Abstract Discussions: Thursday, September 30th, at 6 PM and Friday, October 1st, at 12:30 PM in the Sunken Lounge of the DC; further panel discussions at times to be determined

The Muppets
An Honor Council Student Facilitated Panel
Released Fall 2004

Panel: Kermit, Fozzie, Rowlf, Gonzo, Scooter, Beaker
Confronting Parties: Grover, Elmo, Zoe
Confronted Parties: Bert, Ernie

Introduction

Grover, Elmo, and Zoe contacted the Honor Council Chairs because they believed that Bert and Ernie had violated the Honor Code. Bert and Ernie had gone to a costume party dressed as two specific female Black popstars. They had painted themselves brown and attached prosthetic breasts and buttocks to their bodies. Grover, Elmo, and Zoe found these costumes incredibly offensive and threatening to their sense of acceptance at Haverford. Although Bert and Ernie had posted a letter to the community on the comment board, a respectful dialogue did not occur. Therefore, Grover, Elmo, and Zoe thought that it would be appropriate to bring the issue to Honor Council. They confronted Bert and Ernie over email. Both the confronted and confronting parties submitted statements to Honor Council.

Honor Council discussed the statements at length. Council members expressed concerns about the extent to which the Honor Code does/doesn’t allow for freedom of speech and discussed whether this issue involved speech at all. Some members were also afraid that if Council moved forward with this case it would set a precedent. Other members who had been at the costume party cited several other rather offensive costumes that they had seen. Members then asked, if they agreed that there was a suspicion of violation for this case, would Council then be obligated to confront all of those other people. After further discussion, Council agreed that it could only deal with what was brought to it. Council members also expressed concern that two of the confronting parties did not actually see Ernie and Bert when they were dressed up. However, Council concluded that, despite their reservations, the statements submitted showed a clear suspicion of violation of the social Honor Code and that Council needed to move forward with this case. One member stood outside consensus on the statement of the suspicion of violation.

Council then discussed the most appropriate way to deal with this case. Since both parties asked for a “dialogue” in their statements, a Student Facilitation Panel (SFP) seemed most appropriate. The Constitution states that in cases where the parties are not able to

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1 This naming scheme was chosen deliberately to be race-neutral.
have a constructive dialogue, “Honor Council will call a Student Facilitation Panel. The Panel’s primary goals are facilitating respectful communication with the intent of reaching some common understanding, and encouraging individuals to take responsibility and accountability for past actions.

This Panel consists of six students, three of whom are Honor Council members trained in mediation, including the Chair, and three of whom are randomly selected community members. Two of the Panel members are chosen from the multicultural list maintained by the Honor Council Secretary.”

**Orientation**

Honor Council designated a non-involved Council member to serve as the contact person and to meet separately with each party in order to explain the purpose and implications of the Student Facilitation Panel. During these meetings, the contact person helped each party to articulate his/her concerns about the issue to be shared with the other parties and the Panel. The contact person also answered any procedural questions that the parties had.

**Preparatory Meeting**

The Panel met to discuss the parties’ written statements. At this meeting, the Panel was given an introduction to the process, and the non-Honor Council members were told basic principles of mediation. This introduction emphasized impartiality, confidentiality, the format of the procedure, and the goals of this process.

The panel members made a list of goals and guidelines that they hoped would help to initiate a respectful dialogue. Then the panel members compiled a list of questions that they hoped would help to encourage self-examination and understanding of the opposing perspectives.

**Facilitated Dialogue I**

The dialogue began by each of the confronting parties giving an uninterrupted statement. Next both confronted parties gave their uninterrupted statements.

**Grover’s Statement**

Grover said that he was at the bi-college Halloween party with three friends from Bryn Mawr. His friends talked to Bert and Ernie, and they were all offended. Grover said that two weeks before, he had seen a movie on the history of Blackface in the United States. The costumes reminded him of the movie. There were other costumes of questionable

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2 Students’ Council Constitution. Article VII, Section 1.
appropriateness, but Bert and Ernie’s costumes were out of the bounds of appropriate behavior in a small community with few people of color. He said that people who had been offended and hurt by the costumes communicated through conversation and through email and decided to call a meeting of an African-American student organization. He said that the organization invited Bert and Ernie to come, hoping to resolve the issue. Bert and Ernie did not show up, which he took as a sign of further disrespect. At this point, Grover said that he looked at the Honor Code and read that only one person needs to feel that his identity is threatened for an action to constitute a violation. He said that he believed that Bert and Ernie’s costumes were a violation of the Honor Code. Furthermore, he felt that this issue could have been resolved if Bert and Ernie had only gone to the meeting. However, they would not engage in dialogue.

**Elmo’s Statement**
[Elmo began by noting how hard it is to speak about these events because she has been so badly hurt.]
She said that while she was not at the bi-college Halloween party, she saw photos of the costumes. She felt for her friends at the Halloween party and for herself. She said that the costumes parodied her status as a Black woman. She felt disconnected from Haverford when she saw that she could be dehumanized like this. She said that she now felt vulnerable and unprotected on campus.

**Zoe’s Statement**
While Zoe said that she was not present at the event, she too had seen the photos. She felt like Bert and Ernie had put an exaggerated version of her own body on display. She said that many people felt this way. Furthermore, she said that she felt a lack of sincerity and overwhelming feelings of disrespect in Bert and Ernie’s comment board posting, for their posting was a justification, not an apology. She said that she can no longer feel safe on campus and is constantly reminded of her status as a Black woman. She also said that she feels uneasy on campus and that there is a general uneasiness among women since the incident and that women (especially women of color) are wary of going to parties and social gatherings.

**Bert’s Statement**
Bert said that he went to the costume store with several friends. He said that he and Ernie were trying to be funny and that Halloween is a crazy time. He said that they saw white plastic breasts and considered dressing as topless women. Then they saw the black breasts and butts and decided to wear them instead. He said that the word ‘blackface’ never came up. He thought that the black body parts would be funny because they were so different from his own. He said he just meant to dress up as a popular African-American pop star who is in the news and that his emphasis was totally on fun. He said that his colored friends did not object to their costumes. He said they then purchased jewelry and brown face paint. They went to a pre-party where everyone laughed at them, including people of color. One or two Black girls were offended, but they were not going to the party and said they did not like Halloween anyway. He said that we all need to

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3 There were frequent interruptions by Ernie during this statement.
remember the spirit of Halloween. He said that at the bi-college Halloween party a girl was very upset and asked why they would dress like this. He said that the girl told them to go away or she would kick them in the balls. Bert said that the friend of the girl who was yelling at them said not to pay attention to her, that their costumes were funny, and that her friend was drunk. Nobody else confronted them about their costumes that night. Then, his friends from the African-American group forwarded the emails from members of the African-American Student Organization to them.

[Ernie said that he thought that part of the problem here was taking things out of context. There was a lot of labeling, misconceptions, hate, and aggression. Lessons and punishment seemed to be the goal, not discussion. That is why they posted the letter on the comment board and signed their names]

Bert said that they were sincere in their letter but were also trying to raise issues that had been overlooked by the offended parties. Bert said that two colored friends advised him not to attend the meeting, saying that he would just provide a focal point for the anger. Bert said that Ernie had class during the second meeting, and that he (Bert) did not want to go alone. He argued that they did not realize that the meeting was such a big deal, and thought that after the apology letter, the matter would either die out or lead to a personal confrontation.

[Ernie said that a letter from Bryn Mawr’s president that was mailed to their entire student body misrepresented the issue.]

Bert said he was upset, because the deans had told him and Ernie that they would not get involved. He felt that his rights were stepped on in trying to protect the rights of minority groups.

Ernie’s Statement
Ernie said that he had many discussions regarding these issues and that it never occurred to him that the paint might be interpreted as blackface, and that no one brought it up. He said that the point of blackface is hate, and that he and Bert had a completely different agenda. The bi-college publication roused the campus. And a second piece needed to be printed because the first did not portray the events fairly. Ernie said that he assumed that people would understand the spirit of the costumes. He knew they were risky, but he was just pushing the line. He said that he wished that this dialogue had happened earlier, but that there was no attempt made to initiate a personal dialogue or confrontation. He said that he is bothered that a trial precedes this dialogue. Ernie said that he originally wanted to go to the first meetings. But as it approached, the vibe became negative and changed from personal discussion to an attack. He said that he had class during the second meeting. He didn’t know what further actions we could take to repair the breach of trust.
Facilitated Dialogue I

Grover had a few comments in response to Bert’s and Ernie’s statements. He suggested that they were using their friendship with people of color as a justification—because their friends weren’t offended, they wrongly inferred that Black students as a whole would feel the same way. Furthermore, the two popstars to whom Bert and Ernie had been referring do not appear nude. Grover noted that he had been told that Bert and Ernie had first said that they were dressed as “bush women.” Grover said that Bert and Ernie’s actions had violated the rights of people of color. He went on to say that since we all signed the Honor Code, Bert and Ernie must be held accountable.

Elmo then said that she wanted to clear some things up. The emails that Bert and Ernie referred to were confidential between members of the African-American student organization and were not meant to be seen by Bert and Ernie. Halloween is dark, scary, and gruesome. Historically, the only time that Black women were seen naked was during rape or on the auction block. The issue is also about women. Elmo then asked Bert and Ernie how they thought women who had been molested would feel when they see fake female bodies being violated. She said that the she was representing those women. She continued to say that blackface was historically used for both degradation and fun. She told Bert and Ernie that she wanted them to take responsibility but that so far she was only hearing excuses. She said that there is a power dynamic that comes with dressing up as Black women.

Ernie responded by saying that Elmo doesn’t represent the entire colored community. He noted that he knows many people who have no problem with his actions and who think that this is ridiculous. Ernie said that he didn’t mean to hurt anyone’s feelings. He apologized, but he didn’t know what further actions should be taken. He said he recognized the hurt, but not necessarily the wrongness of his actions.

Grover then commented that Ernie was still making excuses. Grover said that if he got drunk and did something stupid, he still would be responsible for any offense taken and that Ernie should flip the script. Grover said that if he was a White guy, and on Halloween he dressed as a Nazi with a swastika, hell would have broken lose. Grover stated that swastikas and blackface are both signs of hate. In the past two years, there have been many incidents of blackface, even at Penn State and at Swarthmore. These are common occurrences and they have serious consequences.

Ernie commented that the confronted parties say “take responsibility.” Yet he felt that it sounded like what they really wanted was punishment, not responsibility.

Zoe then clarified, saying that Bert and Ernie justified their actions but didn’t apologize. Taking responsibility means learning about blackface. Blackface was originally entertainment, as if Black students didn’t have any intellectual capabilities. She said that Black people were easily solicited as entertainment because they were not considered people. She asked how Bert and Ernie could live in the United States for twenty years and not realize that dressing up as Black women, or naked Black women is not okay. She
went on to say that punishment would not help. She said that it is offensive that Haverford is allowing such blatant prejudice to persist. She told Bert and Ernie that they needed to consciously understand that a non-respectful sorry was not going to turn off her feelings. She also noted that just because a few of Bert and Ernie’s Black friends were fine with their actions doesn’t mean that everyone is.

Ernie then asked Zoe what specifically she meant by “take responsibility.” He noted that Zoe said that he should learn more about African-American culture. He asked if everyone who didn’t think what he did was wrong, including his colored friends, needed this education.

Zoe responded, saying that putting the event behind us isn’t the goal. Hanging out with Black friends isn’t learning history. She said that they may not know either, but they need to be responsible for themselves. She said that they desperately needed a real history lesson in African-American history. History still has a huge impact on Black people. Zoe said that she could not accept Ernie’s apology because he still did not understand why his actions had such a profound and hurtful impact. He did not understand the history of blackface.

Ernie said that in discussions with other people he’d tried to learn more. He said that it was not fair to assume because of his costume that he was ignorant of Black history and he said that he had taken classes in it.

Zoe asked why, with an education in Black history, the history behind blackface didn’t occur to Ernie. She said that Ernie just wanted to get this over with. But that she would never be rid of it and that taking responsibility is more than just an apology.

Bert said that he and Ernie had identified themselves to the community through their posting. He said that he was uncomfortable being identified as racist by the African-Americans on campus and asked if there was a common ground that the parties could find.

Elmo said that Bert and Ernie need to be more open-minded about what the confronting parties were saying. She said that Bert and Ernie were too focused on themselves. Elmo said that this facilitation panel is not for her but for them. And that she wanted them to focus on humanity. She went on to say that their Whiteness is leading to others’ deaths, both metaphorically and physically. Grover added that there was a very emotional response to those costumes. Grover asked what if, because of those emotions, he had hit Bert or Ernie. He said that there would have been consequences for that action.

Bert asked if the parties could stay away from hypothetical situations, but Elmo said that this was an important point. She said that public action leads to consequences. In a follow-up to this comment, Bert asked if public action mandated public consequences.

Zoe then noted that this dialogue still focused on Bert and Ernie. She said that understanding is not coming through. She expressed frustration because Bert and Ernie
still did not see their actions as wrong. She said that if it hurts people, it’s wrong. An apology without any understanding of the wrong is worthless.

Ernie said that if he could go back in time, he wouldn’t do it again. People were hurt, and therefore it was wrong; he and Bert were now dealing with the consequences. He said that he did not mean to brush this off and that the incident has become a huge part of his Haverford experience. However, Ernie noted that he was still confused about the “public consequences” line.

Elmo said that she didn’t think that there can be a common understanding. She said that Bert’s and Ernie’s words still sound like excuses. Grover asked if everyone could at least agree that a violation of the Honor Code had occurred. Bert and Ernie said that they would not agree to that.

At this point, a panel member clarified that the goal of this first meeting was not to come to agreement about a statement of violation. The goal was to listen to one another’s statements and to begin to talk about the major issues. Since the first day’s goals were accomplished, it seemed like an appropriate time to adjourn the meeting. It was noted that the SFP procedure outlined in the Constitution does not mandate a statement of violation. Resolutions can be made without the statement. However, the Constitution does say that if one panel member or party believes that a violation of the Code has occurred, a statement will be discussed along with tentative resolutions.

After the confronting and confronted parties left, the panel members debriefed. It seemed as though everything that was said needed to be said, and the panel hoped that the parties would be able to come to their own tentative resolutions in the next meeting. The panel compiled some questions for the next meeting to initiate dialogue on what specifically could help the two parties come to a common ground.

**Facilitated Dialogue II**

A panel member, Rowlf, started off by asking Bert how he thought this experience had changed him. [Rowlf then asked this question to each party individually.]

Bert responded by saying that he had never really thought about race before. He said that there were Black kids at his high school. No one made distinctions. He said that he did not think that race was a problem at Haverford. He found out that this is not true. He said that he didn’t know or care about the different opinions on race. He noted that some people think his actions were terrible and that he should be kicked out because he did not act as part of the community. Some people were hurt; some are indifferent. He explained that conversations in the aftermath of the incident were a huge help, for he realized that there are still Black and White factions here. Bert said that he didn’t feel as though his actions separated him from the Haverford community. He noted that he often wonders if people of color think of him as “that racist kid.”
Rowlf asked Ernie the same question. Ernie responded by saying that most of what Bert said was also true for him. He said that he had thought a lot about race issues, and the bounds of social acceptability, especially on Halloween. Ernie noted, though, that even if he’d dressed as a White girl, people might have been hurt. He also said that he had learned that it was not worth pushing boundaries when people get hurt as a consequence. He said that he had pushed boundaries on non-race-related issues before which had also resulted in dialogues.

Grover responded to Rowlf’s question next. He said that this incident had changed his whole existence at Haverford and that now he wonders what he should be doing here. He knew the demographics when he came to Haverford, yet after this incident, Grover said he can’t be just another student. He has thrown himself into school politics, trying to bring change. He said that he feels he has a responsibility to be aware. Grover also noted that he is more cautious in his friendships, more suspicious of people. He said he’d lost trust because his trust was broken. This incident was a huge disappointment. Grover explained that his high school was demographically similar to Haverford. Yet the Honor Code seemed to be such an important part of Haverford social life that he had felt comfortable. That comfort level had disappeared. He expressed feelings of disappointment and frustration. He said that he could no longer just be a passive student, and now felt that he had to be involved.

Rowlf then repeated his question to Zoe. She said that she has really gone through a lot as a result of this incident. The utopia that she believed Haverford to be is gone. Haverford has imperfections. She’d hoped for security here, but as a result of this incident she feels she has to adjust her demeanor. Zoe said that now she feels very vulnerable. She explained that the incident was very hurtful, and made her aware of how much of an outsider she was. She said that this incident caused her to realize her discomfort and see herself as a mere guest at Haverford, not a member of the community. She said that she felt unsupported. This incident raised issues which Zoe believes she will have to deal with for the rest of her life.

Next Elmo responded to Rowlf’s question, saying that she agreed with Grover and Zoe. Elmo said she didn’t feel like a part of the community anymore. She felt that this incident showed that she had been labeled “other” and could be put on display. The reactions of Bert and Ernie, of the students, and of the faculty highlighted her vulnerability at Haverford. Furthermore, Elmo said that she was afraid for all Black students on campus. She believes that this incident proved that Black members of the community can be dehumanized at any time. She said that this incident has soured her Haverford experience.

Beaker, another jury member, then asked Bert and Ernie how they thought others were affected by their actions.

Bert said that others were hurt. He originally thought that people were just looking for issues, looking to get hurt. He said that people are still supportive of him as a person, but he hadn’t heard from the people who were really upset before the dialogue. People were
genuinely upset. Bert said that he saw Zoe angry and shaking. He explained that he hadn’t seen this level of emotion or hurt before. He also noted that he needed more time to process the facilitation. He noted that so far it was not wholly productive but that he believed something was being accomplished.

In response to Beaker’s question, Ernie said that he agreed with what Bert said. He went on to say, speaking for himself, that it is now tougher to hang out with students of color. His actions made people think about issues of race. It was a wake-up call, which is a good thing. Some people don’t think that it’s a huge deal. The majority think that their actions were really stupid. At the same time, Ernie expressed that he felt he had lost the protection of the community. He went on to ask if Haverford should celebrate Halloween since many costumes can be offensive. He went on to note that Drag Ball could be seen as offensive. Ernie said that we claim that Haverford is liberal, but it’s really conservative and politically correct.

Kermit, who chaired the panel, asked each of the parties to state one new thing they heard during the previous facilitation.

Ernie responded by saying that there wasn’t anything in specific that he heard that was new to him. He said that he was more struck by the emotions than the words. He saw anger, hurt, and intensity. He wasn’t completely unaware of these emotions before, yet the intensity of them did impress him. He said that he originally felt like some people were just looking for a trial. He was bothered by this “trial-mongering” since it’s not in the spirit of the Honor Code. Additionally, Ernie was vexed that two of the confronted parties didn’t even see the event. He does not believe that a real confrontation ever happened. However, Ernie acknowledged that he sees a need to think more about the concerns of minorities. Furthermore, Ernie said that he now understands that just because his friends are okay with a costume doesn’t make the costume okay.

Bert responded to Kermit’s question by saying that he hadn’t thought of all the different implications that costumes may have. For instance, he had not thought of or heard the concern that his costume might remind women of rape, possibly even a rape perpetrated on them. The intensity of emotion was also new.

Scooter, a panel member, then asked the confronting parties what their specific concerns were.

Elmo said that from the dialogue yesterday, she didn’t think that Bert and Ernie were sincere. They had plenty of opportunities to speak to her, Zoe, and Grover. Elmo expressed skepticism about their sudden repentance. She asked the panel members to look at the language Ernie used—he continually refered to his ‘colored’ friends. Elmo said that she didn’t think that any present apology would be sincere. She restated her concern that Bert and Ernie just wanted to get past this incident. That attitude makes her uncomfortable.
Zoe said that she was very uncomfortable because of this dialogue and was still not convinced that Bert and Ernie were sincere. She said that it was a shame that it takes an incident like this to bring issues to the front. Zoe also expressed concern that everything she had said had gone in one ear and out the other. Zoe felt as though this dialogue had been almost counterproductive. She expressed frustration because Ernie was still saying, “What can I do?”

Ernie expressed frustration that the confronting parties were so upset that he and Bert hadn’t talked to them sooner. Ernie explained that his dean told him about a coalition of students looking for punishment and that this was why he stayed away.

All parties expressed frustration with the administration’s role (or lack thereof) in the aftermath of the incident.

Zoe stated that not attending the meeting because of being afraid to go alone was not taking responsibility. She acknowledged that Bert and Ernie are two different people. She also noted that Bert and Ernie knew Elmo and could have talked to her since she expressed her concerns in a public forum. This is not about Halloween or dress-up. It’s about admitting what is wrong. Zoe said that Bert and Ernie were still thinking about themselves, not others, and that they kept trying to justify their actions. She restated her concern that they were not hearing her. In response to Ernie’s concern about email confrontation vs. face-to-face confrontation, Zoe said that she felt disrespected and uncomfortable talking to Bert and Ernie in person. She also said that she didn’t have to see the costumes herself to feel this hurt. She posed the hypothetical that if someone is murdered, she could feel the pain without being there. Zoe said that she is slaughtered every day. She also said that she must always be on guard against disrespect.

Bert said he thought the parties should continue to say productive things and acknowledged that what Zoe had just said was productive. As for the meeting, it is uncomfortable to be a minority. Bert said he didn’t want to be uncomfortable. Elmo and Zoe said they feel that discomfort every day. Bert said that if that’s what they go through every day, that’s terrible.

Grover said that he is trying to find ground for understanding. He asked Bert and Ernie if they were willingly misunderstanding the confronting parties. Grover said the issue is not just race or gender. It’s also the hurt. Grover said he was trying to find genuineness in them but that he was having trouble. This confrontation is about removing yourself from your comfort zone. Grover said Bert and Ernie’s genuineness falls flat because they weren’t at the meeting.

Scooter, a panel member, asked all the parties to take a moment and reflect on what others were trying to say.

Ernie said that, in retrospect, he agreed with Grover’s comfort zone comments. He said he should have made the effort. But as for his lack of sincerity—why would he choose to befriend people of color if he didn’t care? Ernie clarified that he didn’t want to justify his
actions. He said they were wrong and stupid. Yet he said that if he and Bert weren’t sincere, they would not have written a letter of apology and posted it on the comment board. Ernie said he felt attacked, especially in the bi-college publication.

Bert responded to Grover by saying that he was trying to understand Grover, too. Bert said he was sincere. He apologized if his sincerity wasn’t coming across.

Zoe asked Bert and Ernie what they needed to do to understand the confronting parties. She also said that people should not leave Haverford with notions that it’s okay to mimic minorities without a historical understanding of their community. She said she’d be hurt if Bert winds up being a mayor or C.E.O. with these notions.

Bert repeated that what he says is not designed to get him off the hook. He suggested that continuing dialogue would be a good resolution. Building on this, Zoe suggested that Bert and Ernie talk to even more people to get a bigger picture.

Ernie said that he didn’t want to leave Haverford with the confronting parties’ feeling that he didn’t understand them or that he would repeat his mistakes. He suggested that perhaps he and Bert could officially break their confidentiality and participate in wider community discussions and forums. He also said that if the confronting parties thought his apologies were insincere, then they didn’t understand him. He explained that he had already learned so much and that this particular conversation has made him think even more about the other things he heard. Ernie said he could never be caught up in the moment and make a similar mistake again. He said that he wanted to hear more suggestions about what he could do to mitigate the hurt.

Scooter, a panel member, asked Ernie how he might be able to show his sincerity.

Ernie said that his willingness to break his own confidentiality to engage in wider dialogue should prove his sincerity. He also said that he really wanted to do whatever he could to repair the breach of trust. He said he was trying to see the world through different eyes, but that history classes limit the scope of race. He understands that it is better to talk to people, but at the same time it is not the responsibility of the minorities to teach him.

Bert noted that there are so many “catch-22s” about race relations here. He said if he opens doors for Elmo, or if he doesn’t, will she assume he is doing it or not doing it because she’s Black? He said he’d never had to deal with the PC issues surrounding race. He also asked everyone to excuse his non-politically correct terminology. He said he just doesn’t know the right terms, that he just doesn’t know how to handle this.

Elmo said that she had been thinking about the issue of resolutions. She said she was uncomfortable with mere random talk, and the apology letter didn’t work out. Any resolution must be public. It can’t be kept undercover. This must not be forgotten.
Grover asked Bert and Ernie if they saw their costumes as offensive in any context other than race.

Bert said that he originally didn’t think that they were sexist because of the revealing costumes that women were wearing on Halloween, and because of Drag Ball. Bert said he’s changed his mind. Women were offended. He meant to make fun of himself but he ended up unintentionally making fun of the women he portrayed.

Zoe told Bert and Ernie that they must be aware of the realities of the White male power dynamic.

Bert wanted to know why some of the Black women he had spoken with were not offended. Elmo said that the ones who weren’t offended should ideally also be participating in this dialogue. She reiterated that not all Black students are on the same wavelength, and Bert affirmed that he understood this now.

Ernie asked the confronting parties what their feelings on “White guilt” were. Grover responded by saying that it was not the confronting parties’ intention to force “White guilt” upon Bert and Ernie. The confronting parties just wanted Bert and Ernie to understand that what they did was wrong. The issue is independent of race and gender. This isn’t about being White. Grover asked Bert and Ernie what they saw as the difference between their actions and those of (partially) naked women on Halloween and people dressing up for Drag Ball.

Bert responded by saying that it is interesting that one can show one’s own nudity and that is okay. He asked Grover when he thought changing one’s appearance becomes offensive. Grover said that it is offensive when what you appear has a symbolic, established meaning behind it. He also said that certain words and actions just cut deep.

Elmo thought that it would be productive for Bert and Ernie to reflect on what it is to be White in the context of American power dynamics. Zoe noted that this was something that Bert and Ernie had probably never had to think about. She suggested that Bert and Ernie start thinking about it in their everyday life. She said she wants to know that Bert and Ernie understand. She said this should be about them, and that understanding should come from within. Ernie said that what Zoe thought still did matter to him and he hoped he would also be able to better understand her, not just himself. Zoe said that was good.

Although, it seemed that the confronting and confronted parties were very close to coming to their own resolutions, it was late, and the panel agreed to adjourn for the night. Because of various schedules, the panel agreed to reconvene three days later. The panel hoped that this would give both the confronting and confronted parties time to formulate potential resolutions.
Facilitated Dialogue III

Kermit asked if anyone had any reflections over the last few days that they would like to share.

Ernie said that he was at a party recently. He asked for a ride home from the party, and the people in the car asked who he was for Halloween. He didn’t answer but was told to get out of the car. Ernie said that the driver hit him in the face, and the passengers, all members of the Bi-College community, joined in. He said that he did not fight back\(^4\). Ernie said he was shocked by the experience. He said breaking the Code is one thing but breaking the law was another. Ernie expressed concerns that he had been misrepresented in the bi-college publication and in the Bryn Mawr president’s letter. He stated that he now felt somewhat unsafe initiating dialogues with minorities as he had proposed in the last meeting. He asked what he should do about incidents like this.

Grover said it was up to Ernie to decide since it happened to him.

Kermit asked if this changed how Ernie felt about moving forward.

Ernie said that it did not change how he felt. He said that he had been branded and needs to figure out what to do about that, but he said that he believes he brought this on himself.

Grover referred to Ernie’s previous suggestion to break his own confidentiality and asked what Ernie thought would be an appropriate resolution.

Ernie suggested attending forums with minorities. However, Grover said that if Ernie felt insecure about being around minorities now, that this might not be the best idea. Additionally, Grover reiterated that it is not the minority’s job to teach the majority.

Bert suggested that the confronting and confronted parties all write a statement together. However, Elmo said that she was not putting her name on that. She said that Bert and Ernie were playing the victim and not actually trying to listen. Bert expressed frustration because he said that it seemed that Elmo wasn’t listening. Bert suggested that they could learn from each other. Elmo asked what she could learn from Bert and Ernie. Bert told her she could learn his perspective. Elmo responded by saying she didn’t care. She said that she didn’t care about what recently happened to Ernie. She said that all she cared about was Bert and Ernie’s taking responsibility. Elmo also said that she didn’t think the President of Bryn Mawr misrepresented Bert and Ernie, but that she had stated the facts. Elmo said that this is racism. She said that Bert and Ernie’s subconscious racism was apparent in their decisions.

[The panel called a five minute break to caucus and determine how to move forward in a more positive direction.]

\(^4\) The validity of Ernie’s statement has not been confirmed. However, at the time, the panel had no reason to call it into question.
Fozzie, another panel member, started out by saying that what he got out of Ernie’s story was that there is anger on campus that needs to be dealt with in a positive way. Yet productive dialogue on how to deal with this anger seemed to be failing. Kermit reminded the parties that if they didn’t come to resolutions, the panel would do it for them. Finally, Rowlf gave a quick recap of the previous meetings and themes that kept coming up. Rowlf then asked if there were any specific resolutions the parties could think of to address these themes.

Elmo said that while she agreed that the community did need education, she didn’t want any resolutions that would exacerbate the tension already felt. She reiterated that she wanted Bert and Ernie to take responsibility. Elmo said the resolution should be public and that she was thinking of a bi-college publication. Elmo said that since Bert and Ernie violated the trust of the community and since graduation is the most communal event on campus, she, Grover, and Zoe thought that Bert and Ernie should not be allowed to walk at graduation. She justified this resolution by saying it would set a tone that this type of action won’t be tolerated. She said that they wanted women and Black students on this campus to feel secure.

Fozzie reminded the parties the three things that resolutions are meant to address: education, repairing the breach of trust, and accountability. He also asked the parties to consider how they could address accountability without being punitive.

Elmo said that education should focus on the community, and Zoe said that the proposed solution would address all three goals.

Bert said that he was upset and disgusted at the confronting parties’ apathy to what happened to Ernie. Additionally, he said that he didn’t believe the dialogue was productive anymore. Ernie also expressed frustration at the current situation and repeated his original concern that the confronting parties had purely punitive aims.

Fozzie reiterated that the Honor Code demands that resolutions not be punitive. Therefore, the panel would never move forward with a resolution that seemed purely punitive. Fozzie also reminded the parties that there were a lot of really good suggestions in the last meeting. Fozzie asked if anyone had thought more about those ideas.

All of the parties consensed that they would like to end the mediated dialogue because it no longer seemed productive. Kermit clarified that the panel would then come to resolutions for the parties and discuss the statement of violation. He asked if there were any final suggestions and informed the parties that if they had any new thoughts they could email the panel members. The confronting parties asked if they could meet with the panel for a moment alone. The panel agreed to meet alone with both the confronting and confronted parties.
The panel meets alone with Grover, Elmo, and Zoe:

Elmo told the panel that the confronting parties wanted them to be aware that they did want this dialogue and appreciated the panel’s time. Furthermore, Elmo urged the panel members to keep their integrity. She also asked that each of the panel members put him/herself in the shoes of the confronting parties. Imagine what it’s like to feel that your sense of acceptance at Haverford has been threatened.

The panel meets alone with Ernie and Bert:

Ernie asked for and received clarification on the panel’s jurisdiction and power. Ernie also stated that he believed the confronting parties’ goals were punitive. The consequences of breaking confidentiality were also discussed. Bert and Ernie wanted to avoid being labeled. They feared that a racist label would follow them out of Haverford and affect their career choices. Kermit asked if Bert and Ernie were still interested in a formal campus-wide dialogue. Ernie said he didn’t want it to be a hate rally. Bert said it would depend on the size and composition of the forum. Fozzie told Bert and Ernie that although it might seem that the confronting parties had stopped listening, the panel members had heard them. Bert and Ernie also thanked the panel for their time.

Panel Deliberations I

The Panel then met separately to discuss how the parties’ concerns might best be addressed despite the apparent impossibility of further constructive dialogue. The panel began by outlining the options. At this point the panel was unclear of the extent to which Bert and Ernie wanted to break their confidentiality. The panel members found themselves in a particularly difficult position because they could not consider many of the resolutions that were suggested. They could not yet consider Ernie’s suggestion of setting up forums because Bert and Ernie were no longer sure that they wanted to break their confidentiality. Furthermore, the panel thought that they did not have the power to enforce the graduation resolution. It is only the faculty that can decide who does/does not walk at graduation. Additionally, this resolution, by its public nature, would break Bert and Ernie’s confidentiality. Furthermore, the panel spent time discussing the difference between accountability and punishment. The panel members than agreed to put brainstorming new resolutions off the table until Bert and Ernie informed them whether or not they were willing to break their confidentiality.

Having recognized the current limitations, the panel members then discussed their options:

1. The panel could adjourn the SFP and send the case to a joint panel.
2. The panel could go on to discuss as statement of violation and tentative resolutions.

The panel first discussed the pros and cons of sending this case to a joint panel. Some panel members believed that a joint panel would lend potential resolutions more authority.
and include more members of the community in the decision-making process. Yet other members of the panel believed that it would rehash the strong emotions tied to the process, especially for Elmo and Zoe. Therefore, many panel members believed that adjourning and calling a joint panel was not appropriate and would be hurtful to all parties involved. Other members believed that a joint panel would not be appropriate because it would not allow for enough dialogue. The panel members agreed that in the dialogue they had seen emotions that a joint panel probably wouldn’t see because so much had changed since the first meeting. The panel members believed this gave them a unique perspective.

The panel discussed Ernie’s fight but agreed to leave it out of the proceedings for the moment. The panel recognized that the beating and recounting of it significantly changed the attitudes of the parties involved toward each other and toward potential resolutions. Unfortunately, before the most recent incident, in the second meeting, the parties had really impressed the panel with their ability to move forward and find common ground. The panel realized that the most recent event and meeting had changed things in such a way that the parties may never be where they were in the second meeting again. The panel also recognized that the SFP dialogue had exhausted the confronted and confronting parties. Therefore, the panel agreed that it was too late in the process to send them through another trial. However the panel did agree that it might be helpful to find out what, if anything, the administration had done in response to Bert and Ernie’s actions.

**Panel Deliberations II**

Kermit, the chair of the panel, reported that Bert and Ernie had decided that they no longer wanted to break their confidentiality. Additionally, Kermit had been in contact with the Honor Council advisor and obtained a copy of the president of the college’s race relations report. The panel looked at the president’s report/initiative on campus race relations, which was written by a committee of concerned students. It contained current students’ input, a review of the incident involving Bert and Ernie, implications, and suggested measures, among other things. The panel suspected that the report was written without contacting Bert and Ernie.

The panel then began to discuss the parties’ specific concerns and how best to address them. It seemed that the confronting parties, especially Elmo, were seeking more than a sincere apology. The panel wondered how much of their anger was directed at Bert and Ernie and how much was directed at the Haverford community. The panel recognized that the confronting parties may want an apology on the part of the school for overlooking institutional problems.

Some members of the panel believed that the panel had two specific roles. First, they believed the panel had to help Ernie and Bert satisfy Grover, Zoe, and Elmo, and next they believed the panel needed to help improve community race relations. The panel agreed that in the hopes of communicating what they learned to the community they could write a letter to be published with the abstract.
The panel continued to struggle with the recent incident involving Ernie. They discussed whether it was a separate issue and whether they should try not to think about it in the proceedings. The panel agreed that while that incident brought to light specific issues that the panel should be aware of, such as intense community anger, the panel could not specifically address that incident.

The panel recognized that it had two tasks. First, the panel members had to determine whether or not they should discuss a violation of the Code. Second, the panel needed to come up with resolutions that addressed the parties’ concerns.

The panel agreed that, according to the Constitution, because the confronting parties strongly believed there was a violation of the social Honor Code, the panel had to discuss this potential violation. Some panel members thought an official statement of violation might bring closure and a sense of justice for the hurt parties. Because the hurt caused was unintentional, the panel recognized that a statement of violation might hurt Bert and Ernie. The panel recognized that due to the variety of opinions it would be hard to come to consensus on a statement of violation. However, the panel felt that they had a duty to determine whether or not there was a violation of the Code. The panel members agreed to reflect further on their individual views regarding a violation and to continue discussion on that in their next meeting.

The panel then agreed to discuss some ideas for resolutions. One panelist suggested that Bert and Ernie give a talk during Customs Week similar to the rape talk, but delivered by a proxy. In addition to the talk, this panel member suggested a potential Customs project to educate the freshman class. Another panelist suggested that they be required to make an effort to educate themselves about Black history with a small research paper. Another member suggested that a paper topic could be the examination of limits on Halloween. A third panel member suggested that it might be helpful for Bert and Ernie to respond in writing to Elmo’s question regarding the role of the White male in America. Another panelist said that Bert and Ernie could do a community project in Philadelphia among the Black population, which would force them to leave their comfort zone. This suggestion met with strong opposition from another panel member, who felt that it was a completely inappropriate suggestion. The panel agreed that they wanted to include a gender-based resolution.

After each panelist had given a suggestion or two, the potential resolutions were discussed. The panel spoke further regarding the proposed community service in Philadelphia. The panel member who initially spoke against this resolution restated her views. Another panel member suggested that Bert and Ernie could instead link up with a community service group and go to schools. There may be a project which could give them a new perspective without putting them in contact with each other.

At this point, the panel had reached the three hour time limit set at the beginning of this discussion. Although the panel was not optimistic about coming to a swift resolution, they agreed that they did not want to force the issue. The panel agreed that before the
next meeting each member would reread the social Honor Code and reflect further on a possible statement of violation.

**Panel Deliberations III**

The panel returned to the discussion of whether or not the Code was violated.

Several members of the panel originally believed that Bert and Ernie did not violate the Code. They originally believed they did something stupid and unintentionally hurt people. However, upon further reflection, the panel agreed that a lack of intent did not excuse a violation of the social Honor Code.

Some panel members suspected that the proceedings in the post-Bi-college Halloween party confrontations may also have violated the Code. They asked if this was a separate issue. Panel members asked if they could only declare a violation regarding the actions at the party, or if the confrontations (or lack thereof) on both sides afterwards was also a part of the trial. Bert and Ernie did not bring an explicit suspicion of violation regarding the manner in which the confronting parties confronted them. Some panel members believed that the newspaper article and the sort-of invitation to the meeting are not necessarily valid confrontations. However, upon referring to the Constitution, the panel discussed that an SFP was to be used when confrontation did not or could no twork. Since in this case two of the confronting parties said they did not feel safe confronting Bert and Ernie in person, the panel felt that their email confrontation was valid.

Since Grover actually suggested that Bert and Ernie had violated the Code, the panel felt compelled to address the issue.

Scooter expressed his reasoning for thinking that Bert and Ernie did not violate the social Honor Code. He believed that the dialogue component is really crucial in the social Honor Code, especially because of the many small violations that occur every day. If honest exploration and growth happens on the part of the confronted, does the incident still constitute a violation? He took a more holistic approach and said no.

The panel also expressed concerns about the implications of their decision on future social trials. Will there be a statement of violation for every social case that gets brought to Council? Another panel member said that this question may be why the SFP guidelines give the option, but not the requirement, of making a statement of violation. Panel members expressed frustration because the guidelines avoided the greater issue of what exactly constitutes a violation of the social Honor Code.

The panel then began a discussion on what part of the social Honor Code Bert and Ernie might have violated. A discussion of community standards ensued. Were “community standards” present on Halloween? The outrage at the incident suggests that they were. However, a substantial portion of the student body seems to be outraged about the “attack
on freedom of speech.” The panel wondered if the social Honor Code was meant to embody community standards and felt that it was.

The panel noted the possibility of 1/6 of its members standing outside consensus. The panel also agreed to adjourn for the night and to reflect further on whether there should be a statement of violation. Although there was only one person who believed he would stand outside consensus, the panel hoped that with further reflection and discussion they would be able to unanimously consent on a statement of violation.

Panel Deliberations IV and V

The panel began with each individual restating his/her views on whether or not a violation of the Code had occurred. Community standards may or may not have been violated in the incident on Halloween, but several members hesitated to refer to the Community Standards section of the social Honor Code since it seems the community failed to define what its standards were on Halloween. At the same time, Bert and Ernie definitely failed to think of the impact of their actions on the community. Fozzie referred to the section of the social Honor Code that says we must consider how our words and actions “affect the sense of acceptance essential to an individual’s [and] group’s participation in the community.” Fozzie felt that since Bert and Ernie failed to consider this, they had violated the Honor Code. Many members of the panel agreed with Fozzie.

Scooter still felt that growth and learning are an integral part of the process outlined in the Code. He thinks that if the Code is broken every day, then something is wrong with either the Code or our interpretation of it and that “honest exploration and growth” can not affect a declaration of violation.

While Fozzie and the rest of the panel agreed that they really respected Bert and Ernie’s efforts for honest growth and exploration, they maintained that they wanted to at least acknowledge the initial violation of the Code.

There were two very different readings of the Code going on here. Scooter was not sure that the initial action broke the Code, because violation occurs by not addressing the problem. Scooter and Fozzie made a flow chart to diagram their belief on where specifically a violation of the Code occurs. The panel agreed that Bert and Ernie went from A to D to E. The panel was reminded of when Ernie admitted that their costumes were “pushing the boundaries.” This led the panel to believe that although their intent was not malicious, they knew that what they were doing was not right. The panel believed that this is why Bert and Ernie said in the second fact finding that if they could go back they wouldn’t do it again. It seemed that they just expected their actions to be tolerated. Even though they did not have malicious intent, they consciously failed to thoroughly consider how their actions would affect other members of the community. Therefore the panel felt that there was a violation. While Scooter agreed with this, he felt that the fact that Bert and Ernie attempted honest growth and exploration cancelled out the violation.
INITIAL ACTION

A) action intended
B) no intention of performing action
to be performed as was
e.g. making statement that is unknowingly
a nasty sexual innuendo

C) malicious intent
D) expected action to be accepted/tolerated

E) worked to repair breach
F) didn’t work to repair breach

The panel expressed frustration with this particular case because, in a sense, Bert and Ernie were being held accountable for American history. Their costumes are offensive because of the social history behind them. However, the social and historical context of White males dressing up as Black females is a hurtful one, and their costumes were hurtful. Most members of the panel felt that this hurt was justified by the confronting parties and foreseeable by the confronted parties.

The panel wondered whether Zoe’s statement “I feel like I’m being slaughtered every day” is due to historical context or to everyday incidents of discrimination. The panel hoped that the resolutions would educate the community about race relations.

The panel members all agreed that the issue of a violation of a Code had been discussed at length and that it was time to write it. Scooter stated that he would stand outside on the statement of violation, but looked forward to participating more when the panel discussed resolutions further.

In writing the statement of violation, the panel specifically chose not to reference Community Standards. The panel felt that as a community we had failed to define what our standards were on Halloween. Instead, the panel chose to cite Social Concerns (B) under Jurisdiction (III).

After further discussion, the panel reached consensus that Bert and Ernie violated the Honor Code. Scooter stood outside of consensus. Rowlf said that he was uncomfortable that Scooter was standing outside, but the entire panel agreed that both perspectives had been thoroughly explained, heard, and understood. Scooter restated that he just has a different way of reading the Code, and that he did not think further dialogue would be productive.

The panel formally consented to the following statement of violation with Scooter standing outside.
Statement of Violation:

The two parties violated the Honor Code when they failed to consider how their words and actions “affect[ed] the sense of acceptance essential to an individual’s [and] group’s participation in the community.”

The panel then returned to the debate resolutions. One proposed resolution was a letter of apology and/or a letter to the community. The panel hoped that this would educate the community.

The confronting parties seemed to see accountability as punitive. The panel expressed concern that the confronting parties hadn’t been able to really see the difference between accountability and punishment. The panel agreed that the very fact that Bert and Ernie participated in the dialogue of the SFP showed that they had taken some responsibility for their actions. Additionally, several members of the panel felt that the repeated confrontations by community member which Bert and Ernie described also held them accountable. The panel expressed frustration because it seemed to some members as though there was nothing left that they could do in a resolution to address accountability. In academic cases, a reduced grade in a class or separation addresses accountability. However, separation seemed inappropriate in this case. The panel agreed that they would try to focus more on education and repairing the breach of trust.

The panel then began going through the ideas brainstormed in previous meetings.
- The panel agreed that an examination of boundaries on Halloween might degenerate into another self-justification process.
- Self-education about blackface and gender also seemed inappropriate, because an examination of what it means to be White males implicitly leads to examination of the “other.” Therefore this seemed to be a repetitive resolution.
- Upon more reflection the person who had originally suggested the community service project agreed that it was a flawed idea.
- The panel was also hesitant to bring this topic up during Customs Week when Customs groups don’t yet have the tools or trust to deal with it.
- While the panel wanted to give Bert and Ernie a chance to say what they needed to say, the panel agreed that it might be best to direct their response. The panel agreed that it might be a good idea to ask them what they learned in the panel. This response would serve as a letter to the community to be released with the abstract.
- The panel agreed that it would be a good idea for Bert and Ernie to address Elmo’s unanswered question about what it means to be a White male in America. The panel thought this would be most productive in the form of a research paper rather than an exercise in thought. The panel wanted to limit the research paper to 7 pages.
- The panel also thought it might be good for Bert and Ernie to organize a panel on race and/or gender. They would not be on the panel, but would be involved in getting speakers and publicizing the panel. The panel knew of an
administrator who had mentioned that she knew of people who were very well versed on the matters of race and gender. The panel planned to put Bert and Ernie in touch with her so that they would better be able to find speakers. The panel also wanted to give Elmo, Zoe, and Grover the opportunity to help organize this panel that would hopefully serve to better educate the community on issues of race and gender.

The panel came to consensus on the following tentative resolutions.

1. Both parties must organize a panel discussion on race and/or gender. The confronting parties are invited to help organize the panel.

2. Each party must write a research paper concerning the White male in America.

3. Each party must write a letter to the community reflecting on how he and others were affected and how he has changed.

Having come to tentative resolutions, the panel agreed to adjourn for the night.

Presentation of Resolutions I

The Panel convened with the confronting and confronted parties to present the statement of violation and resolutions. However, there had been a problem with email, and Grover was not present at this meeting. The panel decided to proceed without him.

The panel read the statement and presented the resolutions. There were no comments from Bert and Ernie. They were silent. Elmo and Zoe did not receive the copy of the resolutions that was emailed to them. They asked for more time to think and discuss the resolutions. The panel agreed to meet with them the next day. The panel noted that Elmo, Zoe, and Grover cannot appeal this case, as only the confronted parties have that power, but that they are free to talk to the administration.

The panel also invited Bert and Ernie to come to the meeting the following day. Bert and Ernie declined. The panel asked Bert and Ernie if they had any comments, questions, or suggestions. Bert and Ernie said they did not. Kermit, the chair, then informed Bert and Ernie that if they thought of anything else they could contact him later.

Presentation of Resolutions II

The panel convened again to discuss the tentative resolutions with the Elmo, Zoe, and Grover since Grover had not been at the previous presentation. They raised concerns over the research paper. They asked if the panel had thought of professors to advise them in writing this paper. The panel members said that they didn’t have anybody in mind, and said that they would consider suggestions. Zoe and Elmo made a few suggestions. Zoe also asked if the subject of the paper could be changed from “the role of the White
male…” to “White male privilege.” The confronting parties also asked exactly how long the paper would be. The panel said probably around 7 pages. The confronting parties asked if that could be amended to 7-10 pages. The panel agreed to consider revising the details of that resolution. The confronting parties also asked what would happen to the paper after it was written. The panel explained that they intended to release the paper with the abstract.

Zoe also suggested that the panel be on both race and gender, as opposed to race and/or gender. Zoe said that she thought there were many people who she knew of who could speak on race and gender. She also felt that it would be good to focus the talk on race and gender rather than the broader issues of race or gender. This made sense to the panel and they agreed to consider revising that resolution.

The confronting parties asked about the bounds of confidentiality. They asked if they could have a dialogue with the president and/or the dean of the college about the panel. The panel members assured them that discussing the panel with the president and the dean of the college was not considered breaking confidentiality.

The confronting parties thanked the panel for their time and left.

Kermit then explained to the rest of the panel that Ernie had called him, saying that he was uncomfortable discussing the resolutions in front of the confronting parties. Ernie was upset about the lack of initial confrontation. He thought that the proceedings were compromised by issues (he specified race and gender issues), and that the panel had taken on a punitive role. He claimed that the majority of the campus sided with him. He felt that the confronting parties wanted him humiliated.

The panel thought it was unfortunate that Ernie did not choose to attend the meeting and further discuss his concerns while the resolutions were still tentative.

The panel then discussed the confronting parties’ proposed alterations to the resolutions. The panel did not feel comfortable using the phrase “White male privilege” as the topic for the paper. The panel felt that “privilege” further limited what Bert and Ernie could write about. Additionally, “privilege” is often thought of with money, and the panel did not want to bring the issue of class in with the issues of race and gender. The panel decided to leave the original resolution as it was.

The panel then discussed whether the panel Bert and Ernie organized should address race and gender. The panel agreed that there are plenty of speakers who could address both. Additionally, the confronting parties will be invited to help set up the panel.

The panel then formally consented to the following final resolutions:

1. Both parties must organize a panel discussion on race and gender. The confronting parties are invited to help organize the panel.
2. Each party must write a research paper concerning the White male in America.

3. Each party must write a letter to the community reflecting on how he and others were affected and how he has changed.

Questions

1. Is this something Honor Council should have dealt with?
2. Should the Honor Code better protect freedom of speech?
3. Is an SFP a worthwhile process? Should it be structured differently or struck from the constitution?
4. Is email confrontation valid when the confronting parties feel uncomfortable?
5. Can people who didn’t see an event confront somebody over the event?
6. Does benign intent excuse a violation?
7. Is there a social Code violation every time somebody is hurt?
8. How do “honest exploration and growth” fit in?
Letter From the President of the College Rejecting Bert and Ernie’s Appeal

Dear Bert and Ernie:

Thank you for providing a written summary of your appeal of the recent Honor Council decision and for meeting with me in person. I have read the jury’s conclusions, studied your written appeal, talked with the Honor Council liaisons about the nature of the evidence, and thought carefully about the arguments you presented when we met. I also have received and considered letters from both of your parents and a communiqué from an attorney representing Ernie.

With the hope that further good faith discussion might reveal additional information and allow an agreeable conclusion among the parties, I asked all to gather one more time for facilitated dialogue, led by two administrators trained in mediation. As you will see from my comments below, I was not motivated by a concern that prior proceedings had been unfair. Rather, as I said in my email message, I had hoped that the passage of time would lead all involved to be more willing to discuss a workable compromise. I was disappointed that this session was not successful.

After considerable reflection on the best course to take, I am persuaded that the decision of the Student Facilitation Panel was correct and fair and therefore have denied your appeal.

Here is a summary of my conclusions on the main issues you raised in your appeal:

- You have argued that you were confused by the procedures the Honor Council followed in your case. I have checked with the members of the Panel, and am convinced that they informed you about all relevant procedural details. In addition, you could have reviewed the mechanisms of the Student Facilitation Panel and subsequent process, which are fully described in the Honor Code. As you know, the Code and trial procedures appear in several College publications and are posted on the College’s webpage. These procedures clearly state that if a resolution cannot be reached, a Student Facilitation Panel may choose to consider whether a violation of the Honor Code has occurred. Even if you felt that you did not fully understand the procedure being followed, I am convinced that you had ample opportunity over the three days you were in hearings to ask questions and have any of your concerns addressed.

- I conclude that two procedural mistakes occurred, but that neither had a bearing on the fairness of the outcome. First, the Student Facilitation Panel is not technically a jury, so the reference that “the jury consented” to the violation of the Honor Code and the presentation of
resolutions should have been worded differently. However, this inaccurate syntax does not alter the material facts of the case. Second, you are correct in asserting that you were not provided with the confronting party’s written statement. However, my understanding is that you were provided the opportunity to do so by the Honor Council contact person, but for your own reasons you declined this opportunity. Because of this, the contact person also did not provide a written statement to the confronting parties. Thus, it appears to me that both parties entered the process on equal terms at the first meeting of the Student Facilitation Panel.

Perhaps most importantly, the basic facts of what occurred at the Bi-College Halloween Party are not seriously in dispute, and my understanding is that all the charges and rebuttals were thoroughly and completely discussed during a three-day trial. Given the circumstances, it is hard for me to understand how the Panel could have missed any important facts as a result of these procedural errors. Indeed, none of the materials submitted in support of your appeal identify new facts that were not known by the Panel.

- There was no reason to involve the College’s EEOC officer. The College’s EEOC racial harassment process is invoked when an incident occurs involving both students and employees. In cases involving only students, the Honor Council has jurisdiction.

- You argue that, “the intent to hurt/offend is far different from unintentionally hurting/offending.” This is a personal judgment and—regardless of your objective—I think you know that many people were hurt and affronted in this case. In fact, our society would be chaotic if people were not responsible for the repercussions of their actions, even if they meant no harm. I am also aware that prior to the party, you sought advice from friends about the advisability of wearing your costumes. Clearly, you were worried about offending others, but not concerned enough to prevent you from going through with your plans.

- As for your free expression arguments, I believe as you do, that colleges should be places where ideas can be freely expressed, where assumptions should be challenged, and where maintaining a diversity of viewpoints is a fundamental goal. I also believe, however, that when you signed the Honor Code Pledge as part of your admission to the College, you accepted responsibility for maintaining an atmosphere of mutual trust and respect. The question before Honor Council was whether you met your obligations to the community in this instance.

After a full discussion of the facts and issues, your peers decided that the lack of respect you demonstrated towards students of color on this campus violated the Honor Code. There was enough evidence to
support their decision. You intentionally selected and wore costumes that were offensive to African-American students in general, and to African-American women in particular. Because I have talked with you and know you are intelligent adults, I am convinced that you had to have known that choosing to attend the party dressed as you were—employing a crude attempt to darken the color of your skin and costumed in a manner that invoked negative and stereotypical images of African-American women—could have caused discomfort to any African-American student who came in contact with you.

Other than what appears to be after-the-fact rationalizations, I have found nothing in either your written submissions, or the conversations I’ve had with you and others, to suggest that you wore the costumes and makeup to provoke discussion of any political or cultural issue. Rather, the facts suggest that at the time you made these decisions, you sought to amuse yourselves without what I consider the appropriate level of regard for the potentially hurtful nature of your actions.

You argue that “violating community standards and violating the Honor Code are two different things.” I cannot agree. In fact, the whole purpose of the social Honor Code is to allow students to decide each case on its merits and to try to interpret what we mean when we talk about our shared values. You will note that the Student Facilitation Panel’s findings do not include the term “community standards” but instead refer to this specific sentence from the Honor Code: “We must consider how our words and actions may affect the sense of acceptance essential to an individual’s or group’s participation in the community.” Meeting this obligation requires more than casual adherence to some minimal standard of civility. The Code is not just a list of rules, but is intended to embody “a philosophy of conduct” that “through honesty, integrity and understanding” encourages the members of a diverse community to live together as one. This requires work, sensitivity, and an individual commitment to a higher standard of behavior from all of us.

I appreciate your effort to make amends to the community by posting a public apology for your actions. I do not agree, however, that the Code’s standards can be satisfied in this case by apologizing after the fact. If the Social Code is to have any impact on life at Haverford, each member of the College community must live up to their promise to consider—before they act—whether their actions may have an adverse effect on others. By failing to adequately consider how your behavior might have hurt others, you ignored the Social Code’s most basic principle.

By agreeing to live under the Code, you made a conscious choice to be protective of the feelings of other community members. Once you decided to offend community members
who are already isolated on campus by race and by their small numbers relative to those of other groups, you violated this understanding. Through the Honor Council, your peers have expressed their disapproval of such behavior. None of the reasons with which I have been presented cause me to question their decision.

The three resolutions put forth by Honor Council were the result of considerable good faith effort by the students involved. However, given that the time remaining in this semester will not permit a thorough and careful job, I will not require you to fulfill the resolutions as stated. Instead, if the students already at work on a diversity awareness event request your assistance, you will do so. The other two resolutions will be combined into a single statement to the community reflecting what you have learned, how others were affected, and how you have changed as a result of this incident. This essay should be thoughtful and well considered, as it will be part of the Honor Council abstract that will be read by the entire campus community.

Finally, you asked about the College’s policy on releasing the results of Honor Council cases. The record of this case will be in your file in the Dean’s Office. Since you are not being separated from the College, the procedure and its outcome will remain internal College business. Nothing will appear on your transcripts. These records are not released to external parties and are destroyed five years after your graduation. Of course, you are ethically obliged to tell the truth to anyone who asks about events that may have occurred in College, but Haverford does not release internal documents unless legally required to do so.

I know that this is not the conclusion you were hoping for on the outcome of the Honor Council case. However, your Deans stand ready to offer advice on constructive ways you might move beyond these events. I encourage you to call them.

Sincerely,

President of Haverford College
Bert’s Statement

Background:

I have been asked to write a thoughtful statement to the community reflecting on what I have learned, how others were affected, and how I have changed. I have been told that this statement will be part of the Honor Council abstract that will be read by the entire campus community. After careful consideration and reflection, this is what I would like to say to the campus community. Most importantly, I want to say that I am truly sorry that some people felt offended by my Halloween costume. I did not intend to offend or hurt anyone.

What I learned:

1. The importance of protecting free speech and free expression at Haverford.

   In my case, the Social Honor Code has been used in a way that limits and regulates the free speech and free expression of Haverford students. Haverford should be a place where there is a free and open exchange of ideas on campus. The Honor Council’s and the Administration’s decision has the potential of narrowing what can and cannot be said on and (in my case) off this campus. Students at Haverford represent a broad range of opinions and perspectives. The entire campus missed an important opportunity to use my costume and the reaction to it as a learning experience. We could have benefited from an open discussion of questions central to our relationships and community life. Unfortunately, this opportunity was lost. It was easier to adopt a single point of view. I believe that the relationship of the Social Honor Code to free speech and expression is worth examining. I am glad that some students have attempted to address this issue, and I hope that this discussion will continue in the future.

2. That a preconceived interpretation can take precedence over verifying facts and weighing different perspectives as part of the process of seeking truth.

   Following the Halloween party, the facts consistently were misstated and my motives were misrepresented. These are the facts: I went to a costume store with a group of friends, including African-American friends, where we all selected costumes to wear to the bi-college costume party the next night. In spite of what has been imputed to me, I did not ask anyone if my costume might be offensive. I did not intend to wear a costume that would offend.

   In the following weeks, however, various students and an administrator stated in emails and in a Bi-College Publication that I had referred to my costume as that of a “bush woman” and that I had dressed in the tradition of minstrel shows. For three weeks, I was tried by public opinion and found guilty of attitudes that I did not embody and
statements that I never made. In fact, even the specific details of my costume were misrepresented. Despite my attempts—most importantly, through a signed public apology posted—to assert a true account of the incident and to sincerely apologize to anyone I had unintentionally offended, the early mischaracterizations continued to be taken as truth throughout the Honor Council adjudication process. My apology was discounted as insignificant and insincere. The public pre-judgments created a vocabulary that was used when speaking of me, my costume, my intent, and my values. Ultimately, these pre-judgments became an interpretive lens through which those who made decisions about me viewed whatever I said.

3. The importance of providing students with a clear process and protecting their rights as outlined in the Students’ Constitution.

I have learned the importance of providing students at Haverford with a clear process that follows procedures outlined by the Honor Code and the Students’ Constitution. First, the Honor Code discusses the concept of confrontation as constructive dialogue to reach a “common understanding by means of respectful communication.” Instead, I was “confronted” in a five-line email signed by three people, two of whom did not attend the Halloween party. In this same email, I also was informed that I was being taken to Honor Council.

Second, the proceedings before the Honor Council involved miscommunications and procedures that deviated from the Students’ Constitution and from what representatives on the Honor Council told me. Consider this hypothetical case:

Imagine for a moment a situation in which a professor tells his students at the beginning of the semester that homework is not factored into the final course grade. The grading system on the course syllabus corroborates what the professor has said. Students understand that the final grade is based only on a midterm and a final. A student enrolls in the course, attends class regularly, and takes the midterm and the final and does very well. He does none of the homework, based on what the professor has said and what is written in the syllabus. At the end of the semester, the student does not pass the course. When he approaches the professor about his grade, the student is told that homework counted for fifty percent of the final grade and, because he did not complete any of the homework, he did not pass the course. The student protests to the professor that these were not the “rules” that the professor laid out, when the student began the course. In spite of the shift in rules, the student is told that the grade will not be changed.

In effect, this is what happened to me during the Student Facilitation Panel. Not only was I told at the beginning of the process that no determination of violation of the Honor Code would be made, I was given a written set of mediation guidelines that made it explicit that no determination of violation would occur.

Third, during the third mediation meeting, one person walked out, and the Honor Council asked me to agree that further dialogue was not possible. I would have preferred
to settle the issue by engaging in dialogue. However, because I previously had been informed in writing by the Honor Council that the purpose of the panel was not to find a violation, and because members of the Honor Council and the confronters did not want to continue mediation and dialogue, I agreed. I did not know that with my agreement, the members of the mediation panel would become a “jury” and determine that I had violated the Social Honor Code. I appealed the decision as provided by the Students’ Constitution and, in spite of these and other flaws in the process, my appeal was denied. In the end, I was told that I was found in violation of the Social Honor Code because of the “history of minstrel shows.”

How others were affected:

I believe that some people who saw my costume or heard stories about it felt offended. Even though I did not intend negative effects, I understand that my attempt at trying to be costumed as the pop singer Macy Gray could have been interpreted as having some type of relationship to minstrel shows and, therefore, could have caused feelings that I had not anticipated. I am most saddened that any of my classmates felt hurt in any way by my costume, and I know that I will be more cautious and thoughtful in the future. I also realize that, because of varying perspectives, costumes may be interpreted in many different ways. When something like this happens, and there is a conflict of opinion or hurt feelings, our common bonds and values should be emphasized, in order to resolve misunderstandings and mend relationships, especially when there is no intent to hurt or harm. This is why I believe that it is very important for Haverford to educate for what we share and have in common, not only for how we are different.

This entire process has not helped to mend any possible broken bonds within the community. Rather, it has created greater divisions throughout the community, because many individuals have raised questions and expressed points of view, but have not been provided with a forum to discuss these issues. A fundamental question for many is whether or not Honor Council should have made this issue into an Honor Council case. If someone feels offended, or feels hurt, should this be a punishable offense? These seem like two different things that need very different attention. Many people at Haverford do not believe that my costume constituted an issue that Honor Council or their advisors should have chosen to adjudicate. Under such debatable beginnings, it is not surprising that the process raised more questions than it answered. In the end, however, I feel that the most important issue is the fact that any breach of trust that may have occurred in the community has been left untouched.

How I have changed:

I came to Haverford with a commitment to equality and unity. This does not mean that I do not know about differences and oppressive histories. This does not mean that I do not value diversity. I support diversity and seek out and treasure many friendships with women and men of different cultures, races, religions, ages, sexual
orientations, and socio-economic groups. Within this concept of equality and unity, I believe that diversity must be based on our human values, on what we have in common and on what we share. In the future, I want to find ways to encourage a focus on what we have in common. I have realized through this process that when the Haverford Honor Code is used to highlight differences, create divisions, and limit social interaction, it loses its traditional meaning and its strength as a force that unites us and helps us to build shared perspectives within a diverse community.
Ernie’s Statement

As directed by the President of the college, the statement below is to address the following three questions: What have you learned; How has this situation affected others; How you have changed as a result of this incident. I have given these questions my most sincere effort and regret this incident.

History:

I attended the Bi-College Halloween party at dressed as a specific African American rock star. She is known as a sometimes blonde haired African American performer who often appears in provocative attire and is nude on her last album cover. My costume selection was intended to be a very specific impersonation of an individual entertainer and was, I thought, appropriate within the context of this party. The costume choice was only made at the costume store, and not beforehand. Other costume choices that evening included among other things, Asian tourists, bare-breasted women, and Jesus Christ on the cross complete with bloody nails.

While no one personally confronted me with an objection to my costume choice that night, within days there were emails circulating on campus, an article in a Bi-College Publication, and public letters from college administration describing my costume choice in ways that had nothing to do with my actual intention. I wrote a letter of apology to the college community hoping to correct misunderstandings of my intentions and to convey my sincere regret for any offense my choice of costume had given.

What I have learned and how this situation has affected others:

What I have learned from this unfortunate experience is that an action taken with a very specific intention (i.e.: portraying an individual rock star at a costume party) can be interpreted to have a much different meaning than what was actually contemplated and can cause unintended harm. These different perceptions, once formed, are almost impossible to reverse.

I have also learned that a process needs to be closely followed in order to fulfill the purpose for which it was designed. I have learned that an emotionally charged situation can pervert a process that was created in spirit to support a conciliatory search for and understanding of truth and turn it into a quest for retribution. In the days after the party, campus discourse had labeled my rock star costume as that of an African Bush woman and in the genre of minstrel shows. Based on second and third hand information, these tremendous inaccuracies caused great harm to all involved.

I have learned that the Quaker hallmarks of tolerance and peaceful resolution of one’s differences need to be fully understood and embraced by the entire
community. I feel that it might be important to understand how the somewhat adversarial world “confrontation” may not be the right word to use in order to begin a process meant to bring mutual understanding. It is my belief that rather than directly seeking to cultivate differences and emphasizing the historical wrongs of the past, identifying common ground held by all people would build stronger communities which would have a productive place for everyone to contribute.

*How I have changed as a result of this incident:*

My entire education has been in Friends’ schools where I have always seen people as individuals first and foremost. I am changed because this experience, by the nature of the adjectives and descriptions attached to it, has misrepresented my values and portrayed me as someone incapable of maintaining and enjoying the many profound relationships I have with people from a wide range of backgrounds. I am changed because those who learn of this case will only hear my perspective after the persistent and inaccurate adjectives have already defined the case.

This will cause me in the future, to think carefully about the wide variety of ways in which my actions could be interpreted so that I do not inadvertently do things that might cause potential offense to others.
Statement from Scooter, a member of the Panel

When I first heard about the Halloween party, I thought that the blackface was regrettable, but not worth getting too upset about. After hearing the testimonies of those who were deeply affected, even scarred by the incident and what followed, I have changed my mind. People were really, really hurt. That’s not cool. I encourage everyone (myself included) to take this opportunity to examine how their actions are affecting the community, and to really think about the consequences of their actions before doing something that anyone will later regret.

The results of the trial satisfied no one: certainly not the confronted and confronting parties; apparently not the administration; and even we jury members were frustrated by our inability to really deal with this impossible situation. Indeed, when I look back on the process, two emotions stand out.

One is frustration. The pain that the confronted parties’ actions caused and the underlying racial tensions could not be laid to rest in a single trial. The limitations placed upon the jury meant that our decisions were, in fact, only recommendations. Any recommendation that we made had to abide by the rules of the system and the constraints of confidentiality. We uncovered all of the problems, yet could realize so few of the solutions. That’s a hell of a burden.

The other emotion that I remember, though, is pride. I saw the lengths to which Honor Council and community members were willing to go to uphold the Code and to deal with the effects of a violation in the most fair and responsible manner possible. I know that the jury’s decisions are far short of perfect solutions. Nevertheless, I will stand by the thought, the time, and the respect that went into the jury’s decisions, and I think that we made the right ones. I am proud of what we did.