

Charlie, Sabrina, Kelly and Jill

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[Dean's Review of Charlie, Sabrina, Kelly and Jill](#)
[President's Response to the Appeal by Sabrina, Kelly, and Jill](#)

Introduction

Sabrina, Kelly, and Jill contacted Honor Council regarding a comment board posting¹ that they found offensive and threatening to their sense of acceptance within the Haverford community. There had been an initial posting by Charlie in which he criticized college "policies," the administration, and students for their differential treatment of students of color. This initial posting was followed by an exchange of comments between Charlie and other students, including Bosley, a student of color. The women felt that both the initial posting and some of the subsequent comments posted by Charlie during his exchange with Bosley were degrading, hurtful, and threatened the sense of acceptance of students of color at Haverford.

The women talked to Charlie and felt unsatisfied by the results of this conversation. The women asked Charlie to contact Honor Council. When Charlie spoke with the Chair, he said that he wanted to discuss the situation further with the women before Council considered whether the matter warranted the convening of a trial. However, given that the women did not wish to engage in further conversation, he wanted Council to consider what he thought was inappropriate behavior in the confrontation. A few weeks after Council began discussing the case, the women participated in a facilitation with Charlie, at his request. However, neither side felt this to be a satisfactory experience, and the concerns of both parties remained. At this point the women declined to take part in further discussion with Charlie and wanted Council to consider further judicial proceedings. Charlie reiterated that he wanted his concerns regarding the women's conduct during the conversation, to be addressed as well.

The Chairs of Honor Council met with the Dean of the College and the EEOC officer who agreed that it would be appropriate to resolve this matter in a trial. Honor Council then met as a whole² and was presented with the above described situation. According to the Code and the new judicial procedures, it is the responsibility and duty of the Council to decide if a situation warrants the convening of a trial or if it can be resolved on a less formal basis."³

In order to decide whether or not this situation should go to trial, Council looked for suspicions of violation in the areas of concern raised by the parties involved. The concerns raised by

Sabrina, Kelly, Jill, and Charlie were divided into three sections during Honor Council's discussions.

1. the holding of an opinion and the simple expression of that opinion

2. the manner of the expression of the opinion

3. the possible lack of respect and lack of attempt to gain mutual understanding in the ensuing conversation on the part of both sides

Council consensed that the holding of an opinion and the mere expression of that opinion (i.e. the fact that it was made known) (#1) does not constitute a suspicion of violation, barring the threat of violence. However, most members of Honor Council agreed that the manner of expression which Charlie used in the posting, as well as the possible lack of respect and attempt to gain mutual understanding in the ensuing conversation on both sides (#2 and #3 above) did constitute a suspicion of violation.

Based on these considerations, Council then discussed the appropriate response to the concerns raised by both parties. In this discussion, the question arose of whether or not a jury should be allowed to consider whether or not the first point (i.e. the holding and mere expression of an opinion) could be a violation of the Honor Code when Honor Council had already decided that there was no suspicion of violation for that specific point.

The majority of the members of Honor Council felt that the jury should be allowed to consider this issue, that it not be limited" in what it could find a violation for. The reasons these Council members cited for not restricting a jury's decisions and for allowing all aspects of the situation to proceed to a trial were in their opinion:

1. An Honor Code jury is ultimately responsible for interpreting community standards and values as well as for judging what acts transgress these standards and values.

2. It is evident to Council members from the Code that the holding of an opinion and the simple expression thereof can not be a violation. If, however, a jury were to reach a different conclusion from Council then Council was not representative of the community.

3. Juries have never before (in Council members' memory) been told that they could not consider as a possible violation something that could come up in a trial. The reason for this being that the jury needs to consider all aspects of a situation in order to make an informed decision.

4. Some members felt that the community viewed Honor Council as too closed a group to be making decisions by itself and so to insure that important decisions reflect community sentiment the jury should be allowed to consider the holding of an opinion and the simple expression of it as a possible violation, if it chose to do so.

Two members of Council strongly disagreed with this reasoning and did not believe that the jury should be allowed to consider whether or not the holding of an opinion and the simple expression of it was a violation of the Honor Code. The reasons these members cited for not empowering a

jury to determine if the holding of an opinion and the simple expression of that opinion (an aspect of freedom of speech) constituted a violation were, in their opinion:

1. The Honor Code states that Honor Council has the authority and responsibility to decide what situations should go to trial.⁴ With Honor Council having consented that there was no suspicion of violation on the first point, a jury should not be permitted to address the first point within a trial context. This would mean that the jury could discuss the first point in order to reach a common understanding, but it could not do so under the impression that it was empowered to decide if it constituted a violation.
2. A jury should not be put in a position where it can decide whether or not a protected use of free speech was a violation.
3. If it were necessary for the community to decide if the holding of an opinion and the simple expression thereof is safeguarded by the Honor Code, or if this should be clarified, the trial is not the place. Policy is determined at plenary or some other community wide forum, while adjudication is determined by a jury at a trial.
4. Because Honor Council consented that the holding of an opinion and the simple expression of that opinion is not a suspected violation of the Code, allowing this fundamental issue of freedom of speech to be considered by a jury as a possible violation in a trial is intolerable and unconscionable.
5. It is necessary to have freedom of speech strongly protected so that Haverford is a place where social change can peacefully take place, where knowledge and understanding can be advanced and attained, and personal growth can occur.

This point of contention was discussed for fifteen hours before a consensus was called for. Final consensus was reached that the situation should go to trial because the manner of expression which Charlie used in his posting, as well as the possible lack of respect and attempt to gain mutual understanding in the ensuing conversation on both sides, constituted possible violations and should be heard by one Honor Code jury with Charlie and the three women acting both as confronted and confronting parties. Honor Council consented to this statement with two dissenting members standing outside. This decision was consented upon, excluding the two dissenters, with the understanding that a jury is empowered to find whatever statements of violation it deemed appropriate, including the holding of an opinion and the simple expression of that opinion.

Fact-Finding I

Sabrina, Kelly, Jill, and Charlie, and the women's support people, Bosley (the same person Charlie had communicated with on the Comment Board) and Flank, were present for this section of the trial. (The jury felt that much of what was said during Fact-Finding by both parties, including debates over the validity of Charlie's argument concerning college admissions policies, was not relevant in determining whether or not a violation had occurred.)

Sabrina, Kelly, and Jill began this session by giving their reasons for confronting Charlie. They started by reading a prepared letter to the jury. Among the points that the women made in this letter were the fact that Charlie and his arguments had served as a detriment to race relations on campus for several years. They also said "The offensive manner in which (Charlie) presents his views renders productive dialogue almost impossible". They also emphasized that Charlie "absolutely jeopardizes the sense of acceptance essential to (both individuals and groups) participation in the community". In the conclusion of the letter, the women wrote "we as the confronting party simply ask that (Charlie) finally be held accountable for these violations". They then spoke directly to the jury, outlining the actions of Charlie that they thought were in violation of the Code. They said that Charlie had misused the Comment Board to attack, rendering effective dialogue almost impossible. These attacks served to jeopardize the sense of acceptance referred to in the Social Concerns section (Part III, section B)5 of the Code. In addition, they felt that these postings by Charlie were part of a pattern in two ways. They felt that this was not an isolated incident; he had engaged in similar postings in the past. They had wanted to bring in examples of these similar postings but the Comment Board archives were missing. They also felt that there was a pattern in his posting right before exam periods, so that people couldn't respond and he wouldn't have to take responsibility for his actions. This pattern also caused pain for people of color when they needed to focus on their exams. They referred to this tactic as "hit and run."

They went on to say that Charlie is an unreasonable and unproductive communicator because he refuses to truly talk to people about the issues that he brings up on the Comment Board. Although they went to his room to discuss Charlie's Comment Board postings with him, they felt that he had no intention of engaging in a real discussion with them. The women said that they had approached Charlie with his best interests in mind because they were concerned with the "mob mentality" developing among the students of color directed at Charlie and his Comment Board arguments because he had incited feelings of "violence and rage". In effect, they said that they went to Charlie as representatives of these angry people to try to "clear up any misunderstandings". They emphasized that they had not gone into the conversation with the intention of taking the case to Honor Council. They simply feared that they had misunderstood Charlie's comments on the Comment Board and wanted these comments "clarified". The women entered the conversation with Charlie wishing to clarify his intent and, to this end, they brought a list of predetermined questions to ask him. These questions were clearly of a clarifying nature and were directed exclusively at Charlie's arguments on the Comment Board. (These questions were admitted as evidence to the jury.) During this conversation, the women thought that Charlie's demeanor was disrespectful (he was reclined with his "crotch in their face" and picked his toenails during the conversation) and, to their dismay, he preferred to quote from a book rather than actively talk to them. The women thought that Charlie's referral to books during the conversation constituted a mild form of plagiarism and he was lucky that they were not confronting him on that. They felt that Charlie's arguments almost exclusively originated in conservative literature and that Charlie had not credited the original authors when he made these arguments in his postings. As well, the women would ask Charlie if he had stated A, and Charlie would typically respond in a roundabout manner, 'No, I meant B by this statement'. The women would then typically tell him 'Well, it says A right here'. As well, when the women asked Charlie

why he had used the term, "Haverblack" in response to one of Bosley's posts, he responded by saying that he was trying to conserve space in a tight margin on a piece of paper. The women said that they found this response particularly "degrading and insensitive."

They went on to say that Charlie's attacks on college admissions policies were not based in fact and this was a form of slander towards the college. Another aspect of this that aggravated the women was the fact that Charlie couldn't understand the connection between general comments about students of color and the affect that these comments had on individuals. He also couldn't understand that the word "ghetto" in his term "self-ghettoization" (goes beyond the dictionary definition and) has negative connotations. The women felt that some of his Comment Board attacks on Bosley were an attack on all students of color because Charlie's only basis for judging Bosley was the color of his skin They felt that Charlie had precluded constructive dialogue by his tactics and language. The women felt that Charlie's counter-confrontation was vengeful and that he was milking the judicial system in which he had an "inherent advantage" as a white male. The women's final grievance was the fact that Charlie had struck Kris, a black juror, from the jury list simply (in their opinion) because of her skin color⁶.

Charlie then gave his reasons for confronting the women. He said that during the conversation in his room, the women immediately took an offensive posture and put him in a defensive position. They never introduced themselves in any way. He felt that the women were acting morally superior and not in any way trying to resolve the conflict. They presented him with a series of questions and never listened to his answer; Instead they simply wrote down particular words and phrases out of context. Both at the beginning and the end of the conversation, he had asked the women their purpose in being. They had said that they were trying to clarify things they didn't understand. Just a few hours after their conversation, the women called Charlie and told him that they were bringing him to Honor Council. This prompted him to feel that they had not made a good faith effort to resolve the issue or to find out where he was coming from. For these reasons, Charlie felt that his trust had been violated and that the women hadn't lived up to their obligations under the Code. Charlie also defended and explained the ideas presented in his posting at length, using several different arguments and analogies.

The women responded by saying that Charlie had grossly misrepresented what had happened at the conversation. They said that they had knocked and were invited in and offered seats.

Although Charlie's crotch was not *literally* in their face, there was an overall attitude of disrespect from him. They went on to say that they weren't writing phrases down to be intimidating, only to correctly represent his views to others. Besides, how could Charlie know whether they had taken his phrases out of context or not? They asked how Charlie would know that they had entered the conversation with the intent to gather material to confront Charlie.

In addition to this, the women felt that Charlie's arguments were an affront to the admissions policies of Haverford. Furthermore, during the explanation Charlie had just given of the ideas in his posting he had drawn an analogy between special housing for people interested in computer games and special cultural housing. The women felt that the use of this analogy exemplified Charlie's disrespect for the pain of people of color. They could not understand how Charlie can make assessments about groups and then not understand how these assessments have implications for individuals in that group. In addition, Charlie had brought up confidential material from facilitation in his Fact-Finding presentation and they felt that this was unethical.

(Everything said in the facilitation was confidential and could not be considered by the jury). The women then stated that they had talked to Kris, the black juror that Charlie had struck from the juror's list. Kris said that she did not know Charlie and this prompted the women to conclude that Charlie had struck Kris from the list because of her race.

Charlie countered by reiterating that the women didn't introduce themselves. During the conversation, Charlie felt that the women were trying to entrap him. They would ask him if he had made a particular statement; That statement would be completely wrong or grossly oversimplified and he would say 'no'. They would respond by saying 'so, you refuse to answer the question' and move to another question without listening to his response. He then said that he had no intention of posting his comments at strategic times (like near the end of the semester so that the community didn't have adequate time to respond). He reiterated that he was always willing and available to discuss his comments and that he never quoted an author without citing his source. Charlie then defended his computer game housing analogy, saying that he was not trying to minimize what people of color were going through. He then emphasized that he didn't mean for the term "Haverblacks" to be offensive or hurtful (this in fact would alienate what he felt to be an important part of his audience) and he promised never to use the term again since he had been informed that the term was taken as offensive. Charlie also apologized for bringing up things that were said during the facilitation; he said that he'd gotten confused with what had been said by the women facilitation with what had been said during the initial conversation. Then, Charlie responded to the women's claim that Charlie's attack on Bosley was, in effect, an attack on all students of color because Charlie's only basis for judging Bosley was the color of Bosley's skin. Charlie said that his assumption that Bosley wasn't qualified to be a student at Haverford, made during their interchange on the Comment Board, was not based on Bosley's race but on the quality of the letter that Bosley had put up in response to Charlie's own letter.

Referring particularly to the terms 'Haverblack' and 'self-ghettoization', the women felt that they were so blatantly offensive that they could not understand how Charlie could not understand the negative connotations. One of their goals in the conversation was to have Charlie ask for their help in trying to find a way to restate his views less offensively. They also wanted him to apologize for using the term 'Haverblack'. They said they had wanted to find a way to *constructively* talk about their different views.

Charlie then addressed the women's concerns regarding his having threatened students of colors' sense of acceptance in the community. He said that he had considered how the argument in his letter had effected their sense of acceptance and said that he was trying to ask students to engage in introspection and self-examination. Charlie felt that he didn't have to affirm everyone's sense of acceptance with his every thought and action.

The women then said that they weren't trying to trap Charlie with their questions, they were simply trying to be clear as to what he was saying.

Charlie then said that he felt that the women had been trying to gather ammunition against him in the conversation because they never tried to understand where he was coming from. The 'hit and run' accusations by the women were unfounded, he said, because many people had been willing to come to him and talk constructively about his views. The fact that the women portrayed themselves as the representatives of angry masses students was very intimidating to Charlie and it made it very difficult for him to adequately defend himself. Charlie then said that his goal in

posting his comments and asking students to examine themselves was to examine whether the admissions policies pertaining to race are good. He said that he was not trying to question people's worth or value, simply their qualifications.

With this, Fact-Finding concluded and the jury began to engage in deliberations.

Jury Deliberation

As well as information provided in Fact-Finding, the jury also considered copies of Charlie's initial posting itself and other selected comment board postings (from the discussion on the Comment Board between Charlie and Bosley), which the women had provided as statements that they had found offensive. The jury decided to approach the deliberations by considering possible violations in three separate categories. These categories were:

- 1) Charlie's letter and assorted quotes from the comment board possibly violating the Code
- 2) Charlie's words and actions during the ensuing conversation possibly violating the Code
- 3) The women's words and actions during the same conversation possibly violating the Code

In approaching the first category, the jury decided to brainstorm a list of all actions on Charlie's part that were possible violations, including points raised by Sabrina, Kelly, and Jill, and those raised by members of the jury. In considering the list, members had to keep in mind two questions.

- 1) Did Charlie do X?
- 2) Is X against the Honor Code?

If the answer to either was no, then a violation had not occurred.

The jury had to discuss whether the holding of an opinion and the simple expression thereof, presuming that violence or threat of violence was not involved, could ever be against the Honor Code. By simple expression the jury meant the fact that an opinion was stated, leaving aside the manner of expression. The jury decided that the holding of an opinion, and simple (theoretical) expression of that opinion was not against the Honor Code. The jury discussed whether simple expression could be considered harassment, as well. Some jurors suggested that any view that can be talked about with a modicum of respect is fine to express. The jury did not reach consensus about the possible exceptions to this rule, but those jurors supporting these exceptions thought Charlie's comments neither necessarily harassing nor impossible to discuss disrespectfully. If there exists an opinion which cannot be expressed respectfully, it would be the

manner of expression that was against the Code, not the holding of the opinion or fact that it was expressed. The Social Concerns section of the Honor Code states that "we strive to foster an environment which genuinely encourages respectful expression of values rather than unproductive self-censorship" (HC III B). The jury decided that to feel unable to express one's value or opinion would be unproductive self-censorship. This self-censorship is unproductive because if values are never expressed then the productive dialogue referred to in the Code⁷ cannot occur. Without this dialogue one can never hope to address and change those values one finds degrading, and the goals of the Code stated in its introduction⁸ cannot be met. Within the context of this situation, however, the women's sense of acceptance had clearly been threatened by what Charlie wrote. The jury had to weigh Charlie's right to self expression with the women's right to feel accepted on this campus. Students of color have voiced their feelings of discomfort at Haverford, and the Jury recognized the validity and importance of this problem. A juror raised the issue as to whether the ideas that Charlie expressed in his postings were inherently disrespectful and threatening towards the sense of acceptance of students of color. Is the expression of ideas that are inherently disrespectful against the Honor Code? The Code "makes it possible for a climate of trust, concern, and respect..." (Introduction). Obviously, this climate is affected when inherently disrespectful opinions are expressed. Yet this sentence in the Code goes on to say that this climate is one that is "conducive to learning and growing, and one without which our community would soon deteriorate." In order to grow our ideas must constantly be challenged, even if done disrespectfully. Furthermore, if ideas that are inherently disrespectful are never expressed, then they can never be changed and our "climate of respect" is a farce. Therefore, the jury decided that the holding of an opinion and simple (theoretical) expression thereof cannot be a violation of the Honor Code. The suspicion of violation then lay in the manner of expression that Charlie used in his postings on the Comment Board and not in the opinion itself.

Concerning Charlie's comments to Bosley, both parties had agreed that what was said between the men was an interpersonal discussion. As well, the context surrounding this discussion on the Comment Board was rather hazy. Furthermore, the jury wasn't given Charlie and Bosley's input on how they were affected by each other's comments. For these reasons, the jury only considered Charlie's responses to Bosley insofar as they might not have been personal comments but attacks on "any student of color" thereby personally affecting students other than Bosley.

Though the jury considered a list of specific aspects of Charlie's posting which may have constituted a violation, the jury also kept in mind the overall tone, message, and effect of the posting and how it related the discussion about opinions and the Honor Code. The first point on the list was whether Charlie had written his letter just to anger the women and/or other students of color. One juror brought up the point that though his message involved students of color, it was not addressed specifically to them. In general, the jury felt that it could not prove that the purpose of the letter was to be hurtful.

The jury decided to go through the letter and assorted comments sentence by sentence, to consider the manner of expression Charlie used to state his opinions. Were certain words and phrases, as well as the overall tone of his posting, against the Honor Code? The jury felt that if Charlie had used words and phrases, or written in an overall tone that was *deliberately* disrespectful beyond his argument itself, this might constitute a violation. Concerns were raised

about sentences that were opinions stated as fact, such as "A school of Haverford's size and stature CANNOT attract 90 comparably qualified black freshmen in the current market...". Jury members raised the following points. It was Charlie's opinion that this idea was a fact. When one speaks, one often states things as fact which are opinion; one need not couch everything in "This is only *my* opinion but..." As well, people are wrong all the time without lying maliciously. The jury decided that an unsubstantiated fact is not a violation. This sentence fell under the category of simple expression.

Phrases within the letter that the women had found offensive (i.e.. "tokenism" and "self-ghettoization") were discussed. Given that these terms are commonly used in conservative literature, it was possible for Charlie to view them as legitimate terms and not be aware of their negative and/or hurtful connotations. Charlie did not coin these phrases and the jury could not prove that he necessarily used them maliciously. In his letter Charlie also wrote about "minority 'theme' housing" and "oppression studies;" the women also found these terms offensive. Again, the jury couldn't prove that Charlie was trying deliberately to be hurtful. He had said that he didn't understand why they took offense to those words but he was perfectly willing to use other terms when it was pointed out to him that the women (and others) found them offensive. In general, the jury felt that Charlie was simply expressing his opinion. To not do so would have been unproductive self-censorship.

The jury spent a long time discussing the implications of the sentence "Look --- blacks and other minorities have no more clout than they are given." Some jurors felt that this statement was implying that blacks and other minorities should not fully participate at Haverford. Not only should they not have been accepted, but they should be prevented from fully participating once here. Other jurors weren't sure whether this assumption was being implied in the letter. Several jurors brought up the following points. Clout, like influence, is given. It has nothing to do with the inherent internal power of the individual. The sentence was simply saying, or could be simply saying that blacks and other minorities shouldn't be given *more* power/clout/influence than other students. Though the question was not settled, many jurors felt that regardless of what the sentence was saying, it was not a violation because it was simple expression of Charlie's opinion. His opinion should be expressed even if it is inherently disrespectful and therefore the manner of expression is necessarily disrespectful. A juror raised the concern that if the implications of this sentence showed that Charlie saw students of color as inferior, then a dialogue between equals could not occur from his side. Therefore, was it preventing dialogue? One juror felt that people do see other people as inferior. These feelings can either be expressed or repressed but it seems that honesty is the best way to deal with them, especially if a climate conducive to learning and growing is to exist, as stated in the introduction to the Code. Other jurors, however, felt that Charlie did not see all students of color as inferior. Therefore, in engaging in a dialogue with a particular student(s) of color he would not necessarily believe that that individual(s) was inferior. The jury went on to discuss the language of other assorted quotes that Charlie had written to Bosley which Sabrina, Kelly, and Jill had found offensive. The women asserted that Charlie's comments were based on the color of Bosley's skin. Charlie countered that what he wrote to Bosley was based on impressions of him gained by another letter that Bosley had posted on the Comment Board. The jury did not have access to Bosley's letter. Jurors acknowledged that discussion would take place on Charlie's comments taken out of the context of the Comment

Board as responses to Bosley's comments. Concern was raised over the implications of the sentence "...Prove to me you're not the unqualified token I claim you are." The jury felt that it could not prove either way the reasons behind Charlie's characterization of Bosley but agreed that Charlie left room for argument about this characterization. The jury also debated at length Charlie's use of the word "Haverblack." Charlie had said that this word was an abbreviation of the phrase "blacks at Haverford." He had written this word in order to save space because he'd been scrawling in the margin of another posting on the Comment Board. Though Charlie's word choice was not sensitive or necessarily respectful, the jury felt that the implications of the word were open to interpretation. He said he had not understood why the women took offense to this word. Nevertheless, in simply knowing that they did, he had said that he wouldn't use the phrase again and the jury had to trust that he was speaking truthfully.

While considering the language of the postings the jury recognized that many of the terms used could be construed as offensive and/or degrading; Sabrina, Kelly, and Jill's anger was justified. But given that there were reasonable and/or valid explanations for Charlie's interpretation of the usage of these words and phrases, and that Charlie had said in Fact Finding that he was willing to use different terms once made aware that these were taken offensively, the jury consensued that the use of these words and phrases in Charlie's posting did not in itself constitute a violation of the Code.

The jury continued going down its list of possible violations. Did Charlie attempt to hinder dialogue? He posted his letter on the Comment Board, a forum specifically created for dialogue. As well, he seemed genuinely interested in getting a response. His argument, though controversial, was straightforward. While the jury did not necessarily like it, it was an argument nevertheless, and the Comment Board was an appropriate forum for the ideas to be expressed. Were Charlie's racial generalizations a violation of the Honor Code? The point was brought up that people make generalizations, whether racist or not, all the time. As well his racial generalizations were his opinion, and the jury had reached consensus on the fact that the holding of an opinion could never be against the Code. Was the fact that Charlie didn't recognize the impact of his generalizations on individuals a violation? In this case Charlie's obligation was to consider the impact of his words and actions. He had said that he had considered what possible effects of his argument might be but one can not definitively determine the outcome of one's actions. Therefore, the jury felt that it could not find Charlie in violation.

Could a violation be found in his pattern of possible racism and attacks against certain groups of students, and general misuse of the Comment Board? A juror pointed out that the jury didn't have pattern of postings as evidence to discuss. Upperclass student jurors knew that Charlie had a history of posting similar statements on the Comment Board; However, many jurors saw nothing wrong in one's wanting to discuss controversial subjects, especially when the forum for that discussion was the Comment Board. Having no evidence or proof of malicious intent, the jury could not find Charlie in violation for repeatedly posting things on the Comment Board about affirmative action to purposely attack people. The jury could also not find Charlie in violation for misuse of the Comment Board.

The jury then considered whether Charlie's "hit and run" tactics (i.e.. not taking responsibility for his words by posting them right before break, and purposely upsetting people so that they couldn't concentrate on their work) were a violation. In considering the chronology that both

parties had given the jury, there seemed adequate time for a response to the postings; the women had had enough time to go talk to Charlie. Again, the fact that he had posted his letter on the Comment Board suggested that he wanted to promote dialogue and not try to dodge it. The jury felt that there was no evidence to prove that Charlie had tried to purposely upset people and could not find a violation for the alleged "hit and run" tactics when using the Comment Board. Was Charlie being slanderous (i.e. lying about somebody in order to hurt him/her or maliciously misrepresenting someone)? Charlie had said that he hadn't posted his letter to be malicious, and the jury felt that it couldn't prove his intent either way.

Did Charlie hinder race relations or cause community divisiveness and was that a violation of the Honor Code? One juror felt that the dialogue on the Comment Board hadn't hindered race relations. It may have questioned them and brought out existing problems, but Charlie had wanted communication to occur. One juror suggested that discussion of issues concerning college admissions policies might even further race relations. Another felt that the posting of the letter was divisive, but to not post it would have been unproductive self-censorship (as the jury had discussed in the beginning of the deliberations). The jury realized that the posting was hurtful, yet it had no sufficient reason to judge that the posting had caused community divisiveness. For these reasons, the jury did not find Charlie in violation for potentially hindering race relations or causing community divisiveness.

The jury spent a long time discussing the concern that Charlie had violated the Honor Code by threatening the sense of acceptance of Sabrina, Kelly, Jill, and others. Certainly the women's sense of acceptance was threatened by his posting; They had said so. The posting clearly questioned whether certain students were qualified to have been admitted to Haverford. The Code asks of us to "consider how our words and actions may affect the sense of acceptance essential to an individual's or group's participation in the community" (HC III B).

Charlie had stated very clearly in fact-finding that he wrote the letter and "considered" what he wrote and how it may have affected others' sense of acceptance. However, he felt that the letter contained ideas which he wanted to share, and to spark discourse about, and that it was not stated in a way that was deliberately offensive or degrading. While the jury felt that some words or phrases were ill-chosen, the Code does not require us to find the most respectful way possible to express things, but to fully consider the possible impact of one's statements and take this consideration into account. Nothing was said that could prove that Charlie had not made this effort.

At one point during Fact-Finding Charlie had said that he wanted to spark "self-examination" within students. Was he threatening the women's sense of acceptance by implying that students of color should realize that they don't deserve to be here or should deem themselves worthless? Is that a violation of the Honor Code? The jury wasn't sure of what Charlie was trying to say but agreed that even if he was implying these ideas, they were his opinions. He therefore couldn't be found in violation for the simple expression of them.

The jury then could not conclude that Charlie's views, independent of their necessary worth, were expressed in a disrespectful manner. The jury acknowledged that the ideas expressed were degrading, hurtful and disrespectful. The jury believed that Charlie must consider the effect of these ideas on members of the community and realize his responsibility for the hurt caused by these ideas. However, as they had previously decided that the holding of an opinion and simple

expression of that opinion was not a violation, the expression of these ideas could not be a violation of the Honor Code. The Honor Code tells us "we must be willing to face situations which may be uncomfortable." If and when the women found these ideas degrading, it was their responsibility to initiate dialogue with Charlie about them with the goal of increasing mutual understanding. Charlie's responsibility under the Honor Code in posting on the comment board was then to be available for this dialogue to happen. Hence, the suspicion of violation for Charlie now lay in the conversation with the women.

For the aforementioned reasons the jury reached consensus on the following statement:

The jury has considered both the form and content of the document itself and the actions and circumstances related to its posting on the comment board as described by both parties in fact-finding. After lengthy discussion, the jury did not find Charlie in violation of the Honor Code for posting his letter and assorted comments on the comment board insofar as these comments affected Sabrina, Kelly, and Jill.

The jury then turned to the question of possible violations committed on both sides during the conversation. Initially, the jury as a whole didn't know what to think of it. One juror felt that because they talked to one another, neither side could be in violation. Another wasn't sure because each party had such different interpretations of the conversation. A juror pointed out that violations may have occurred but as the jury hadn't witnessed the conversation, it couldn't prove anything. Another felt that the women had talked to Charlie in order to gather ammunition for a trial, but acknowledged that this idea couldn't be proven. One juror was hesitant in saying that a violation had occurred because doing so would validate the fact that they should be in an Honor Code trial. The juror felt that this situation was something that they should have worked out on their own; an adjudicating body shouldn't have to do it for them. Others felt that Sabrina, Kelly, and Jill hadn't done the right thing in bringing this situation to Council because they had wanted Charlie punished. Their questions had nothing to do with increasing mutual understanding because in Fact Finding they had said that they went into the conversation wanting to "clarify" his points and not debate them. Though they may have felt that they were doing everything they could, the women didn't really try to understand what he was saying to them. Another felt that both sides were in violation because the conversation went against all the principles stated in the Code. A juror responded by asking how could any conversation be against the Code; even though they didn't agree, for a conversation to simply exist there must have been some good intentions on both sides.

This general uncertainty prodded the jury to discuss the exact facts of the conversation. A list was made of points of the conversation agreed upon by both parties in Fact Finding. Another was made of possible violations (committed by both sides) and the exact sections of the Code which

might have been violated. The jury began by discussing whether Sabrina, Kelly, and Jill had committed violations during the conversation. The jury agreed that the women certainly had valid reasons for initiating the conversation. But some felt that the lack of listening on the women's part pointed to feelings of moral superiority. They didn't tell Charlie why they were offended and didn't respond to what he was telling them during the conversation. A juror felt that though the women didn't like being referred to books, if they had really wanted to understand they would have appreciated the reference. Sabrina, Kelly, and Jill had wanted Charlie to apologize and agree with them. One juror thought that the fact that the women went into the conversation convinced they were right wasn't a violation, but feeling that the success of the conversation was based upon whether Charlie would agree with them was. But was it unfair of the jury to expect that in their anger, the women could have rationally discussed the situation with Charlie? The circumstances surrounding the situation (the "why" behind a possible violation) had to be addressed in the Circumstantial portion of the trial, and not during Jury Deliberations. Another juror pointed out that it was inevitable that the conversation failed (because a dialogue didn't occur) but that the women should have tried again instead of immediately bringing it to Council. The fact was brought up that a facilitation had occurred before the trial. Questions then arose to why both sides decided that the matter still needed to be taken to Council after their facilitated conversation. Though the jury knew that it couldn't discuss anything that occurred within the facilitation itself, it decided to hold another fact finding session to get answers to these questions.

Fact-Finding II

Charlie, Sabrina, Kelly, and Jill were present at the second Fact Finding Session. The jury asked the following questions:

- 1) How did your conversation in Charlie's room end? (both parties)
- 2) What entered into your decision to go to Council right after this conversation? (the women)
- 3) When did you decide you would like to go to facilitation? (both parties)
- 4) What were your reasons prior to this for not wanting to go to facilitation? (the women)
- 5) Why did you change your mind? (the women)
- 6) What were you hoping to get out of facilitation? (both parties)

The women answered that during the conversation they'd gone through all seven of their prepared questions with Charlie and after one or two hours felt that they weren't getting anywhere. By then he hadn't given an "adequate explanation or an apology." They were "upset by his composure" and "just weren't understanding his answers to their questions." Sabrina, Kelly, and Jill hadn't realized that a facilitation "was an explicit step in this process," though the Chair may have mentioned it "in a more casual sense in the beginning" when they had contacted Council. They weren't optimistic about a facilitation but when they found out that Charlie was very enthusiastic about it they thought that maybe he'd had time to think and maybe he'd changed his mind. "It was important to us that he understand," said Sabrina. "I was shocked when I called him to tell him to contact Council. He asked, 'Why do you want this to go to trial?' He didn't have an inkling why we were so upset. I just couldn't answer, I was so angry." The women then again explained that they hadn't gone into the conversation to "argue theory with Charlie. We just wanted to clarify his statement.... We wanted to understand what Charlie was trying to say." They had gone to the facilitation because they thought if Charlie really wanted "to work this out and he's asking for a chance to have another conversation we won't turn it down."

Charlie agreed with the women's depiction of the end of the conversation in his room. He said he'd wanted a facilitation from the very beginning and had told this to the Chair the night Sabrina had called him. He didn't know why the women were taking him to Honor Council because "I really didn't understand why they were offended... they said it should be obvious." For these reasons he'd wanted a facilitation.

While both parties waited outside, the jury decided to ask the women one more question in order to have a clearer understanding of what went on in the conversation. Seeing that only seven questions were asked and the conversation took between one and two hours, was it only a question-and-answer session? If not, what else was talked about? Sabrina answered by saying, "What took so long is that Charlie's answers were lacking. He was always skirting the issues...." Charlie replied, "I tried to answer the questions. They'd say 'Are you saying this?' and have a totally different impression. I wasn't trying to skirt the questions; I don't tend to just talk but think out what I'm saying first." The women asserted that "When we asked Charlie a question he would talk around it. He wouldn't say anything particularly inflammatory.... He wasn't truthful . Like for the explanation of why he used the word 'ghetto'.... We said 'Do you perceive any connotations of this word?' and instead of saying yes, he reached for the dictionary. These were yes or no questions.... He was just trying to make everything as palatable as possible."

Kelly then brought up a request to admit further evidence. On the VAX was a special forum for the discussion of racial issues. Charlie had often participated in this forum and Kelly had talked to the VAX manager about printing out what Charlie had written. Kelly wanted the jury to consider this new evidence to show Charlie's pattern of offensive writing. The women had wanted to see the Comment Board archives for more evidence but the archives were missing. Though the women themselves hadn't used the VAX discussion forum, they had heard that Charlie did, and turned to it for evidence instead. The jury said that it would consider Kelly's requests Then both parties left.

Jury Deliberation (continued)

The jury discussed Kelly's request for the submission of additional evidence. The jury was already two weeks into deliberations so it didn't feel it could consider evidence that could have been submitted at the beginning of the trial. As well, the VAX manager couldn't have printed out the specific parts that pertained to Charlie; she'd have had to print out the whole discussion, which would be dozens, maybe hundreds of pages long. It was not only inconvenient to consider more evidence, but also unfair. The women had not officially confronted Charlie about the VAX, or even mentioned it to him. Therefore, he couldn't have had a chance to defend himself. As well, the women hadn't even read anything off the VAX themselves. For these reasons the jury consented to the following statement and gave it to both parties.

In light of your request, the jury has considered the addition of evidence. Taking into account the length of time between when this case was first raised and when it went to trial, we have decided that we cannot allow further evidence that could have been raised initially at this stage in deliberations.

The jury then returned to its list of possible violations and began to consider Sabrina, Kelly, and Jill's words and actions during the conversation. The Honor Code tells us that "we must be willing to face situations which may be uncomfortable...even if difficult, we must take upon ourselves individually the responsibilities stated in the Code..." (HC I, third paragraph). The Code also asks that "upon encountering actions or values which we find degrading to ourselves and to others we should feel comfortable initiating dialogue with the mutual goal of increasing our understanding of each other" (HC III B, last sentence). We must remember that this confrontation is "a dialogue in which each party first tries to understand the standards and values of the other" (HC IV, section A). The women had said that the conversation in Charlie's room was a confrontation, but to what extent had an actual dialogue occurred?

According to the Honor Code, a confrontation is (at minimum) a dialogue in which two or more parties (with or without outside mediation) discuss a matter of contention with two goals in mind. They must first try to understand *what* each party is saying (their viewpoints). This generally means clarifying the content of each other's positions. From there, they must try to understand the reasons *why* each party holds their viewpoints. This means developing an understanding of each party's "standards and values," the backgrounds and underlying beliefs which give particular viewpoints a context and make them intelligible. For this process to work, each party must try to understand the other parties' viewpoints, standards and values and also try to express their own viewpoints, standards and values so that the other parties can understand.

Ideally, such a dialogue will satisfy all parties involved and make it possible for the parties to either find some points on which they are in agreement, or find a way to coexist peacefully while agreeing to disagree. If both parties enter into such a dialogue with good intentions yet are unable to come to some understanding, then it may be appropriate to take the matter to Honor Council. Some of this discussion was generated by a point brought up concerning the "Suite 67" abstract. The controversy surrounding it stemmed from the fact that many community members felt that the women should have attempted at some level to have a dialogue with the men before going to Council. It was this same level of dialogue that was in question over the present situation.

The women had said that in the conversation in Charlie's bedroom, they had initiated a question-and-answer session in which they asked Charlie to "clarify" his views. Clarification of another's views is the first goal of the confrontational process, a valid step in the creation of a dialogue. Sabrina, Kelly, and Jill had said that they wanted to stick to the questions, and not argue theory with Charlie. Some jurors were concerned that the women purposely told this explanation to the jury because they thought it was the "right" answer and what the jury wanted to hear. Whatever their reasons, the jury agreed that based on what they had said the women did not attempt to come to an understanding of the standards or values underlying Charlie's views (the second goal of the confrontational process). According to Fact-Finding, Sabrina, Kelly, and Jill went to Charlie with a prepared list of questions about his posting. None of the questions were aimed at a greater understanding of Charlie's standards and values. Instead, they were only intended to clarify points made in Charlie's original comment board argument.

Sabrina, Kelly, and Jill neither engaged Charlie's standards and values with their questions, nor did they adequately address their own feelings and positions regarding Charlie's postings. The conversation was structured so that Charlie was simply asked to answer questions, and not encouraged to ask the sorts of questions of Sabrina, Kelly, and Jill that would have allowed him a better understanding of their viewpoints, standards or values. Charlie said that he'd asked them twice why they had come and the women had answered that they just wanted to clarify his statements. The women had said that they just wanted to stick to their "clarifying" questions because they didn't want to get emotionally involved. Why didn't Sabrina, Kelly, and Jill explain to Charlie why they were angry and offended or even simply tell him that they were angry or offended? The jury couldn't answer this question. Was their failure to do so a violation? The Honor Code says that "when we confront another student whose behavior has disturbed us, we must recall that this process is a dialogue in which each party first tries to understand the standards and values of the other in order to avoid self-righteousness or the appearance of moral superiority" (HC IV A, first sentence). Because the women did not try to understand the reasons why Charlie held his opinions, did they act self-righteous or give the appearance of moral superiority? In the context of the Code, what exactly is moral superiority? In order to answer these questions the jury drafted a working definition of moral superiority based on the aforementioned passage of the Code:

"Moral superiority is the refusal to acknowledge the fact that other people have reasons for holding the viewpoints that they hold. It is the refusal to acknowledge that other people's viewpoints are informed by standards and values which may be different from our own. This acknowledgment does not mean that we have to compromise our own standards or values. It

simply means that we must respect the fact that other people's underlying standards or values may be valid when understood in the context of backgrounds that are different from our own, even if we personally feel that those standards or values are ultimately misguided. If we do not respect the fact that other people may have different underlying standards and values, we can never hope to change their standards or values. We appear self-righteous or morally superior if we do not try to understand another person's standards and values when we attempt to engage them in dialogue concerning their views."

The jury supplemented this definition with a second, more straightforward, definition: "Moral superiority means not trying to understand *why* another person thinks *what* they think."

The jury felt that in addition to not allowing Charlie a chance to understand their viewpoints, standards, and values, Sabrina, Kelly, and Jill seemed to have felt that their opinions should be "self-evident" to Charlie, either from the fact that they were upset or from the nature of their questions. Thus, they became incredulous when Charlie was "just not getting" their positions, even though they never spelled their positions out in order to help Charlie understand them. This trust in the "self-evident" truth of their positions caused Sabrina, Kelly, and Jill to appear self-righteous and morally superior in their conversation with Charlie. This appearance was aggravated because Sabrina, Kelly, and Jill placed their estimation of the success of the conversation on whether they found Charlie's answers to their questions "satisfactory" or "lacking," and, ultimately, felt that Charlie should be "held accountable" for the hurt that his comments had caused them, even though they never gave Charlie an appropriate opportunity to understand the effects of his comments. They made the success of the conversation contingent on whether or not Charlie was prepared to apologize for his comments, not on whether or not both parties came to some mutual understanding. Finally, when Sabrina informed Charlie of the intent to take this conversation to Honor Council, she refused to state the reasons why she, Kelly and Jill had found Charlie's views offensive, again suggesting that these reasons should have been "self-evident" to Charlie.

In short, Sabrina, Kelly, and Jill interrogated Charlie, but did not initiate dialogue with the mutual goal of understanding, the minimum that is outlined in the Honor Code. Such an interrogation is not in and of itself a violation of the Honor Code. Had the conversation between Charlie, Sabrina, Kelly, and Jill been continued in another forum such that each party had the opportunity to make a genuine attempt to arrive at a mutual understanding, then the parties would have engaged in a true confrontation. Had these continued conversations failed, then it might have been appropriate for this matter to have been brought to Honor Council's attention. However, the jury decided that Sabrina, Kelly, and Jill's decision to bring Charlie to trial on the basis of his viewpoints *alone* was a violation of the Honor Code and gave them the appearance of self-righteousness and moral superiority.

For these reasons, the jury consensed to the following statement:

In their confrontation, Sabrina, Kelly, and Jill violated the Honor Code by failing to initiate dialogue with Charlie with the mutual goal of increasing their understanding of each other (HC III B, last sentence) and by failing to try to first understand Charlie's standards and

values in "order to avoid self-righteousness or the appearance of moral superiority" (HC IV A, first sentence) before requesting that this matter be brought before Honor Council.

Explanations of why the violation might have occurred kept coming up during the discussions, yet these aspects were to be considered during Circumstantial. The jury realized that it was not reasonable to expect the women, in their anger, to have a rational dialogue with Charlie. But anger cannot excuse the fact that further discussion didn't occur. Nevertheless, the jury felt that the women's mistake was an honest one stemming from a lack of understanding of the Code. Their intentions had not been malicious, nor were they "bad people" for being found in violation. For these reasons the eventual resolutions to address the violation were not to be punitive. The jury then began discussing whether Charlie violated the Honor Code in his conversation with Sabrina, Kelly and Jill. In discussing Charlie's role in the conversation in his room, and whether his actions, or lack thereof, were a violation of the Honor Code, the jury only considered as true things said in fact-finding which were agreed upon by both parties. Several points were brought up from the discussion of the initial conversation between the two parties. Some felt that under the Honor Code, Charlie had a responsibility to address Sabrina, Kelly and Jill's hurt and anger. Others felt that in not wanting to get "trapped" by the women's questions he was not taking responsibility for his comments, as well as hindering their ability to understand his position on the argument. Was he trying to understand their standards and values? Some jurors felt that the women did not give Charlie a chance to deviate from their questions and thus how could he address their standards and values as well as further explain his posting? The jury began by listing possible violations in regards to Charlie's action in the conversation between himself and the women. These were:

- 1) In not wanting to get "trapped" when trying to answer Sabrina, Jill and Kelly's questions, Charlie was not taking responsibility for his comments and hindered their ability to understand him.
- 2) Charlie was not taking the responsibility to face an uncomfortable situation.
- 3) Charlie's overall tone during the conversation: a) body language b) referring to books c) regurgitating answers d) skirting around the issues e) not giving a personal gesture (i.e. apologizing)
- 4) He was not facing his responsibilities under the Code because he didn't address the fact that the women were upset by his statement.
- 5) Charlie failed to try to understand Sabrina, Kelly, and Jill's standards and values in order to achieve dialogue.

The jury began by discussing the first possible violation. One juror felt that the jury had different interpretations of what it meant to get trapped. If someone is misunderstood, it is logical to assume that he/she does not wish to be further misunderstood. Therefore the person would be careful in answering another's questions so as to further explain what he/she meant while not being further misunderstood. Charlie may have been afraid that he was being misunderstood, and therefore decided to speak extremely carefully. As far as Charlie knew, the women's purpose during the conversation was to clarify his views. Another juror agreed with this idea but felt that in not wanting to be misunderstood, he was not answering directly or honestly. Instead she felt him to be dodging the issues. Sabrina, Kelly and Jill wanted yes or no answers and he was not giving any to them. He was trying to answer in a way that would not get him in trouble. Other jurors pointed out that he may have been trying to explain good faith, even if he referred them to the books where he had gotten his ideas. Another juror pointed out that although he perhaps hadn't meant to hinder dialogue by referring to books they had not read, his view of those books did hinder dialogue. Because they did not understand his standards and values, he had an obligation to explain those to them, which he tried to do by talking to them (not just answering yes or no) and by referring them to books. The Code says that although situations may be uncomfortable, we must face them. He faced the situation by engaging the women in the conversation. After discussing the issue extensively, the jury decided that Charlie took responsibility for his comments by trying to engage Sabrina, Kelly and Jill in a dialogue when they came to discuss his postings with him.

The jury then began discussing the other possible violations from its list. The jury felt that both parties were responsible for the failure of the initial conversation. At the same time, even if he was facing a difficult situation, Charlie had a responsibility to explain his views and maintain a climate of trust, concern, and respect. One juror's concern was the fact that Charlie had not shown an understanding of Sabrina, Kelly, and Jill's standards and values. Several jurors made it clear that when the women went to Charlie to clarify his views, they did not spell out their own feelings and positions regarding Charlie's posting. They never told him that they were hurt or why the posting was hurtful. Instead they said that their position and feelings should have been "self-evident." One juror believed that what Sabrina, Kelly and Jill initiated was a conversation but not a dialogue¹⁰. On the basis of that *conversation* they decided to go to Honor Council. Charlie did not do anything to address their standards and values because he was not asked to. He was asked to clarify his views, not to find out why Sabrina, Kelly and Jill held the standards and values they did. Every time one initiates a conversation with another one does not have to understand the other's standards and values. During the fact finding session Charlie had said that he had asked Sabrina, Kelly, and Jill twice what their reason for coming was. They had said that they came to clarify his position. One juror was not entirely sure that Charlie had fulfilled his responsibilities under the Honor Code. Charlie argued that in posting his opinion on the comment board, he intended to spark dialogue on the issue. Although he had made himself accessible for this dialogue to occur, he did not try to understand Sabrina, Kelly, and Jill's standards and values. One juror argued that Sabrina, Kelly and Jill never said "We found this offensive and this is why" even though Charlie explicitly asked them why they had come. It was Sabrina, Kelly, and Jill's responsibility as the party who found the actions and values degrading to initiate dialogue; they did not do that. If this dialogue had been initiated, Charlie would then

have more responsibility, but it was not. In response to this, one juror pointed out that in fact-finding, Sabrina had said "She did not want a debate over the issues". A debate over the issues is the "dialogue" which Charlie was hoping to get by posting the document on the comment board. The Honor Code says, "Upon encountering actions or values which we find degrading to ourselves and to others, we should feel comfortable initiating dialogue with the mutual goal of increasing our understanding of each other" (Honor Code III B) and "When we confront another student whose behavior has disturbed us, we must recall that this process is a dialogue in which each party first tries to understand the standards and values of the other..." (Honor Code IV A) Both parties involved in a confrontation have a responsibility to engage in a dialogue with the mutual goal of increasing understanding. The only aspect of this dialogue in which the responsibility is greater for one party than the other is in the initiation, which is the responsibility of the confronting party, in this case, Sabrina, Kelly, and Jill.

After long discussion, the jury decided that as this dialogue was never properly initiated by the women, the jury could not find Charlie in violation for not doing more than what they asked of him, which was to clarify the points he raised on the comment board. Charlie had asked the women twice what the purpose of the conversation was, once at the beginning and once at the end, and each time, they told him (and later the jury) that their purpose was not to debate, but simply to clarify his views. If they had initiated this conversation as a *dialogue* rather than a question-and-answer session, Charlie would bear equal responsibility for attempting to understand them. However, as this did not occur, Charlie fulfilled his responsibility to face an uncomfortable situation by answering the women's questions. Furthermore, in finally confronting Charlie later that same night, Sabrina, Jill and Kelly told Charlie to contact Honor Council in order to find out why they were confronting him. They believed their concerns to be *self-evident* and were not willing to explain their reasons for taking the situation to Honor Council.

Two jury members showed concern for the fact that Charlie had not personally confronted Sabrina, Jill and Kelly upon deciding to take them to trial but had instead asked the Chair to confront them. They felt it to be his obligation under the Code to do so as well as to try to initiate further dialogue. The Chair pointed out that Sabrina, Kelly and Jill had made it clear that did not wish to continue any dialogue with Charlie as they did not feel it to be productive. The jury felt that they could not say definitively whether or not Charlie would have taken further action to pursue dialogue if given more time.

This is not to say that the jury believed that Charlie was not also responsible for the failure of this conversation. On the contrary, the women were obviously upset, and while they did not express this verbally in the conversation in Charlie's room, greater sensitivity on Charlie's part might have helped the conversation. The form of Charlie's answers proved frustrating to the women as well. The body language of both parties, different communicative styles, and other factors certainly helped contribute to the ultimate failure of this conversation.

At this point the jury addressed a list of issues that were raised by Sabrina, Kelly and Jill and jury members as possible violations that did not fit into either category of the comment board posting or the conversation, yet were relevant to the trial.

- 1) Charlie removed Kris, one of the members of the original jury list, not because Charlie felt that she could not be objective but because she was black. The jury decided that there was no way that they could prove this. They felt that they could not judge whether Charlie really thought Kris could be objective or not. Charlie said he had removed her based on one or two short conversations he had had with Kris in the past. The jury could not definitively decide otherwise.
- 2) Charlie kept bringing up things that were said in facilitation during fact-finding¹¹. Since both parties had agreed that what happened in mediation would remain confidential, Kelly, Sabrina, and Jill felt this was "unethical". Once again the jury felt they could not say for certain whether Charlie had done this maliciously, or whether (as he claimed) he had honestly forgotten and thus confused what had been said during the conversation within his room and what had been said in facilitation.
- 3) Charlie said hurtful things about Bosley during Fact-finding while Bosley was sitting in the room. Because Bosley was acting as a support person for Sabrina, Kelly and Jill, he was unable to respond to what Charlie said during Fact-Finding. Charlie had explained how he had decided that Bosley was unqualified to be a Haverford student. According to Charlie, this assumption was not based on Bosley's skin color. Rather, Charlie claimed he could tell from a sample of Bosley's writing that Bosley was less intelligent than himself. The concern was that this was not something Bosley could respond to during the trial, as a support person, and that it was a "low blow". However, Charlie was very upset over the choice of Bosley as a support person. He had asked the Chair before the trial started if he or the Chair could request that Bosley not be the women's support person during the trial as he and Bosley had had earlier interactions on the comment board in regards to Charlie's posting. He felt that having Bosley there as a support person would not give him the latitude he needed to explain himself during Fact-finding. The jury decided that it was not Charlie's fault that Bosley was there; Bosley was there of his own free will and by Sabrina, Kelly, and Jill's request.
- 4) Charlie was only confronting Sabrina, Kelly and Jill as revenge. Charlie had discussed how he had felt put on the defensive when Sabrina, Kelly and Jill came to talk with him. He was concerned about the way in which the women conducted themselves while talking with him. Since the jury had found the women in violation, they figured that Charlie had had a valid reason for counter confronting.

For the aforementioned reasons the jury consensed on the following statement of non-violation:

While Charlie was partially responsible for the lack of communication in the initial conversation, the jury does not find him to be in violation of the Honor Code.

Circumstantial

After the presentation of the statements of violation to the parties involved, the jury convened to establish what questions it had and where it was confused about the circumstances that surrounded the violation by the three women. Although the jury had a fair understanding from the Fact-Finding sessions of the reasons behind the violation, the jury wanted to ask the following questions in order to further its understanding:

- Why did the women feel the need to work so hard at not getting emotionally involved during the conversation?
- Why did the women think that this was an adequate conversation to clarify Charlie's stance?
- Why didn't they initiate further discussion before going to Honor Council?
- Why didn't they tell Charlie why they were confronting him when they talked to him on the phone?
- Why didn't they give Charlie their personal reactions to his statements on the Comment Board?
- Why did they feel that their anger and the offensiveness of Charlie's statements were "self-evident"?

Charlie, Sabrina, Kelly, and Jill all participated in the circumstantial portion of the trial. When the women were offered seats, they refused and Sabrina began reading a prepared document. The document made it clear that the women were very angry and surprised by the jury's decision. It emphasized that because of this decision, the women felt that the Honor Code had been dealt a great disservice. They felt that the jury simply wanted to protect Charlie and "further persecute the victims of his heinous efforts." They made it evident that they could not participate further in a process that they felt was so clearly unjust and would, instead, appeal directly to the President of the college¹². They told the jury, "We have rendered your authority null and void in light of the fact that it has been viciously abused....We will pursue retribution for this assault to the highest level, which extends far beyond Honor Council and Haverford College to the public at large." After the document was read, Kelly personally attacked the members of the jury who were students of color. She could not believe that the students of color on the jury could let such a "blatantly racist" decision go through. Jill was silent throughout. At the end of their verbal statements, the women proceeded to rip up the statements of violation which the Chair had presented to them and throw the pieces onto the table in front of the jury. They then put their prepared statement on the table for the jury. After making it clear that they would not participate further in such unjust proceedings, they left the room. Charlie was then dismissed.

Jury Deliberation on Resolutions

The refusal of a confronted/confronting party to participate in Circumstantial was unprecedented, so the jury briefly met with the President to decide what procedural path to follow. Both the president and the jury felt that the trial must continue in order for resolutions addressing the statement of violation to be made. The jury felt that the women's lack of participation was unfortunate for two reasons; the jury did not have an opportunity to explain the reasoning behind their statement of violation and the women did not have a chance to express their specific concerns to the jury and to discuss these with the jury.

The three goals that all juries work toward in formulating resolutions are:

- 1) Education of the individuals and the community
- 2) Reparation of the breach of trust between the individuals, and between the individuals and the community
- 3) Accountability

The jury quickly decided that accountability in and of itself was not at issue in this case because the violation was an honest mistake on the part of the women. The jury wanted to avoid resolutions that were punitive in any respect, because the jury felt that the reasons for the violation did not merit such a response. Therefore, the jury decided to focus on education and the reparation of the breach of trust and started brainstorming a list of possible resolutions for the women. The list and the jury's discussion is as follows.

I) Talks

- a) with the jury
 - 1) the whole jury
 - 2)small groups of jurors
 - 3)one on one (one of the women and one of the jurors)
-
-

The jury decided that talks between Sabrina, Kelly, and Jill and whole jury needed to occur. In effect, the jury was asking the women to engage in circumstantial because the jury felt that it was essential for the women to understand why the jury had found them in

violation. In addition, the women should have an opportunity to share their specific concerns with the jury.

b) with Charlie (i.e. suggest further facilitations)

The jury felt that it was unlikely for a discussion with Charlie to occur in good faith. In addition, the jury didn't want them to redo the conversation step by step to realize what they did wrong; it wouldn't have been fair.

II) Letters

- a) to Charlie

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It would be beneficial for both the women and Charlie if the women wrote a letter to Charlie. They could tell him exactly why they found his posting offensive and why, by explaining their own standards and values.

b) to the community

The jury felt that neither the women nor the community would get anything out of a letter to the community. The violation did not directly affect the community and the jury felt that a letter in this case would be superfluous.

III) Other

- a) official censure (to issue a statement of reprimand)

A jury officially censures someone only if it feels the violation has been addressed and other resolutions are not necessary. But because of the women's unwillingness to engage in circumstantial, the jury felt that resolutions were necessary; Therefore, it did not officially censure Sabrina, Kelly, and Jill.

b) on-going meetings with the jury

The jury felt that on-going meetings would be unnecessary if the women would have to meet with the jury until a level of understanding had been reached.

c) participation in communications training

The jury felt that communication training would be helpful to the women, but it didn't feel that it was so essential that a formal suggestion should be made so they decided to simply mention it as something to be considered.

d) organization of a community race-relations forum

The jury didn't feel that the organization of one would be beneficial to the women until they understood why they had been found in violation of the Honor Code. In addition, the jury didn't want the forum to be reduced to arguments on why Charlie is a bad person.

The jury then tentatively consensed on the following two statements of resolution:

- 1) Sabrina, Kelly, and Jill will meet with the jury to discuss the jury's reasoning behind the statements of violation and non-violation until both parties agree that some level of understanding had been reached.
- 2) Sabrina, Kelly, and Jill will write a letter to Charlie explaining why they found Charlie's document, including specific words, phrases, and arguments, offensive.

As the confronting party is always afforded an opportunity to address the jury, Charlie came in to speak to the jury about his reactions to the statements of violation and non-violation, to share a concern, and to give his impressions of circumstantial.

He stated that he thought the jury's decision was "mature and well thought out". Charlie also felt that a trial was not an appropriate forum for the resolution of conflict. He emphasized that the three women had made the process particularly anxiety-ridden for him. Charlie then expressed his disappointment that the women had almost completely disregarded his confidentiality throughout the process. He thought that the women never had the Honor Code in mind when they had confronted him, that they simply wanted to punish him for a perceived wrong. He felt that the jury's goals for formulating resolutions should be to consider the goals of the Code and how they relate to this case.

Jurors then had some comments for Charlie. Several jurors emphasized that the jury was not condoning what he had done because he was partially responsible for the failure in dialogue. The jury also told Charlie that it was perfectly valid for the women to be offended by his remarks, and members of the jury had been offended as well. One juror emphasized that when coming to a decision, the jury took into account Charlie's manner of expression and not his ideas themselves. The jury told Charlie that *they did not condone his conduct during the conversation nor did they mean for their decision to validate his argument because the jury had found it to be offensive and inflammatory*. In general, the jury was distressed by Charlie's response and felt that he had as much to learn about dialogue as the women, even though, in good conscience, the jury could not find him in violation.

The jury then resumed deliberations and began discussing the idea of a community forum. A forum in itself appeared to be a good idea because the women should be given a chance to express their concerns. While the jury did not find it necessary to have the women run or organize the forums (this seemed unduly punitive), it felt that it would be good if they were given the opportunity to provide input on them. In light of this, the jury formed a third resolution and tentatively consensed on the following resolutions as a group:

1) Sabrina, Kelly, and Jill will meet with the jury to discuss the jury's reasoning behind the statements of violation and nonviolation until both parties agree that some level of understanding has been reached.

2) Sabrina, Kelly, and Jill will write a letter to Charlie explaining why they found Charlie's document, including specific words, phrases, and arguments offensive.

3) The jury asks Sabrina, Kelly, and Jill to consider submitting suggestions for ways in which the community can deal with issues of speech and diversity. In forming these suggestions, the jury would like Sabrina, Kelly, and Jill to consider the Honor Code and how it does or does not deal with these issues. These suggestions would be considered by Honor Council, Students Council, the administration, and/or others in creating community wide forums.

The jury then took a 24 hour break to consider the resolutions. The Chair gave the statements of resolution to both parties and was told by the women that they would not meet with the jury for the official presentation of resolutions for the reasons they had made clear in their letter. The jury consensed on these final resolutions and the trial officially concluded.

Notes:

1. See appendix

2. The Judicial Procedures, as distributed on February 10, 1994, states 'when a case involving a student confronted for a non-academic Honor Code violation comes forward for adjudication, there will be a meeting of the Chair of Honor Council, and EEOC of ficer, and the Dean of the College, who will determine the appropriate judicial avenue...The Honor Council Chair will inform Honor Council of these determinations and insure that the views of Honor Council are represented in the decision making process.' While the policy had not yet been distributed at the time this case came forward, it was considered working procedure at the time.

3. Honor Code section VII C.

4. Section IV/c of the Honor Code, first two sentences, read ". . . Honor Council will decide if the situation needs to be resolved in a trial. A trial is necessary if a student is suspected of having violated our community standards and must, therefore, answer to the community for his/her actions." Section VII/c/1 of the Honor Code, first two sentences, read "Honor Council is charged with interpreting the sections of the Code that leave room for flexibility. It is, for example, Honor Council's responsibility to decide if a situation warrants the convening of a trial"

5. "We must consider how our words and actions may affect the sense of acceptance essential to an individual's Of group's participation in the community."

6. The confronted party must be informed of who will be on the jury. He/she may remove up to three members if he/she feels they cannot be objective.

7. Upon encountering actions or values which we find degrading to ourselves and to others, we should feel comfortable initiating dialogue with the mutual goal of increasing our understanding of each others (HC III B).

8. The Code makes it possible for members of a diverse student body to live together, interact, and learn from one another in ways that protect both personal freedom and community standards. It makes it possible for a climate of trust, concern and respect to exist among us, a climate conducive to learning and growing, and one without which our community would soon deteriorate." (Intro., second paragraph)

9. Concern was raised that a person who felt that he/she had been personally attacked would have difficulty confronting another student. The Honor Code states that "A member of Honor Council may act on behalf of another student in an initial confrontation if this process would cause the student involved undue emotional anguish or place him/her in physical danger (i.e., cases of physical assault)" (HC IV A). If it seems appropriate, this option is mentioned to a student when he/she contacts Honor Council.

10. Conversation - verbal interaction between two or more parties

- dialogue -a conversation in which each party tries to both understand and be understood
11. During the deliberations, the jury did not consider what Charlie had said about what happened during the facilitation.
12. "A student has a period of five days from the time of the trial's completion in which to appeal to the President to change the resolution" (HC IV C 1). The President did not hear the women's appeal until the trial was over.

Appendix

Charlie's original posting:

"Well, since my last posting on this subject was taken down from the suggestions board the morning after I had posted it, I'd like to resubmit several suggestions for ways to improve life at Haverford.

As I've been saying for years, its essential for Haverford to revise its admissions policies so as to reward merit rather than skin color. A school of Haverford's size and stature CANNOT attract 90 comparably qualified black freshmen in the current market; the only sensible conclusion is that Haverford is employing tokenism in its efforts to contrive a "diverse" student body.

Haverford must stop allowing its racial minorities to engage in college sponsored acts of self-ghettoization These acts take several forms:

Minority "theme" housing. As a residential college, Haverford expects its students to interact with and learn from each other; segregated housing like the BCC and La Casa thwart this noble purpose and promote division along color lines.

Oppression Studies. Haverford must seriously evaluate and, where appropriate, eliminate those courses and departments whose sole purpose is to allow Haverford to graduate its under qualified admits. Last year, I added a concentration in Africana studies to my [other] majors, hoping to broaden my horizons. To my dismay, I have found many of these courses an effort not to search for knowledge and truth but to inculcate a particular set of values in students. Haverford does all of us a disservice by relying so heavily on courses of such little value.

Haverford should abandon the "Social Justice" Requirement. Ideally such a requirement forces a student to encounter new methodologies and areas of study. But given the prevalence of the Oppression Studies approach throughout the curriculum, and given that many such courses

promote nothing more than the advancement of a particular agenda, the requirement is clearly both redundant and unproductive.

Basically it's time for Haverford (like so many colleges across the country) to get over its collective guilt trip. Time for us to stop voting minorities into student government for the sake of their skin color. Time for the administration to start showing some spine.

Look--- blacks and other minorities have no more clout at Haverford than they are given We're talking about communities whose members present disproportionately substandard qualifications and are disproportionately represented on the financial aid rolls. Haverford owes them no dubious "favours" of the kind described above. Haverford does owe all of us a return to meritocracy, to integrationism, and to courses that will challenge our minds more than our ability to accept vougish dogma"

The women selected the following additional quotes from interactions Charlie had with other students on the comment board for the jury to consider:

"Fuck you and your family"

"As I said in response to your letter, I can stand the heat. Let's compare academic records. Let's compare test scores. You're not qualified to be here, and it obviously stings you by the reaction I've gotten out of you; I must have struck a nerve, but hey, feel free to disprove my claim."

"When are you blacks going to learn that you as minorities have the greatest stake in preserving freedom of speech inviolate?"

"Why is this in boldface? [referring to Bosley's mention of a particular class] Because you and I took it at the same time? Look, I'm sure you find all your classes very challenging indeed"

"What is proved by campus opinion is merely the climate of the college. At many other schools of Haverford's caliber, it is you and the rest of the Haverblacks who would find themselves shouted down. PS I'll stack my academic record against yours any day of the week. When did someone last describe your record as "perfect"? Not since kindergarten I'll bet. So Bosley, prove to me that you're not the unqualified token I claim you are."

Questions

1) Do you agree with the jury's decisions? If not, how, according to the Honor Code, would you have reached a different decision?

2) How can the larger issues of speech, diversity, and the Honor Code be addressed? (How might we, as a community, balance the need for free expression of ideas with the need for all students to feel accepted under the Code?)

3) On what grounds should the President of the College overturn the decisions of an Honor Code jury?

Please put responses in the Honor Council abstract response box by the mail room.

Send comments, problems, or suggestions to: code@haverford.edu

Last Revised: April 5, 1999

Dean's Review

Spring 1994

I reviewed the case involving Charlie and Sabrina, Kelley, and Jill. According to our procedure, the review was limited to the finding of violation against Sabrina, Kelley, and Jill. It was my recommendation to the President that the finding of violation be overturned.

The jury labored long and hard over its decision. In recommending that it be overturned, I want to convey respect for their process and for their outcome. I share many of their views, most especially their commitment to the ideal put forth in the Honor Code of open, respectful dialogue across difference.

My reservations about the finding of violation in this case stem from those ideals. I am concerned that we not place narrow constructions on how we talk to one another. To adopt a restrictive view of how individuals approach a confrontation (or any other conversation) is to limit speech. It is to confuse a goal of a particular kind of dialogue with the steps to that goal. It is to risk the possibility that members of the community would shy away from confrontations about issues around which they have strong feelings, lest they not convey the "right" stance, or would approach those confrontations in an overly cautious manner that could inhibit free exchange. I understand that was not the intent of the jury's decision. I'm concerned that it would be the effect.

The Honor Code is a document which deliberately avoids the legalistic language characteristic of judicial policies in other institutions. As we draw on it to inform our decisions, we want to be careful to read relevant clauses at the same time as we move back and ask more broadly what the Code is trying to accomplish. I believe that a finding of non violation is a judgment in keeping with the ideals of the Code, a judgment which encourages efforts at discourse.

The jury determined that Sabrina, Kelley, and Jill's confrontation was a violation of the Code. Sabrina, Kelley, and Jill claim that it was not, arguing, in their appeal, that they were trying to communicate with Charlie. Could they have done that better? Perhaps. Should they have been expected to in this case? I would say no.

Sabrina, Kelley, and Jill were not instructed about the parameters of a confrontation or standard practice since 1989) offered ongoing counsel as they considered options and took their case forward. I'm not blaming Honor Council. As someone who works closely with the Honor

Council co chairs in determining judicial avenues for cases, I share responsibility for these omissions. They nonetheless occurred.

Some of the specific interpretations about the requirements in the Code regarding the nature of confrontations were determined by the jury post hoc, during the deliberation process. While more precise definitions might be useful in clarifying individuals' responsibilities under the Code, it is unreasonable to expect that Sabrina, Kelley, and Jill should have acted on the basis of those specifications before they were drawn.

Precedent is not a helpful guide here. In past cases, when individuals have felt that other members of the community have behaved offensively under the Social Honor Code, the requirements for confrontations have not been so strict. Trials have been held when, for a variety of reasons individuals felt dialogue was impossible. Honor Council agreed to a trial in this case. I'm not saying this was a mistake. It was a decision I supported. But we can't have it both ways. If we decide that we shouldn't move to trials before better efforts at dialogue, we need to tell parties that they should keep talking, and we need to help them to do that better. We are currently sending a mixed message when we set up a trial and then find the confronting party in violation because the move to a trial short circuited the process.

What is a reasonable attitude in a confrontation when you feel your legitimacy in the community has been challenged? I'm not authorized to comment on Charlie's statements in my review, since he was not found in violation. But it's important to remember that Sabrina, Kelley, and Jill's confrontation didn't come out of the blue. It came in response to statements made by Charlie which they felt questioned their right to be here, and Charlie was a party to the confrontation. It is very hard to speak when you feel that someone is saying that you shouldn't have a voice. I think we need to be careful that our ideals about appropriate dialogue don't invalidate the reactions of people who are the objects of offending speech. We need to be sure that our requirements for confrontations don't aspire to a sort of discourse predicated on a level political and social playing field.

There are surely limits that must be drawn. But I would argue that we must have room for abortive or unproductive interactions within the limits. Threatening or harassing language or behavior are out of those bounds.

If the goal of the judicial process is to increase mutual understanding, it failed in this case. But the burden of that failure shouldn't rest with the confronting party. It is a burden that should be shared by both parties and by the community as a whole. There is a certain irony in the fact that a case has been brought forward because a confrontation fell short of the guidelines set out in the Code. Students in this community commit a more serious "violation" of those guidelines every day by not confronting, by not making any effort whatsoever to talk to others with whom they disagree, by simply not engaging around these issues at all.

In endorsing the Honor Code, we commit ourselves to goals of open discourse and mutual respect and understanding. Whenever principles are espoused but not lived, we need to take stock and re-build community attitudes and structures. I don't believe that Sabrina, Kelley, and Jill violated the Honor Code. I do believe that we must all address the questions raised by this

case if we want Haverford to be a place where high ideals and good intentions translate into real growth and change.

Send comments, problems, or suggestions to: code@haverford.edu

Last Revised: Tuesday, April 5, 1999.

President's Response to Appeal

Spring 1994

Office of the President

• April 9, 1994

To: Alexandra Ornston and John Lithgow
Co-Chairs, Honor Council

From: Tom Kessinger

Response to the appeal by Sabrina, Kelley and Jill

Haverford College's Honor Code is the product of nearly 100 years of student initiative, experimentation, testing, and adaptation. Throughout, students have provided leadership and have been responsible, with oversight from the College's administration, for the operation of the Code, including the handling of violations when they occurred.

Over the years the academic portion of the Honor Code has changed relatively little. It started with a petition not to have proctors in "examination rooms" in 1897. It reached its logical conclusion in 1963 when students argued successfully that the Code should be extended to establish the system of self-scheduled exams that is now the most thoroughgoing example of what a climate of trust allows us to accomplish.

In contrast, the social portion of the Honor Code is younger and has undergone some fundamental transformations. It came into existence only in the 1930s and through the mid-1960s was concerned exclusively with rules governing the entertainment of women on campus by the all male student body. Change came as the size and composition of the student body began to change. In the late 1960s the administration and Board of Managers decided to increase the size of the College, to make a conscious effort to increase the representation of minority students at Haverford, and to increase academic and dormitory exchanges with Bryn Mawr College. The

social portion of the Honor Code as we know it today grew out of efforts led by students of color and Bryn Mawr students living at Haverford in 1971-72. They introduced the notion of confrontations whereby members of the community might "point out how Haverford's reality differs from its stated ideals, and that these ideals might be insufficient for a diverse community."

The substantive paragraphs of the introduction to the current Honor Code articulate today's rendering of these concerns.

- **The Honor Code depends for its effective operation on both our personal concern for each other and our collective concern for the maintenance of the community standards reflected in the Code. Both concerns are central to the functioning of the Code, and both have meaning only as they form the basis for the conduct of our daily lives. The Code makes it possible for members of a diverse student body to live together, interact, and learn from one another in ways that protect both personal freedom and community standards. It makes it possible for a climate of trust, concern and respect to exist among us, a climate conducive to learning and growing, and one without which our community would soon deteriorate. In order to keep the atmosphere of trust, concern and respect, we must be willing to face situations which may be uncomfortable. We cannot expect to feel at ease when confronting another student about his/her actions. But even if difficult, we must take upon ourselves individually the responsibilities stated in the Code, or be ourselves in violation of the Code because of our failure to act.**

All Haverford students formally commit themselves to the Honor Code when they matriculate. Assuming the Code is ratified each year, they must continue to accept it as a condition of enrollment. In this sense, Haverford College is what Quakers and others have referred to as an "intentional community." We are more than a group of people who have gathered here for educational purposes. "The community" at Haverford is a group of people, however diverse, differentiated or divided, who have voluntarily pledged themselves to standards, goals and ideals embodied in the Honor Code -- standards, goals and ideals, I should add, that are higher and more ambitious than those of the so-called "real world." Surely this is a more meaningful conception of community than the utopian sense of oneness and uniformity that exists for some as an expectation. This mind-set inevitably leads to disillusionment or disaffection in the face of the realities of life in a campus society in which various groups, ascriptive and voluntary, exist and play an important role for many.

Being part of this intentional community has burdens. We are not only responsible for our own conduct, we are responsible for the conduct of each other-- a very unfashionable ideal. It also has costs. We surrender the right to say or do whatever we want without taking responsibility for its effect on others. We surrender the right to remain silent when we are aware of something we think is wrong even if it may not violate the Honor Code. And finally, we surrender the right to shirk constructive, meaningful dialogue. The section of the Honor Code relating to social concerns reads as follows:

- **Our social relationships should be based on mutual respect and concern. 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. We strive to foster an environment which genuinely encourages respectful expression of values rather than unproductive self-censorship. Upon encountering actions or values which we find degrading to ourselves and to others, we should feel comfortable initiating dialogue with the mutual goal of increasing our understanding of each other.**

No case in my six years at Haverford has involved the very essence of the Code so fully and directly as the trial examining the possible violations of the social Honor Code by Charlie and by Sabrina, Kelley and Jill. In the very best tradition of the Code's long history, the jury labored rigorously and conscientiously with important and difficult questions. These include freedom of speech, self-censorship political correctness, the meaning of responsible discourse, and the possibilities and difficulties inherent in dialogue about differences. I commend the members of jury for their courage, their honesty and their hard and reflective work.

The Honor Code states that a student may appeal a decision "on either substantive or procedural grounds." Because Sabrina, Kelley and Jill appealed the finding that they were in violation of the Honor Code, I met the jury in accordance with procedures to obtain a clear understanding of the deliberations and reasoning that yielded that result. Time was also devoted to understanding the finding of non-violation against Charlie, even though that decision is not subject to further review.

My approach in considering the appeal has been broad and "inclusive" rather than specific or focused. In terms of events and activities, I have taken into account Charlie's posting on the Comment Board, the ensuing exchanges between Charlie and other students, and the interactions between Charlie and Sabrina, Kelley and Jill as reported in the trial documents. In a similarly broad approach, I have taken as my framework the overall statement of purpose of the Honor Code (the first quotation in bold) and not just the section on social concerns (the second quotation). Because of the emphasis in these passages on the balance of concerns and objectives, I have taken them in their entirety rather than focusing on particular words, phrases or sentences.

The Jury concluded that Sabrina, Kelley, and Jill violated the Honor Code by failing to initiate dialogue with Charlie with the mutual goal of increasing their understanding of each other (HC III B, last sentence) and by failing to try to understand Charlie's standards and values in order to avoid self-righteousness or the appearance of moral superiority (HC IV A, first sentence) before requesting that this matter be brought before Honor Council.</DD>

After meeting with the appellants, discussions with the jury, consultation with the Dean of the College, and considerable reflection, I have decided to accept Sabrina, Kelley and Jill's appeal

with respect to the absence of advice, counsel, or precedent as to what constitutes a "proper confrontation."

We should not place the burden of responsibility for an effective dialogue on the party that feels their "sense of acceptance essential to an individual's or group's participation in the community" has been questioned. To do so is not consistent with the rationale and purpose of the Honor Code, even though justification might be found in specific words and passages. It also has a potentially chilling effect on the freedom of expression of those most directly affected. If they are silenced, who will speak out? It is unjust to find the three women in violation while having found that Charlie bears no responsibility for the impact of his statement and subsequent responses to comments on the Comment Board. This holds true even if it is established that he "considered" the possible impact of his words and therefore met the "letter" of the Code.

But that is not the end of it. I have stated that this case goes to the essence of the Honor Code to an extent not even approximated by any other with which I am familiar. There are many questions with which we must grapple. As members in this intentional community we have accepted some limits on our personal freedom as necessary for its sustenance. But, as the Code correctly stresses, we must avoid self censorship. How do we balance these concerns? Where are the boundaries? What are the community standards for responsible free speech? How can we have more conversation about issues of immediate concern and meaning for us? We know that ideas themselves can be offensive. How can we frame discussions in such a way that open dialogue about them will make an effective interaction possible, and not compound a sense of hurt or alienation for either party to the conversation? When an individual or group feels that their sense of acceptance in the campus community has been challenged, to whom should they turn for help with constructing a debate while and after the emotions of hurt, anger and frustration are experienced? And what about the rest of us? When we witness exchanges which challenge community standards, what is our responsibility?

- **The Code makes it possible for members of a diverse student body to live together, interact and learn from one another in ways that protect both personal freedom and community standards. It makes it possible for a climate of trust, concern and respect to exist among us, a climate conducive to learning and growing, one without which our community would soon deteriorate.**

Let us use our discussion about this case and the issues it raises as a opportunity to move the community forward. It is an opportunity we cannot afford to waste.

Send comments, problems, or suggestions to: code@haverford.edu
Last Revised: April 5, 1999.