SUMMARY

Professor Carr suspected Jay of lying about when he had completed a paper. Professor Carr then spoke to her department chair who decided that the matter needed to be presented to Honor Council. Since there was a suspicion of academic dishonesty, Honor Council concluded that a trial was necessary. After the fact finding portion, the jury was unable to reach consensus that a violation had occurred, and the trial ended.

FACT-FINDING

Professor Carr began with her account of what had happened. The paper had been due the last class before the mid-semester break. However, she told students that they could mail her their papers over break instead of handing them in that day. Jay copied down her address and assured Professor Carr that he would mail it to her. Professor Carr, however, did not receive Jay's paper in the mail. The first week after break, Jay was not in class. The following week, Professor Carr approached Jay before class and said that she had not received the paper. Jay told Professor Carr that he had mailed her the paper during break and wondered why she had not received it. Professor Carr then asked Jay to get her a copy of the paper right after class. Jay left, but returned without the paper, saying that he had been locked out of his room.

Since Professor Carr was rarely on campus, Jay then asked if he could instead Federal Express the paper to her that week and she said yes. By the end of the week, she still had not received the paper. Then, almost one month after it was originally due, Jay finally turned in the paper.

On that day, Professor Carr discussed the above events with the department chair, who decided that it was necessary to contact Honor Council. Professor Carr then confronted Jay and told him that he should inform Honor Council of the matter. At the next class, Jay assured Professor Carr that he had contacted Council and that she would be hearing from them. However, Professor Carr never heard from Council and, after further discussion with the department chair, she decided to contact the chairperson herself.

Jay then gave his account of what had happened. He started by telling the jury that he had never lied to Professor Carr. He said that he actually had completed the paper a day before it was due. However, he did not have the paper with him the class before break, and decided that he would mail the paper to Professor Carr. He said that he guessed he copied down the wrong address, thus explaining why Professor Carr never received the paper in the mail. Jay explained that, after returning from break, he had been sick and therefore could not attend class. Jay said that he was surprised when Professor Carr told him the following week that she had not received his paper. He was unable to get her another copy of it that day because he had lost the key to his room. A juror confirmed that Jay had been ill and had lost his key. Jay said that he had intended to Federal Express the paper but was prevented from doing so because of monetary problems. He brought the paper to the next class, as Professor Carr stated earlier. After the confrontation occurred, Jay spoke to a member of Honor Council. Jay, however, said that he had misunderstood the nature of the confrontation, believing Professor Carr only to be concerned with the problem of lateness. He had not been aware of her suspicions of dishonesty. He had spoken to the Council member without giving names or details. The Council member had said that if it were just a question of lateness, that the professor would grade the paper accordingly. Jay said
that he thought that Professor Carr had also contacted Honor Council and that he would be informed if the confrontation needed to be taken further.

JURY DELIBERATION

After answering a few clarifying questions, Professor Carr, Jay, and his support person left. Jurors were concerned about the way that the confrontation had been handled. Some jurors questioned whether Jay had violated the Code when he failed to speak to anyone on Council about the situation except in a very hypothetical and incomplete manner. Others, noting that this action might have happened because Jay did not understand the confrontation procedure, wondered if ignorance of the Code constituted a violation. Because this discussion hinged on whether or not Jay was telling the truth, the jury decided to focus on the many seemingly implausible parts of Jay's account.

Some jury members were very suspicious of Jay's account and wondered how they could determine whether or not Jay had lied Professor Carr. Because they were still doubtful, many jury members were unable to conclude that there was no violation. At the same time, there was no way to prove that Jay was lying. It seemed possible that he was telling the truth. The jury decided to call him back because a juror had formulated a question, which addressed all of the jurors concerns. After the whole jury discussed and edited its contents, a question was asked by the juror:

I have a lingering suspicion within me, which I want to put to rest. I have sketched out two possibilities that may have happened. From my view, these are two possibilities:
1) That matters happened as they were recounted, though with some confusion from muddled memories, and that the circumstances and confusion make the situation seem suspicious, but all was legit.
2) The paper was not finished on time, and so was not brought to class. So, with other students, you get the professor's address, creating an unofficial extension. You could write the paper late and send it off. But the paper wasn't done with all else to do. Nor was it done over break even. So, being sick on returning from break, you didn't go to class. You couldn't skip twice in a row, so you attended the next class. Not having your key, you used it as an excuse for not getting the "completed" paper. So a promise was made to Federal Express it, so it then sounded as though it had to be done. But the paper was not written until before the next week's class. Prof Carr was suspicious and spoke with the department head. She asked you to speak with a Council member. You spoke abstractly with one about the problem of lateness. From the account she heard, the Council member recognized no problem. Since the department head was expecting to hear from someone, the matter did not blow over, but even came to trial. It was necessary to maintain the stories already used. Since it hadn't been the truth, small inconsistencies came up. The inconsistencies were covered over with "I honestly don't remember"s. Since we go under a system of trust a plausible story could easily get past members of the jury.

Wanting to believe the first situation, but thinking that the second is just possibly closer to the truth, I ask for your honest answer. But before you answer I want you to take at least three minutes to think it all over. I won't accept an answer before that time is up. When did you finish the paper?

After hearing the question Jay cursed in anger and left the room with his support person. When he returned, Jay replied, "What I've said here tonight has been the truth."

While some jurors were reassured by his answer, others were still doubtful. Because the jury was so divided, it was clear that they could not reach consensus that a violation had occurred. Thus, the trial ended.
QUESTIONS:

1. Can a jury reach consensus that a violation has occurred without "hard evidence?"

2. What should a jury do if they feel that they are being lied to?

3. Must the jury have a confession?

4. Does ignorance of the Honor Code constitute a violation?
Responses to the Jay abstract

Nineteen responses were sent back to Honor Council

1. Can the jury reach consensus that a violation has occurred without hard evidence?

Yes: 6.
No: 9. Reminder: these categories are extremely arbitrary. Only two or three responded in one word, most of them qualified their responses.

Other: 4

Let me quote in full the last category:

"This decision should not be yes or no - enough circumstantial evidence could conceivably be enough to determine a violation."

"I don't see how they could have in a case like this. How could they have gone ahead and come up with resolutions when there was a chance that there was no violation?"

"There was hard evidence in this cases; Jay presented a very biased and less than fully truthful version of events to an Honor Council member." [bruce partridge]

"It is important for the jury to define what "hard evidence" constitute. In this case, it seems improbable that sufficient evidence existed to merit a council decision. This "hard evidence" or at least more concrete facts than the ones gathered in this case, would be necessary for a jury to reach consensus.

Here are the "yes" and their commentaries:

"Yes-though not in this instance."

"Certainly they can. If we wanted a system where hard evidence was needed, we'd be under a rule system, not an Honor Code. However, a jury does not need to reach consensus, with or without hard evidence, that a violation occurred and it appears in this cases, since several still had doubts, that consensus was not possible."

"Yes, though only if circumstantial evidence is very convincing."

"hard evidence is not necessary - if all believe, on the level on conscience, that a violation occurred."

"Yes, many cases won't have hard evidence and it's obvious they are guilty, like Jay."

"This is a tough question, but I say yes. I think that the consensus process if difficult enough to screen out most silly cases, and it is tough enough to get a group of people to agree on anything. If everyone there feels that violation probably occurred, then that is enough to go on, and there is no reason to discount that because of a lack of 'hard evidence,' because if after further analysis there still is no hard evidence, then the case will be resolved in an appropriate way." [colin rule]

No and commentaries:

"Absolutely not."[a wunthen]

"No. Even though it seems a bit dubious, scenario I could have occurred. According to US law, you are innocent unless proven guilty beyond a shadow of a doubt. In this case, there was much doubt. It would be worse to charge an
innocent person than to let a guilty one slip through the cracks in our Haverworld, you must give the benefit of the doubt."

"No, but they can look harder until they do find the evidence. In this cases, it seems as though a violation has occurred. That being the situation, the trial procedure should have included a longer fact-finding period."

"No, our community is based on trust and to assume Jay violated the Code is just as much a violation as Jay's actions."

"No supposition is not grounds for punishment."

I have omitted those which were redundant in the clearest way.

2. What should a jury do if they feel they are being lied to?

The answers were so varied that I will quote most of them in full.

From the "no" pile:
"deal with it! no assumptions allowed."
"Proceed as if they were being lied to, ie, stop trusting if they are really convinced they are right."
"Exactly what you did do - thoughtfully outline a plan that allows the person on trial to back out of his/her lie(s) by clarifying what's been said and stating the implications of perjury." [3 responses in this drift]
"Ask intelligent questions. there really is nothing that can be done. The undue accusation of one innocent student is worse than many guilty students getting off freely."
"Ask other profs that had the student to see what his/her track record was. Maybe ask a roommate."

From the "yes" and "other" pile:
"take control of the situation and interpret it to the best of their ability-take action. Don't be indecisive."
"It is important to inform the person about the jury's feelings, but it is essential not to destroy the rest of the trial process by making the information come out like an accusation. The juror's question was much too hard. If I was Jay, I would be mad as hell, too. Pushing that hard is out of line. It is like a mediation...the communication needs to remain non-threatening and open, and if a juror cuts it off, then the whole process is subverted. But people who are on trial need to know what they are facing and an honest response to what is said is helpful and necessary." [colin rule]
"they should start to think about what it means to trust someone."
"It should be presumed that if a jury feels it is being lied to than the credibility of the person lying should be respectively disputed and examined. This criteria should constitute a considerable role in the consensus process-since judicial disputes are rarely straightforward. It is the duty of the Honor Council to seek the truth and apply it to the best of its abilities."
"If someone is going to maintain a lie, I don't know what the jury can do to get him to tell the truth. They ploy used in this case of forcing the person, if lying to either tell the truth or blatantly lie after giving the conscience the conscience a chance to intervene, seems like a good one. If the jury really feels they are being lied to, and can reach consensus that they are being lied to, they should act accordingly as if they are being lied to."
"I think we need to accept what people tell us as the truth. If we can't, then we can't trust anyone to be living by the Honor Code, and there wouldn't be
any point in having the Code as it is now. If they feel they being lied to, they must convey their difficulty to the confronted person. This person will probably feel very much "on the spot" and certainly uncomfortable with being told the jury has doubts about what he/she is saying. The person must be informed about why this is so difficult for the jury - I'm sure they won't feel comfortable thinking this person is lying, but he/she will have a much harder time seeing that and will just feel like there are 12 people on hit/her back, possibly without justification. The jury should probably give this person a day or two to think things through, after explaining fully why they feel they need to give the person another chance to explain what happened. And they need to try to allay any fears that the trial is just to punish the person's actions - they need to express that the intended outcome is to resolve any problems and help all persons involved in the trial to get something positive out of it and grow from the experience.

In presenting this, they have to bear in mind that there really may not have been any violation and that this person could very well be telling the truth.*

3. "Must a jury have a confession?"

From the "no" pile:
"No, they asked the student questions and he answered them. he could have confessed but he did not. The student on trial is being put under a lot of pressure. It would be a terrible violation of faith if someone who knows they are innocent is determined to be guilty because the jury "thinks he's lying."

"No. The individual is innocent until proven guilty, although this is not the goal. The action is performed does not really harm anyone but himself (and the professor). So...the professor should work out a compromise for the late paper, ie a lower grade or an additional assignment, or a letter of apology and explanation. If the individual is indeed guilty, I believe the guilt inside will provide a reminder of the harm done and I believe that further harm will not be done. If, for example, the individual hands in another late paper without a more concrete, believable reason, the paper should not be accepted."

"They sure as hell can't have reasonable doubts!"

"No-if there is hard evidence to back up the violation then a confession is unnecessary, but preferable still."

"No, only hard evidence. Why didn't Jay call security to come unlock his door? It would have taken five minutes taps."

"If there is no proof? Yes. Suspicions and means by no means equal guilt. to act otherwise would be highly unjust."

"Yes -> in the end. When confronted with enough evidence, a person will admit their guilt."

"Not if there is "hard evidence."

"yes."

From the "other" pile:
"That's what is supposed to come across in a trial, if there has been a violation. If there hasn't been one, then there's nothing to confess. I don't know why this question needs to be asked."

"Sounds a bit like Spanish inquisition, no? Well, no. That means that anyone who is willing to lie forever will get off scott free. The jury must push for what they sense to be the truth, and favor getting a confession, but you can't make that a hard and fast rule. Anyone who thought the whole process was
just bullshit could easily subvert it." [Colin Rule]

“No, again, circumstantial could be enough, Haverford Students are not
“above” fabricating stories and sticking to them under pressure.”

“No. The jury’s task would then be no more valuable than anyone’s else.
Again, it is up to the jury to interpret the events in the closest possible
direction of the actual events in case no confession is made.”

From the “yes” pile:

“No!”

“No. Precedent holds that a confession is not necessary.”

“No confession is necessary. If it were, anybody could get away with anything
just by saying it admits happen, especially if there’s no hard evidence as they
often isn’t. If the jury reaches consensus that a violation occurred because
they believe they're being lied to or whatever [bleep], that's good enough.”

“This can’t be a serious question. To answer yes simply instructs anyone
accused of a violation to maintain his or her innocence no matter what.”

“Yes. It is too difficult to come to a decision that a violation has occurred, or to
decide a resolution to a violation, without an admittance of a violation. How
can you tell someone that he’s cheated and then make him rewrite a paper (or
whatever resolution) when he’s saying he never cheated? You can’t. The trial
process falls apart if you have two separate and conflicting “truths.” When
you have [largerheads?]. You need some sort of “consensus” to proceed and
all.”

“No, absolutely not.”

4. Does ignorance of the Honor Code constitute a violation?

From the “No” category:

“No!”

“Your question above constitute a predication that is unjust and shameful.
This kind of problem can be prevented by a responsible professor who sets
deadlines, is in touch with her students, and who may also give extensions
responsibility. This trial would not have happened if the professor made sure
students knew that all dates were firm. Failure to turn a paper in on time will
result in such and such a penalty.

Have you ever been accused of something you knew you didn’t do, yes were
blamed for it anyway? How did that make you feel? In addition, it is not easy
to maintain calm and the appearance of peace when you are on trial.”

“Yes, ignorance of “the law” is not an excuse for a violation, providing that
the “code” is clear in its explanation.”

“Not when nobody understand, likes or cares about the goddamn thing.”

“It should, so my answer is yes. Everyone here has signed the code,
acknowledging that they have read it, understand it, and will abide by it.

Especially in Jay’s case, beyond the supportive net of HCO’s, he should (could)
have been asked on Honor Council member to clarify the confrontation
procedure.

Certain cases of ignorance concerning particulars of the code are
understandable but it should not serve as an excuse.” [A. Wunten]

“Yes. However, i am not sure that Prof Carr spoke clearly with Jay about what
she expected of him. Obviously he misunderstood, so she can’t have been
explicit in her directions (or she would said otherwise at the trial yes?)”

“Yes.”

“Yes, because when we came here, we signed a pledge saying that we would
live and abide by the Honor Code. The pledge also meant that we understood all
of the Code's rules and regulations.

"Depends: 1) yes, for something instant like plagiarism. 2) Maybe if it's something procedural, like how many days for things to happen or who to talk to - although if someone knows they do not know they should go look it up."

From the "other" pile:

"yes, except in cases where the regulations are so undefined, debatable, or ambiguous. Haverford is an institution which thrives on the Honor Code. Every student selecting to attend this college must sign or pledge agreeing to abide to its principle. Hence, it is the obligation of the individual student to familiarize him/herself with the code. There are plenty of references."

"Absolutely. Before coming, freshmen sigh the pledge indicating they understand and are willing to live under the Honor Code. How can the code function if we claim ignorance when trouble arises?"

"I think it does. You can't just require the knowledgeable people to be responsible. The pledge says you'll follow it, and that means you are responsible for making sure you know what it says. I don't mean to say that people have to know it word for word, or that just being ignorant and not violating any part of the Code is an infraction... I'm saying that if someone violates the code, they shouldn't get off with the excuse that they didn't know the rules. You also shouldn't bone somebody just 'cause their HCO did a lousy job, but you should hold them responsible for knowing what they signed."

[Colin Rule]

"Yes, but it should be treated a little more benignly than a knowing violation. We all agree to live under the Code, and in that there is an inherent responsibility to make ourselves familiar with it and clear up any confusion we have with it."

From the "yes" pile:

"Ignorance should not be an excuse, though it could be considered when determining resolutions/punishment (deliberate is much worse.)"

"To a certain extent, yes. But not in this case. It seems that Jay and the prof couldn't communicate or understand each other at all, so I wouldn't call his hypothetical talk with an HC member a violation by ignorance. In other circumstances, you cannot have a person plead "innocent" to a violation simply because they "didn't know" it was violation. That's bogus."

"Please read the pledge each student signs before joining the community."

[bruce partridge]

"I don't think ignorance itself is a violation. At least, I don't recall my passage in the code where it says you must know and understand everything in the Code or be in violation. However, ignorance is not an excuse. If you violate the Code its violation whether you knew it was a violation or not. If you're willing to take the risk of violating the Code and facing the consequences due to ignorance, than I guess that's your prerogative."

"Yes."

"Maybe."

5. Additional comments:

From the "no" pile:

"Given the elusive nature of this case, I believe honor council was right to dismiss the trial."

"I agree, by the way, that Jay's statements sound highly improbable. Yes, he
probably is guilty, but probably isn’t enough if we’re to maintain the justice
in our trials. I think everyone on Honor Council has acted as best they can,
and while justice may not have been served, at least now, at injustice has
been delivered either.”

From the “other” pile:
“I think one possibility in this case could have been to request Jay to write a
letter to the community describing this experience. This could have helped
him get more in touch with himself if he was lying. And if he wasn’t lying, I
think it would still be helpful to the community to learn of his experiences.
Any of us might find ourselves in a similar situation at some pint, where
there’s not violation but we may come under suspicion anyway. (Of course, Jay
wouldn’t have to write.)”

From the “yes” pile:
“A friend of mine captured the jury’s attitude well (was portrayed in the
abstract):
‘Are you lying? Are you sure you’re not lying? Are you really sure you’re
not lying?’
So much for trust.”
“May I go on to say that the jury appears to have overlooked an important
point - that the Honor Code can’t and won’t work unless we on the faculty have
faith that students involved in a potential breach of the Code will report
promptly, fairly and fully the nature of the case to an Honor Council member.
This case weakens that trust.” [bruce partridge]