also sparked some unfortunate and despicable racist exchanges on Facebook. Upperclassmen all reported that they had never witnessed anything like this at the University during their time here.

UPD Officers noted that they were trying not to be “heavy handed” throughout the events, primarily because they understood that they were dealing with “a lot of immature

students.” One officer noted that UPD prefers not to use force with students, and all noted their special role as members of law enforcement for an educational community. The Lafayette County Sheriff’s Department offered assistance, but UPD Officers declined because they felt the situation was under control. This offer of assistance came later in the evening after UPD had been on the scene for almost an hour. Officer Sherman suggested that the presence of more officers could have possibly helped diffuse the situation more quickly since the ratio of police officers to students at times during the evening was approximately 1:100, a structural deficit that disrespectful students took advantage of in order to continue the disturbance well after UPD officers arrived and directed students to disband. Still, four officers were able to manage and disperse the crowd of students in a reasonable time period without any destruction of property or physical injury to students. The campus was restored to order by 1:15 a.m., Wednesday, November 7, 2012. UPD Officers did not contact members of University administration that night because they felt the scope of the situation did not warrant alerting University officials.

The University community quickly moved to condemn the events of November 6. On the evening of Wednesday, November 7, 2012, a vigil entitled “We are One Mississippi Candlelight Walk” was held on campus, at which nearly 700 members of the University community assembled in front of the Lyceum.<sup>16</sup> Chancellor Jones addressed the gathering and the University’s Creed was recited. A group of faculty later signed a letter urging Chancellor Jones to take affirmative steps to address issues of race on the campus.<sup>17</sup> In an open letter to the

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<sup>16</sup> See Melanie Addington, “UM Unites to Reject Racism,” THE OXFORD EAGLE, Thursday, November 8, 2012.

<sup>17</sup> See Appendix 7 for the full text of the letter.

students, faculty, and alumni, a group of student leaders rejected the behavior exhibited after the Presidential election:

We've made progress as a community and as a university since James Meredith bravely integrated our institution, but election night reminded us we still have a long way to go. The University of Mississippi is not a perfect place – we must not be complacent. We cannot settle for the status quo or think we've come far enough. That type of mentality is the reason inequality, injustice, and prejudice still exist – and to move forward, we need to have meaningful dialogue with one another, face-to-face, not by tweets or text or Facebook. To move forward as a student body and university, we need to discuss our differences and strive to genuinely understand one another's backgrounds, cultures, and beliefs. Long gone should be the days of self-segregation, of exclusion, of hateful words, and of ostracizing someone for being different. To students who believe what happened on our campus is somehow acceptable, and to those who partook in hateful speech: you are not welcome at The University of Mississippi. We do not want you here. Our campus is not a safe haven for hate.<sup>18</sup>

Chancellor Jones also received a letter from the student organization One Mississippi, which agreed with the spirit of the student leaders' letter, but urged that the events of that evening should be used as an educational opportunity and that no one should be excluded from the campus.<sup>19</sup>

The deplorable actions of a few students, exacerbated by hundreds of fellow students who came to watch, photograph and video the spectacle propelled the University of Mississippi into the national spotlight with regard to the issue of race at a time when so much progress was being commemorated. However, as our student leaders noted, the events underscored the notion that the University's struggle with racial issues is not over and more work is to be done. The University of Mississippi can move beyond these events, but also embrace them as an educational context and opportunity to proactively promote the civility, dignity, and respect for others that is articulated in the University Creed.

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<sup>18</sup> See Appendix 8 for the full text of the letter.

<sup>19</sup> See Appendix 9 for the full text of the letter.

## **Referrals**

The Incident Review Committee recommends three students be referred to the Office of Student Conduct for further investigation into their conduct on Election Night. Two other students who were arrested for their actions on Election Night also face possible disciplinary sanctions by the Office of Student Conduct.

The Committee recommends one student be referred to the Office of the Provost for further investigation of academic dishonesty.

Irresponsible, inflammatory, and false posts by students on Twitter and Facebook fueled the incidents on campus the night of November 6. Ten students' posts were particularly egregious, and the Committee recommends that these students participate in some type of intervention or Restorative Justice program.