

Fighting the Journalistic Perfect Storm: The Duke Administration's Handling of the Lacrosse Team Sex Scandal

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Abstract

In mid-March 2006, two African American dancers were hired to strip at an off-campus Duke University lacrosse team party. Later that night, one dancer said she was raped by three white players. By early May 2006, three players were charged with rape, sexual assault and kidnapping. Later news reports called into question the accuser's accusations.

This paper examines how the Duke administration handled the crisis from a public relations point of view. Given the intersection of issues such as race, class, gender, violence, money, privilege and politics, how does an academic institution deal with such a journalistic perfect storm?

Introduction

Scandals can sometimes be a two-edged sword. Entertainment celebrities are always working to stay in the news, as continued public presence means people will go see them when they are in that next movie or on that next concert stage. It's essential that they stay in the news for as long and often as possible. In reality, most people in the audience aren't drawn to the talent when it comes to celebrities, but to their stories. The actress Lindsey Lohan possesses some acting and musical talent, but it's the "Will this party girl self-destruct?" storyline that keeps her in the news. The trick is to come up with compelling stories that the public will buy into over time. That's why good public relations agents are invaluable to celebrities.

Even scandals can help, because in the world of celebrities, there is generally no such thing as bad publicity. The public loves the "Phoenix" narrative – the story of the star who falls from grace or out of public view for some reason and then comes back. The press has touted actor Robert Downey, Jr.'s recent "comeback" after his incarceration from years of arrests for drug abuse. Similarly, stories are emerging about Winona Ryder's return to acting after a hiatus due to her shoplifting conviction. Many cable network reality shows featuring fading "has been" or "never quite were" stars would not exist were it not for the public's quest to find out about "Where Are They Now?" Comedian Kathy Griffin has actually made herself a career by parodying her "D-list" celebrity status.

That doesn't mean lines can't be crossed. Some stories have such an "ick" factor that a celebrity may never recover. Michael Jackson was acquitted of child molestation charges

in 2005, but he has assumed a sort of *persona non grata* status since. In addition, the public has shunned O.J. Simpson in the belief that although he was found not guilty of murdering his ex-wife Nicole and her friend, Ron Goldman, he really did get away with murder. Currently, baseball star Barry Bonds has received often hostile response from the fans in his quest to become the all-time home run leader in baseball because of allegations that he has been taking performance-enhancing drugs.

Outside of the celebrity world, however, for most people and institutions, bad publicity is not a good thing. Scandals can be ruinous to the reputations of people and organizations. Plus, the longer the scandal is in the news, the greater the potential that the damage will endure. There are three primary aspects of scandals that determine their intensity and longevity – the “salacious” elements of the story, the length the story is in the news, and the number of actors who can prolong the scandal. For example, suppose a university president is charged with misappropriation of funds – such as double-billing for reimbursed travel expenses. If the act is a single act, involves a relatively small amount of money (say, \$10,000 or less) and the president apologizes and makes immediate restitution, the scandal goes away quickly. Now, suppose audits reveal a pattern of such behavior, the amount of money approaches or exceeds \$100,000, a press investigation (the media being an “actor” who can extend the length of the story) of the president’s tenure at another institution raised similar questions, and the president is slow to make restitution – now the scandal is going to be more intense and more prolonged.

Duke University is one of the most elite private universities in the nation, having tied for fifth in the 2005 *U.S. News & World Report's* annual college rankings, behind only Ivy League schools. In addition to superior academics, the school boasts several major sports powers, especially its basketball team. In mid-March 2006, two African American dancers were hired to strip at an off-campus lacrosse party. Later that night, one dancer said she was raped, choked and kicked by three white players in a bathroom. Duke canceled the season and accepted the coach's resignation. In late April 2006, two players were charged with rape, sexual assault and kidnapping (a third player would be inducted in May), while days later, news reports revealed that the accuser had made unfounded sexual violence charges a decade earlier.

This paper examines how the Duke administration handled the crisis from a public relations point of view. The scandal had a number of salacious elements to it, representing the intersection of issues such as race, class, gender, violence, and politics. While the most intense media attention to the story occurred from late March 2006 to mid-June 2006, the scandal has continued to be in the news from the outset. In addition, beyond the institution’s response to the crisis -- which overall has done a good job of limiting institutional damage, but not necessarily in an ethical way -- there are a number of actors outside of Duke’s control, particularly the prosecutor and defense attorneys, who have prolonged the story’s time in the media. The main question this paper addresses is: how does an academic institution deal with such a “perfect storm” of factors fueling the scandal?

The “Perfect Storm”

On March 13, 2006, the Duke men’s lacrosse team sponsored a party at 610 North Buchanan Boulevard, which was rented by three of the four captains of the team. The team had reason to celebrate – it was ranked No. 2 in the nation, having been to the Final Four in 2005. The captains hired a pair of strippers for \$400 apiece from a local escort service. Photos taken at the party show that about 40 lacrosse players – nearly the entire team -- came to the party. Around 11:15 pm, the first stripper, Kim Roberts, arrives at the party. About half an hour later, the second stripper, the accuser, arrives.¹

Photos of pictures taken around midnight show the now-scantily clad strippers on the carpet. One of the partygoers asked the women if they had brought any sex toys. The atmosphere got tense when one of the partygoers got a broom handle and shouted “Use this”. The accuser allegedly hit him, and then the two strippers went into the bathroom, locking themselves in. According to one of the players’ lawyers, Bill Thomas, the partygoers become concerned about what is up with the women, even slipping money under the door asking them to leave.

Around 12:20, the two women leave the party, going to the second stripper's car, where the accuser has left her purse behind. She goes back inside the house to retrieve her purse. She comes out 10 minutes later, but is only wearing one shoe. Several minutes later, she attempts to get her shoe, but the men in the house have locked her out.

There is far less agreement as to what happened over the next hour. The physical evidence – the photos – show that at 12:37 am, the accused is lying on the back stoop of the house, with a scraped elbow and cut, bleeding ankle. A photo time-stamped at 12:41 shows her getting into the car, with the apparent assistance of the one of the partygoers.

Roberts drove off as the accuser nearly passed out in the car. Roberts drove to a local Kroger supermarket. While there, Roberts told the store security guard there that she had a woman in her car who could barely move. At around 1:30 am, a police officer makes a call to the police dispatcher saying that he has spotted the woman (later identified as the accuser) in a parking lot, and that her condition was "passed-out drunk" but "not in distress."

After a stop at a substance abuse center, the accuser is brought to Duke Hospital. Police logs show that the accuser arrived there at 2:31 a.m. While at the hospital, the accuser claimed she had been raped. A sexual assault nurse examined the accuser and gave her a series of blood and urine tests. The prosecutor’s office said that the hospital report indicated the accuser’s injuries and emotional reactions were consistent with being raped. The accuser charged that she had been raped vaginally, anally and orally, as well as being beaten and strangled. When asked, the accuser gave the first names of three men at the lacrosse party. The accuser acknowledged, however, that the players were using different

¹ The following timeline is summarized from Meadows, S. and Thomas, E. (2006, April 24). Timeline of the Duke Rape Scandal. Newsweek Online, <http://www.msnbc.msn.com/id/12335371/site/newsweek/>

names at different times – which seems to account for the fact that none of the names she provided matched the first names of the players later indicted in the case.

Later, according to a prosecutor's report, the accused was 100% certain that Reade Seligmann forced her to perform oral sex on him and that she was equally certain that Collin Finnerty raped and sodomized her. She was reported to be 90% certain that a third man, not named, was also involved. The same report indicated she identified her assailants by being shown a PowerPoint presentation of the photos of 46 team members.

On April 5, police released, from a court-ordered search warrant, an e-mail message sent by a player soon after the party, joking that he wanted to “kill and skin” more strippers for sexual gratification. The revelation of the ugly email prompted the administration to spring into action after three weeks of relative inaction. Immediately, Duke officials suspended the player. The men's lacrosse head coach, Mike Pressler, resigned. Finally, President Brodhead, who had suspended the team's season a week before, canceled it (Lipka, 2006).

Later that day, April 5, the president issued a five-page letter "to the Duke community." In the letter, he acknowledged “that the acts the police are investigating are only part of the problem.” He outlined five simultaneous investigations or councils designed to deal with the main challenges the incident revealed: an investigation of the men's lacrosse team; an examination of student judicial process and practices; a campus culture Initiative to evaluate and suggest improvements in the ways Duke educates students in the values of personal responsibility, consideration for others, and mutual respect in the face of difference and disagreement; a presidential council advise on internal policies as well as to consider ways that Duke and Durham can work more closely; and an investigation of the Duke administration's response to the scandal. That investigation would be headed by William G. Bowen, president of the Andrew W. Mellon Foundation (and a prominent critic of college athletics), and Julius L. Chambers, former director of the NAACP Legal Defense Fund and former chancellor of North Carolina Central (Brodhead, 2006, April 5, “Letter”).

On May 1, the Lacrosse Ad Hoc Review Committee issued its report on the behavior of the Duke lacrosse team (Duke University, “Report”, 2006, May 1). While praising the students for their high academic achievement, the report noted:

Paradoxically, in contrast to their exemplary academic and athletic performance, a large number of the members of the team have been socially irresponsible when under the influence of alcohol. They have repeatedly violated the law against underage drinking. They have drunk alcohol excessively. They have disturbed their neighbors with loud music and noise, both on-campus and off-campus. They have publicly urinated both on-campus and off. They have shown disrespect for property. (Duke University, 2006, May 1, “Report”)

In addition, the committee also found that the administration had been aware of the lacrosse team's behavior since at least the Fall 2003 semester, but did nothing about it. Though at least a third of the current team had been guilty of underage drinking, public drunkenness and even public urination, none of the players had been charged with any more serious offenses.

The Bowens-Chambers report praised Brodhead for "strong, consistent, and effective leadership in a situation that would try the talents and patience of even the most skillful leaders and crisis managers among us," but criticized Duke University police for its failure to notify the administration of the rape incident more quickly (Bowens and Chambers, 2006, May 8).

On Monday, June 5, President Brodhead announced that the Duke University men's lacrosse program will resume in fall 2006, with stricter administrative oversight and under new standards of behavior drafted by the players.

The Scandal's Narrative

Real life stories that excite the public are like compelling books or plays. They have a cast of compelling characters, a plot that is easy to follow with some twists, and an involving backdrop. Like a book or play, the storyline has to have an arc and pacing is very important. A scandal is even juicier when there is someone you can hate, and if they feed deeply held prejudices and appeal to a sense of self-righteousness. It helps if there is also an innocent victim. A great scandal has all of these elements.

The Duke Lacrosse scandal has a very compelling narrative: a black woman allegedly gang-raped by privileged white boys. You have a storyline of a black mother of two attending college pitted against arrogant, white rich kids. From a scandal standpoint, it doesn't matter if the accusation is true. The media understand that scandals don't have to be true. They just have to be compelling, because compelling stories sell advertising. The public is complicit in this corruption of reporting of scandals because they will watch whether or not the story turns out to be true. All they care about is whether the story is interesting.

Perhaps the factor that helps sustain interest in a story is the presence of compelling characters. Those characters may be individuals or they may be the institutions themselves. In terms of the Duke scandal, the lacrosse players are physically attractive characters, but, by and large, they are relatively anonymous, even the players who have been indicted. In addition, it is likely that the attorneys are going to limit media access to their clients, which will diminish the ability of the public to connect with the accused.

In addition, the media appeal of the victim is hard to determine. To date, while the prospect of a woman being gang-raped should elicit public support for the victim, the fact that she has issued inconsistent stories, and the fact that she has falsely accused a person of sexual assault in the past means that public support for her is shaky at best.

Consequently, Duke University has emerged as the principal compelling character. Duke is a beautiful, elite private university where the “best and brightest” go. Critics see Duke, however, as representing a \$40,000 a year camp that for students who really major in sex and alcohol on the way to successful careers facilitated by well-connected Duke alumni. Duke is also located in a community that is demographically very different – in terms of race and class – than the university is. The split between the insular, institution of largely white students of privilege, and the racially mixed, middle class community of Durham also helps propel the story. The story is so ideal from a media standpoint that it’s unlikely that Duke’s management team could have done much to quell it.

Venette, Sellnow, and Lang (2003) use the term “metanarration” to refer to the production of multiple narratives that occurs during an organizational crisis. According to these authors, the “original crisis story as portrayed in the media” creates a “primary narrative” (2003, p. 220). In response to the primary narrative that the media create, the organization creates “secondary narratives” that attempt to displace or revise the primary narrative. With the production of secondary narratives, “organizations attempt to change the primary narrative, not by negating the original story, but rather by retelling the story in a more favorable way” (Venette, Sellnow, & Lang, 2003, p. 220). A good PR person can drive a story off the media agenda by making it less compelling. Doing so will make people lose interest.

Initially, it didn’t appear that Duke itself would need to be involved in the metanarration because the district attorney, Mike Nifong, was such a visible and attractive character. Early on, Nifong gave scores of interviews, calling Duke lacrosse players “hooligans” who were hiding behind a wall of silence. His emphatic statements fueled a national media story. He appeared in the media constantly, talking “off the cuff” and projecting a “regular guy” image. Of course, part of his media availability came about because he was running to be re-elected as Durham district attorney. When the case began to turn against Nifong, he ceased making media appearances and disappeared from the press glare. The public lost a character they could identify with.

Nifong’s departure did have the potential to lessen the profile of the story, and drive it down the media agenda. Instead, the defense lawyers replaced Nifong. They have been keeping this story in the media spotlight because they want the public to hear their side of the story early and often.

One school of thought in public relations that an institution should ignore attacks to its reputation. The logic behind this approach is that by responding to attacks, you legitimize the attacker. In addition, the response makes it more likely the media will notice. Suddenly there is a controversy -- the institution versus the attacker -- and the press attention escalates. Thus, an institution may best defend its reputation by showing strength with the strategy that if someone attacks, act as if like they don’t exist.

Duke attempted this strategy the year before, when doctors at Duke University Hospital mistakenly transplanted the wrong heart and lungs into a 17-year-old girl, who subsequently died. At first, the hospital said nothing. The resulting bad publicity,

however, prompted Ralph Snyderman, then CEO of the Duke University Health System, to open up to the public. Over the next week, a flood of press releases were issued and Snyderman even agreed to be interviewed by Ed Bradley on *60 Minutes*. During the interview, Snyderman admitted the mistake, took responsibility for it, expressed remorse for the tragedy, and vowed that the hospital would do everything it could to preclude such a calamity from ever happening again (Kellerman, 2006).

Snyderman's apology, albeit belated, calmed down the storm of bad publicity. A few months later, the hospital established a \$4 million fund, in the name of the girl who died, for Latino pediatric services. This example illustrates that institutional leaders have two choices when under attack: to behave that the institution does not believe that the press concern is valid and ignore the scandal; or to be proactive and be visible in the press trying to keep the scandal down. So, Brodhead, while being deliberate, chose the latter course of action.

Beyond the hospital scandal, Brodhead had to acknowledge there was also an environment fueling the Duke scandal. At the University of Colorado, "sex, alcohol and marijuana were used as recruiting currency to lure blue-chip football players (Roberts, 2006, April 12, p. D-1). At the University of Vermont, a hazing ritual conducted by its winning hockey teams required freshmen to "binge drink and walk naked while holding each other's genitals" (Roberts, 2006, April 12, p. D-1).

What was similar about the Colorado and Vermont to the Duke situation is that while all the institutions had prior knowledge about these activities, none of the colleges involved did anything to correct them until media attention was focused on them. Accountability for these actions occurred late -- often too late -- to spare the institution from loss of public prestige and the forced resignation of university personnel.

That was Duke's problem. Both media reports and the university's own investigation revealed that a third of the lacrosse team's current players have been charged with misdemeanors related to partying. The behavior was not just limited to the lacrosse team -- the baseball team was guilty rowdy behavior, alcohol abuse and parties with strippers. Those same reports indicated that both President Brodhead and athletic director, Joe Alleva, knew about the behaviors of the lacrosse and baseball teams, according to *The News and Observer*, but did nothing about it because of a lack of media attention. Now the media's spotlight was directly focused on Brodhead's office.

An Analysis of Duke's Response

The most difficult function of public relations involves crisis and reputation management. "In the best situations, crises can be averted through a combination of strategic planning and proactive behavior. Unfortunately, many organizations find themselves responding to crises rather than preventing them." (Baker, 2001, p. 513). Those institutions without a specified crisis communication strategy will be left to struggle to recover from the significant blows dealt to their image.

Reputation hinges upon the judgments that key publics make based upon the organization's behavior. Sound reputations protect the organization against existing and potential problems such as those that arise when controversial incidents occur (Baker, 2001). A previously solid reputation will not only help an organization to ride out the storm, but also to successfully recover in the wake of its damage.

Image restoration becomes an issue when organizations have passed the point of anticipation and have lost the opportunity to act proactively in protecting themselves. All efforts thereafter must be made with the goal of regaining the confidence of all relevant publics, minimizing negative publicity, and returning the organization to either its previous state or one better.

Image Restoration Discourse

Analysis of crisis communication often focuses on the content of external communications such as organizational apologies and speeches of self-defense (Seeger, Sellnow, Ulmer, 2001). Benoit's theory of image restoration creates a detailed typology of image restoration strategies for organizations (Benoit, 1995). In addition, public figures and organizations need to address a variety of stakeholder groups, each with their own set of goals and concerns. Benoit (1997) urges that in crisis situations, it is important to prioritize these groups and tailor messages to their specific concerns..

Image restoration theory focuses on the variety of message options at a crisis communicator's disposal. Benoit (1997) proposes that an attack contains two elements: 1) the accused is held responsible for an action; and 2) that act is considered offensive. Benoit's theory then goes on to identify five categories of image repair strategies and three of these are divided into more specific subcategories of tactics.

Denial is the first category of repair strategies. There are four variants within this category: *simple denial*, *shifting the blame*, *separation*, and *denying that the act was harmful* (Brinson & Benoit, 1999). Simple denial is a rejection of the charges. The accused party may deny that the act occurred or that they even performed the act. For example, at first, Enron denied that it had engaged in any financial wrongdoing (George and Evuleocha, 2003). Shifting of blame entails an argument that another party is actually responsible for the undesirable act. Blaney, Benoit, and Brazeal (2002).demonstrated that both Ford and Bridgestone tried to focus the blame on the other company in the wake of the incidents involving rollovers of Ford sports utility vehicles that used Firestone tires. In an analysis of Texaco's racism scandal, in which executives were taped using racial slurs against African-Americans, Brinson and Benoit (1999) also identified a previously unrecognized form of shifting of blame that they termed *separation*. Separation seeks to place the blame on a small portion of an organization that can be separated from the remaining and presumably good part. Finally, denying that the act was harmful is an admission by the accused that they committed the perceived wrong, however, they refute the fact that anyone was damaged by it (1999). For example, the members Bush administration admit to leaking information that revealed that Valerie

Plame was a CIA operative, but deny that the act was harmful because her CIA status was an open secret in Washington.

Evasion of responsibility is the second category. Here the offender attempts to dodge or reduce responsibility of wrongdoing. Simply put, evasion of responsibility involves the crafting of excuses (Brinson & Benoit, 1999). This general strategy has four different versions: *provocation*, *defeasibility*, *accident*, and *good intentions*. Provocation occurs when the accused party claims that the offensive act was merely a response to another's offensive act, and that the behavior should be viewed as a reasonable reaction to that provocation. In 1998, Northwest Airlines initiated an issues advertising campaign because they alleged striking pilots were conducting negotiations in public, so management needed to correct the record (Cowden & Sellnow, 2002). Another form of evading responsibility is defeasibility. Here, the accused party alleges a lack of information about or control over key elements of the situation. Arthur Andersen tried to blame the Enron scandal not on their accounting practices, but on the downturn in the economy (George and Evuleocha, 2003). Similarly, President George W. Bush attempted to use defeasibility in defending his first term as president during an appearance on "Meet the Press" (Benoit, 2006). A third option is to claim that the offensive action was accidental. If the audience can be convinced that the negative action was a mishap, then the reasoning is that the accused will be held less accountable and the damage to image will be mitigated. Part of the image repair strategy used by the U.S. Navy in 2001 when the USS Greenville collided with a Japanese trawler, killing nine people, was that the incident was an accident (Drumheller and Benoit, 2004). A final strategy within this category entails an attempt to convince the audience that the offensive act was performed with good intentions, that although an undesirable situation occurred, the accused meant well (Benoit, 1997). For example, when Sears was charged with auto repair fraud, its chairman claimed that not only were the mistakes "inadvertent," but also that the company's 105-year old record shows that it would never intentionally harm its customers (Benoit, 1995).

The third major category involves **reducing the offensiveness** of events. This category is made up of six sub-categories: *bolstering*, *minimization*, *differentiation*, *transcendence*, *attack accuser*, and *compensation*. Bolstering attempts to boost audience good will toward the accused in order to offset the negative feelings connected with the offense. It is achieved by stressing the good traits of the offender or describing the offender's positive acts in the past. In the wake of the Enron crisis, the American Institute of Certified Public Accountants (AICPA) engaged in bolstering by stressing the positive activities and attributes of the profession (Rogers, Dillard and Yuthas, 2005). Minimization seeks to reduce the negative feelings associated with the wrongful act so that it appears less harmful than it may have initially seemed to be (Benoit, 1997). The Dixie Chicks used this strategy in the wake of the reaction to their criticism of George Bush (Bell 2004). A third option is the employment of differentiation, distinguishing the present negative act from other similar, but more offensive actions in the hopes that this will reduce negative sentiment toward the act and concurrently toward the accused (Brinson & Benoit, 1999). U.S. Congressman Gary Condit attempted to employ differentiation in explaining his role in the disappearance of Chandra Levy, an intern in

his office with whom he was having an affair (Len-Rios and Benoit, 2004). Transcendence attempts to place the act within a broader, more favorable context and appeals to values and group loyalties in order to improve the offender's image. In attempting to shore up his sagging approval ratings, in an April 2004 press conference, President George W. Bush employed transcendence as a strategy by claiming he was a "war president" and thus should not be judged according to the usual criteria for evaluating presidential performance (Benoit, 2006b). When attacking the accuser, the offender tries to cast doubt upon the attacker's credibility to reduce the intensity of the attack. During the August 1, 2006 broadcast of his TV show, *The O'Reilly Factor*, host Bill O'Reilly responded to charges he personally attacks guests by charging his attacker, Oregonian TV critic Peter Ames Carlin, with not doing his own reporting, thus attempting to undercut his Carlin's credibility (O'Reilly, 2006, August 1, "Most ..). The sixth and final strategy within reducing offensiveness is compensation. In this strategy, the accused offers to reimburse the victim of the offense, which, if it is acceptable to the victim, should help reduce the negative feelings arising from a failure of some sort (Brinson & Benoit, 1999). When there was an e coli outbreak at Jack-in-the-Box restaurants in 1993, the company announced they would pay hospital costs for people who became ill from eating the contaminated burgers (Sellnow & Ulmer, 1995)..

The fourth category of image restoration theory is **corrective action**. Strategies of corrective action involve the offender promising to correct the problem. The offender may promise to restore the situation to the state of affairs before the event by repairing existing damages, and/or promising to take preventive action (such as revising policies) to avoid a recurrence (Benoit, 1997).

The last category of defensive rhetoric is **mortification**. Apologists who use mortification confess to the wrongdoing and ask for forgiveness or express regret (Benoit, 1995, pp. 74-79). The rationale here is that the admission of guilt and a display of regret can often lead the audience to pardon the negative action (Brinson & Benoit, 1999).

Benoit (1995) argues that the more successful apologies will be those that use a combination of strategies. He also counsels the apologist to admit fault (if at fault) immediately and to report plans to correct problems and prevent recurrences. He argues that denial, shifting blame, and minimization do not typically work to preserve an apologist's image.

In terms of image restoration strategies, Duke employed the strategies of corrective action and mortification. In terms of corrective action, President Brodhead cancelled the lacrosse season, fired the lacrosse coach and set into motion five investigative committees and councils to insure such an incident would not be repeated. In terms of mortification, President Brodhead apologized for both the actions of the Duke lacrosse team, and for not dealing with the relationship between Duke and the surrounding community of Durham in a more pro-active fashion.

A Further Analysis of Brodhead's Use of Mortification

When we commit a wrong against someone we know, even unintentionally, we are generally expected to apologize. And, we generally do apologize. But, for a leader of a major organization, a public apology is always a high-risk move. Leaders are responsible not only for their own behavior, but also for those connected with their institution. Therefore, leaders speak for, as well as to, their followers, so their apologies have broad implications. The apology is not just individual, but institutional (Kellerman, 2006). While apologies can moderate constituents' anger, they can also strengthen the negative associations between the institution and the problem.

Tavuchis (1991) writes that apologies speak to acts that cannot be undone, but, at the same time, must be dealt with or otherwise the current and future relationship of the organization and its publics will be compromised. As a result, organizational leaders will publicly apologize if and when they calculate the costs of doing so to be lower than the costs of not doing so. More precisely, leaders will apologize if and when they calculate that staying silent threatens a current and future relationship between them and their customers, stockholders, or other publics.

Kellerman (2006) also notes that good apologies consist of four parts: an acknowledgment of the mistake or wrongdoing, the acceptance of responsibility, an expression of regret, and a promise that the offense will not be repeated. An ideal exemplar of a good apology is that given by James Burke, head of Johnson & Johnson during the Tylenol tampering crisis in the 1980s. And, contrary to the perception often given that an apology will denote legal culpability, Patel and Reinsch (2003) found that apologies can make positive contributions, including assisting the apologists' legal strategy. By contrast, refusing to apologize may suggest the unwillingness to accept responsibility or to express remorse for situations in which there could clearly be some culpability.

Kellerman (2006) also argues that leaders of groups and organizations should consider apologizing publicly only if and when a critical interest is at stake, and only if and when they're the only ones who can do the work that needs to be done. There are times the organization is better served if someone further down the organizational ladder acknowledges the problem and expresses regret.

In this instance, however, when President, Brodhead finally appeared in the media April 5, Duke the institution became represented by a human face -- the soft-spoken, distinguished-looking professor-Richard Brodhead. In his April 5 letter, Brodhead struck the right note in terms of a leader apologizing.

Nobody wishes trouble on one's house and I regret the trouble that this incident has brought to Duke and Durham. But when trouble arrives, it's the test of a community and its leaders to deal with it honestly, act accordingly and learn from it. This is a deeply emotional time as well as a rare opportunity for education – for our students, faculty, administrators,

and members of our community. Let's move forward with a serious commitment to make progress on the many complex issues that confront us now. (Brodhead, 2006, April 5, "Letter").

Kellerman (2006) proposes that a good apology should acknowledge the mistake or wrongdoing; accept responsibility; provide assurance that the offense won't be repeated; and is well-timed. Though Brodhead was somewhat deliberate in issuing the apology (over three weeks from the alleged rape), the apology contain the requisite elements that would make it a good one.

An Ethical Caveat

On the other hand, what is particularly troubling in the letter was the following passage:

If the allegations are verified, what happened would be a deep violation of fundamental ethical principles and among the most serious crimes known to the legal system. Such conduct is completely unacceptable both within the university and in our society at large. If the truth of the allegations is upheld, it will call for severe punishment from the courts and from Duke's disciplinary system. T his university has cooperated and will continue to cooperate to the fullest to speed the ongoing investigation by the police, and I pledge that Duke will respond with appropriate seriousness when the truth is established. (Brodhead, "Letter, 2006, April 5).

What is not communicated here is a sense of the legal value of innocence until proven guilty. In the June 5 letter to the Duke community, Brodhead does somewhat acknowledge the presumption of innocence for the players, stating:

Since I wrote last, three members of the men's lacrosse team have been indicted on felony charges arising from the March 13 party. The students proclaim their innocence on all the counts. As you probably know, initial reports circulated through the media advanced the case against the students; more recent reports have made the case in their favor. But none of us has direct access to the criminal investigation, and until the full evidence is presented, none of us can know with certainty what did or did not happen.

As I have said, it's essential that we allow the criminal justice system to run its course, and that we wait for the truth to be established before we reach final judgment. In the meanwhile, we need to remember that the American legal system is based on the principle of the presumption of innocence. When he handed down his third indictment on May 15, District Attorney Nifong stated that no other students were under investigation; with the cloud of suspicion lifted from other members of the team, the legal case has taken on finite boundaries. Now we must wait for the legal process to do its work. (Brodhead, 2006, June 5, "Letter").

On the other hand, Brodhead also states:

Let me also say a word about the players. These students have lived through an extraordinarily painful situation for the last eight weeks. Whether or not the felony charges are upheld against the three indicted students, *the fact is that members of the team engaged in irresponsible and dishonorable behavior on the evening of March 13, and those who were involved bear responsibility for their actions.* (Brodhead, 2006, June 5, "Letter"). [Italics added for emphasis]

Thus, while on the one hand Brodhead notes that the students must be presumed innocent of the felony charges, he also notes that they are not "innocent," having engaged in "irresponsible and dishonorable behavior" on March 13. This rhetoric serves two purposes. First, it throws the blame for the events of March 13 away from Duke as an institution to a few lacrosse players. Second, it supports his previous statement on April 5, where he stressed the allegations of the accuser rather than tempering the allegations with a discussion of the presumption of the players' innocence.

Such a rhetorical strategy may be effective at protecting Duke as an institution, and is a good example of changing the narrative. Brodhead's rhetoric presumed guilt on the part of the students; he was simply trying to get the scandal off the front page. Canceling the season and suspending the students was a way of cutting Duke's ties from any potential negative fallout the students might generate. Essentially, he made the calculation that the reputation of the university was more important than the lives of the students.

Ethically, however, that calculation was problematic. While it may be a good idea for an institution to cut ties to anything that potentially might harm its reputation, it's one thing when this is done to university employees. For example, forcing out Duke's lacrosse coach makes sense. It's quite another to almost ruthlessly cut ties to your customers – students and alumni. When those customers are powerful and wealthy, they can hurt the university. The perception of a university president ruining the lives of some students by letting them "twist in the wind" while they are enduring a trial could cost Brodhead the status and goodwill associated he brought with him when he assumed the presidency

The Aftermath So Far

Duke's administration has been struggling to stay on top of the crisis, and responding appropriately as details of the case unfolds.. "It's been a matter of trying to figure out the right thing to do in a situation of considerable uncertainty and changing information," acknowledges Brodhead. He observed further "If we ignore the challenge of this event, we'll be legitimately blamed for it, but if we step up to it I think it will go to the health of the school. Whatever happened here did in fact happen here, but the ingredients for it everyone knows exist on every campus in America." (Stancill, 2006).

According to the *Chronicle*, Duke athletes have been ordered to remove references to drunkenness on their online profiles on Facebook, a social-networking website. Having to change or remove a profile on Facebook or other social networking sites is about as popular as re-instituting dress codes. In addition, athletes have been deterred from having contact with reporters. Athletic Director Joseph L. Alleva has been unavailable to the press.

In the meantime, defense attorneys have combed through the available 1278 pages of files turned over by Nifong and have attacked the accuser's statements, her medical exam, the police department's lineup procedure and the district attorney's conduct. They disclosed a favorable polygraph test by one of the defendants, a dearth of DNA evidence and doubts expressed by fellow stripper Kim Roberts that a rape had occurred.

In addition, the defense lawyers have mounted a media offensive. In a five-hour interview with a CBS news reporter, Kathy Seligmann talked about the emotional toll her son Reade's indictment has had. David Evans' lawyers took the unusual tactic of having his client appear on live television on the morning of his indictment, defiantly telling the world he didn't do it. Over the July 4th weekend, Collin Finnerty's parents were interviewed by MSNBC's Dan Abrams, and proclaimed their son's innocence (ironically, Abrams is a Duke alumnus).

Already, one enraged parent of a lacrosse player has personally confronted Brodhead at a spring event, stating angrily, "When you do this, just remember who you're doing this to." The father later told the campus newspaper, *The Chronicle* that he objected to a characterization of the lacrosse team by some faculty members and local residents as pampered "blue bloods". The father pointed out that he is a firefighter, and further indicated that he wanted the president to know that families stood behind the players.

The father is not the only critic of Brodhead. Some have criticized the president for waiting well over two weeks to denounce the possible rape, thus communicating a possible callousness. Some charge that when he responded, he overreacted by canceling the entire season, a response that elevated the seriousness of the incident, and, by extension, the belief that the charges were indeed true. For example, if the athletes are innocent until proven guilty, why was he adding another black mark to their reputation by canceling the season?

So, as the Fall 2006 semester opens, the lacrosse coach has been forced out, its spring season has been cancelled, the very future of the lacrosse at Duke was threatened, and players and their parents alike have endured emotional turmoil. All the while, it's possible that what happened was that students were drinking and behaving boorishly, but not criminally (aside from underage drinking). Since they've done this before, with Duke's leadership generally taking a "boys will be boys" attitude, who is really to blame? The future of the incident is unclear, but once President Brodhead became the face of institution called Duke in this story, it is he who will be held accountable by Duke's constituents for his actions.

References

- Baker, G. F. (2001). Race and reputation: Restoring image beyond the crisis. In R. L. Heath, & G. Vasquez (Eds.), *Handbook of Public Relations* (pp. 513-520). Thousand Oaks, CA: Sage Publications, Inc.
- Bell, J.S.C. (2004). You have the right to remain silent: Framing public sin and apologetic discourse. Unpublished dissertation, University of Kansas.
- Benoit, W. L. (1995). *Accounts, excuses, and apologies: A theory of image restoration strategies*. Albany, NY: State University of New York Press.
- Benoit, W. L. (1997). Image repair discourse and crisis communication. *Public Relations Review*, 23(2), 177-186.
- Benoit, W. L. (2006). President Bush's Image Repair Effort on Meet the Press : The Complexities of Defeasibility. *Journal of Applied Communication Research*, 34: 3, 285-306.
- Benoit, W. L., & Brinson, S. L. (1994). AT&T: Apologies are not enough. *Communication Quarterly*, 42, 75-88.
- Benoit, W. L., (2004). Image Repair Discourse and Crisis Communication. In *Responding to a crisis: A rhetorical approach to crisis communication*, eds. Dan P. Millar and Robert L. Heath (Mahwah, N.J.: Lawrence Erlbaum Associates), 263-280.
- Benoit, W.L. (1997). Hugh Grant's image restoration discourse: An actor apologizes. *Communication Quarterly*, 45, 251-267.
- Benoit, W. L. (1995). An analysis of Sears' repair of its auto repair image," *Communication Studies*, 46, 89-105.
- Blaney, J. R., Benoit, W. L., & Brazeal, L. M. (2002). Blowout! Firestone's image restoration campaign. *Public Relations Research*, 28, 379-392.
- Brinson, S. L., & Benoit, W. L. (1999). The Tarnished Star: Restoring Texaco's Damaged Public Image. *Management Communication Quarterly*, 12(4), 483-510.
- Brodhead, R. (2006, April 5). Letter to the Community from President Brodhead. Available at: <http://dukenews.duke.edu/2006/04/rhbletter.html>
- Brodhead, R. (2006, June 5). Letter to the Duke Community. Available at: http://www.dukenews.duke.edu/2006/06/rhb_letter.html
- Can Andersen survive? (2002, January 28). *Business Week*, p. 40.
- Cowden, K. and Sellnow, T. (2002). Issues advertising as crisis communications:

Northwest Airlines' use of image restoration strategies during the 1998 pilots' strike. *Journal of Business Communication*, 39, 193-219.

Drumheller, K. and Benoit, W. (2004). USS Greenville collides with Japan's Ehime Maru: Cultural issues in image repair discourse. *Public Relations Review* 30: 2, 177-185.

George, A. M. and Evuleocha, S, (2003). Denials, Excuses, Justifications, and Apologies: Restoring Tarnished Reputations after the Year of Corporate Malfeasance. What Worked and What Didn't. *Proceedings of the 2003 Association for Business Communication Annual Convention*. Available at:

<http://www.businesscommunication.org/conventions/Proceedings/2003/PDF/04ABC03.pdf>.

Heath, R. L., and Millar, D. P., (2004). A Rhetorical Approach to Crisis Communication: Management, Communication Processes, and Strategic Responses. In *Responding to a Crisis: A Rhetorical Approach to Crisis Communication*, eds. Dan P. Millar and Robert L. Heath (Mahwah, N.J.: Lawrence Erlbaum Associates), 1-17.

Kellerman, B. (2006). When Should a Leader Apologize and When Not? *Harvard Business Review*, 84: 4, 72-81.

Kramer, M. R., and Olson, K. M., (2002). The Strategic Potential of Sequencing Apologia Stasis: President Clinton's Self-Defense in the Monica Lewinsky Scandal. *Western Journal of Communication* 66, 347-369.

Len-Rios. M. and Benoit, W. (2004). Gary Condit's image repair strategies: determined denial and differentiation. *Public Relations Review*, 30: (1), 95-106.

Meadows, S. and Thomas, E. (2006, April 24). Timeline of Duke scandal. *Newsweek Online*. Available at: <http://www.msnbc.msn.com/id/12335371/site/newsweek/>

Meadows, S. and Thomas, E. (2006, May 1). What happened at Duke? *Newsweek Online*. Available at: <http://www.msnbc.msn.com/id/12442765/site/newsweek/>

Millar, Dan P., and Heath, Robert L., eds., (2004). *Responding to a crisis: A rhetorical approach to crisis communication* (Mahwah, N.J.: Lawrence Erlbaum Associates)

O'Reilly, B. (2006, August 1). Most ridiculous item of the day. The O'Reilly Factor. Fox News Channel.

Pellegrini, F. (2002, April 4). Arthur Andersen catches a break. Time.com: Business. Retrieved on August 15, 2003, from <http://ww.time.com/time/business/printout.html>.

Roberts, S. (2006, April 12). Accountability Fails to Rise To the Top at Some Colleges. *New York Times*, D4: 1.

Rogers, R., Dillard, J. and Yuthas, K. (2005). The accounting profession: Substantive change and/or image management. *Journal of Business Ethics*, 58: 1-3, 159-176.

Sellnow, T. & Ulmer, R. (1995). Ambiguous argument as advocacy in organizational crisis communication. *Argumentation & Advocacy*, 31, 138-150.

Stancill, J. (2006, July 16). Lacrosse defense sways media. *News and Observer*. Available at: <http://www.newsobserver.com/1185/story/461187.html>

Taub, S. (2001, December 5). Enron blame game: Accountants take the offensive. Retrieved on August 20, 2003, from <http://ww.cfo.com/printarticle/html>

Tavuchis, N. (1991). *Mea Culpa: A sociology of apology and reconciliation*. Stanford, CA: Stanford University Press.

The fall of Enron. (2001, December 17). *Business Week*, p. 30-36.

Venette, S.J., Sellnow, T.L., & Lang, R.A. (2003, July). Metanarration's role in restructuring perceptions of crisis: NHTSA's failure in the Ford-Firestone crisis. *Journal of Business Communication* 40(3) 219-36.

Ware, B. L., & Linkugel, W. A. (1973). They spoke in defense of themselves: On the generic criticism of apologia. *Quarterly Journal of Speech*, 59, 273-83.