

# Honor Council

H A V E R F O R D C O L L E G E

Public Minutes from October 10, 2008

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**Members Present:** Anastasia, Sarina, Lily, Sydney, Joe, Sam, Susana, John, Gabe, Ben, Maebeth, Andrew, Jen, Silas, Seth, Inez

**Guests:** Dave Merrell '09, Nalynn Park '09, Nicole Benson '09, Jacob Blanton '09, Alexa Kutler '09, Max Scherrrer '09, Aimee Lanning '09, Harrison Haas '09, Luke Pennington '09, Diane Tarchet '11, Michael Novinson '10, Robbie Yaskowitz '09, Dean Water, Nick Lotitio '10, Hailu Yang '11, Samee Sulaiman '10, Heather Lewis '11, Raven Harrison '10

I. Moment of Silence

II. Public Portion

A. Discussion of Multi-cultural Jurors List:<sup>1</sup>

- Chairs begin by saying that this is not meant to be a discussion of the term “multi-cultural”.
- There is currently a plan to form a “working group”, composed of any students who have interest in this issue, which would discuss the issue and come to some resolutions about it
- Jacob Blanton proposes that a member of the faculty / staff / administration talks with the jury of a trial before and after to ensure that issues of diversity are being considered during the trial. Since we’ve done away with a guard on how we select juries, this would ensure that there was a person who still makes certain that jury members are cognizant of how diversity issues are effecting a trial
  - Dave Merrel questions whether this person would be a member of the administration and whether that would be appropriate.
  - Jacob responds that it could be a member of the admin or faculty who is well-versed in these kinds of issues; this person would be a support mechanism not someone who would interfere with trial processes
  - Harrison Haas: In this case would we leave the selection process alone?
  - Jacob : we should still rethink the way in which we select jurors, but this is an interim solution
  - Luke Pennington: The move to create a position like this—whether it be filled by a student, faculty member, or administrator—is a good way to approach this problem. Generating a selection system that addresses all areas of diversity is great in principle, but is difficult in practice.
- Diane Trachet suggests the creation of a “minorities list” whose members would identify themselves as being members of a minority group in the realms of race, gender, class, sexual orientation, religion, etc.
  - Jen points out that one doesn’t necessarily have to be a certain type of person to identify with or relate to another type of person. As an example, a girl can appreciate male problems. We are supposed to be a community that has a high awareness of our differences and backgrounds and that attempts to come to understanding about those things. It may not be productive to create

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<sup>1</sup> People’s questions and responses are paraphrased.

These minutes reflect the opinions of Sydney Keough and Lily Steiner, the Council co-secretaries (skeough@hc or lsteiner@hc) and are neither approved nor reviewed by the rest of Council. Questions / comments? Email [Code@hc](mailto:Code@hc)!

an artificial jury pool composed of these distinctions, because if we have a totally random selection, we should achieve diversity anyway.

- Dave Merrell: it is impossible to have an entirely homogenous jury.
- Andrew: the change of having an entirely homogenous jury in terms of race is 4.7%
- John points out that we have not clarified what sort of diversity we are aiming for. What about religious diversity? Political persuasion? Where does one draw the line. And if categorization becomes too intense, then there may be too much difficulty in getting people to accept the role of jury member. We should be able to trust each other to try out best to understand where someone is coming from.
- Raven Harrison: We want to believe in the Haverfordian ideal that we're all liberal thinkers who can consider difference carefully and try to understand it but that is not entirely true. Also, in saying that we all understand our mutual differences is the same as saying that we are a homogenous body who all think in the same way. It is important to have a diverse jury. How is a person supposed to feel if there is no one on their jury who resembles them? This issue is especially relevant in social trials where issues can be directly tied to questions of race, gender, etc. We are not as ideal as we like to think and our community is not perfect. We did not all come here the same and we do not all think the same.
- Seth: How do you establish a list that could make everyone comfortable? Because everyone has characteristics for which they would feel uncomfortable with a jury that did not match those characteristics. You also have the option to have 2 jurors removed and randomly replaced. It's very hard to create a system that is by definition going to make everyone comfortable
- Anastasia: We recognize that that would be very difficult, but we are working toward coming up with the best solution possible.
- Joe: the Charlie abstract from 1994 demonstrates that when you have homogeneity in a jury you can get terrible results; we have to establish a baseline of sufficient diversity within juries; we respect that there are different facets of diversity, but not all facets are equally relevant to trial situations; what are the things that we can reasonably expect will impact a jury and trial?
- Diane suggests that we ask the confronting and confronted parties which demographic categories they care about going into their trial, and construct the jury taking into account particular circumstances.
- Harrison points out that because you happen to be a member of a particular race, gender, religion, etc. you should not assume that you necessarily have similar experiences or thoughts as any other member of that group.
- Robbie Yaskowitz: Diversity and experience do not necessarily coincide. His experience as a Jewish male is entirely different from his father's experience. The question is, however, is there some bond that being a member of a particular group affords one with that will increase the overall chance that that member will be able to better understand another member. The goal in providing for diversity of juries is to allow juries to enhance their overall understanding of the case. Of course there are limits to our understanding, but our goal is to try to mitigate those limits as best we can.
- Aimee Lanning points out that the creation of these lists is asking Honor Council to collect a lot of information about the student body (race, gender,

religious affiliation, sexual orientation), and some of that information can be considered very private. It may not be a good idea to give that much power to Honor Council. What will happen to this list? Who will be responsible for holding it?

- Nick Lotito points out that this issue revolves around three questions: (1) Do we need to have a system to ensure diversity in juries? (it seem that the working group dedicated to this issue already assumes the answer is yes) (2) Do we want to look at other ways of addressing these issues short of creating a selection system? (Like, for example, Jacob's idea, or having diversity training for jury members) (3) What is going to happen in the interim? If there has to be a jury selection tomorrow do honor council secretaries have any power under the constitution to use discretion in jury selection or is it entirely random?
  - The co-chairs respond that according to the constitution, the process of jury selection must be entirely random and there is no room for interpretation.
- Nick: there is a distinction between having a diverse jury and a jury who the confronted and confronting parties are comfortable with.
  - John: if there is a situation in which honor council feels that the community would have a hard time relating to the issues at hand then we can use a different mechanism than a trial, like a dean's panel. We have members of the administration who are explicitly trained to deal with issues of diversity
  - Aimee: so would you have sent the Muppets trial to a dean's panel?
  - Joe: but selecting a mechanism other than a trial based on such criteria implies that honor council is saying "you're too different for the community to relate to, so we must send this issue to the administration". We need to make a good faith effort to ensure that students have access to a jury that can appreciate their circumstances.
- Seth: In order for a trial to be fair we also have to ensure that there is a mechanism in place that will make sure a jury is not composed of people who are not entirely the same; we must make sure that a person of one race is tried neither by a jury composed of all members of his race nor by a jury that is composed of no members of his race.
  - Aimee: diversity should also imply a diversity of opinion and perspective, not just of external characteristics like race and gender.
  - Andrew: as a confronted party, you're on trial fundamentally because you are suspected of doing something wrong; if you have too much power over which jury members you select that are going to decide consequences of what you did then that seems to be a flaw in fairness because of your vested interest
  - Sarina: it seems impossible that a person could select a jury that would be predisposed to being more lenient.
  - Nicole Benson: you also then hope the opposite: that a jury would not be too harsh.
  - Sam: the roles of hc and the trial process are to be help students to repair breaches of trust with each other and/or the community. an array of different experiences can help to understand causes and suggest ways of repairing the breach; finding ways in which we can bring in diversity of opinion and experience in ways that students can benefit from it
- Nick: There are different goals you can have in terms of jury composition: you can want a representative jury (composition of jury reflects composition of student

body); diverse jury; particular juries for particular trials that can help add understanding to particular circumstances

- Harrison: or you can have an impartial jury; when we say that we want certain viewpoints represented we are saying we want a partial jury
- Samme Sulaiman disagrees with Harrison; partiality implies picking a side; we aren't trying to get people who are blindly sympathetic based on shared characteristics; what we want is a jury who is truly impartial, who can contemplate different perspectives
- Andrew: maybe we should make a distinction between academic and social trials; every person who goes to this school can relate to the experience of being a student—academic trials don't relate to issues of diversity as much
- Joe: that may be true of fact-finding portion, but it is not true of the circumstantial portion during which circumstances in confronted party's life could be relevant
- Aimee: there was an academic trial last year in which the fact that a student was an international student was a major factor
- John: since the jury is half composed of honor council members, perhaps there should be diversity training for hc members as an interim solution.
- Max Scherrer points out three principle concerns regarding what diversity within the composition of juries is designed to achieve or alleviate:  
(1) miscarriage of justice (2) comfort of parties involved in the trial  
(3) expediency and efficacy of getting a trial that functions. Goal should be to find a solution that caters to all of these concerns. We want efficacy and expediency as long as it does not egregiously violate our principles. We should re-evaluate the way ourselves and our community relate to the concepts of multi-culturalism and diversity.

#### B. Committee Reports:

(1) Student Outreach: John, Lily, Inez

(2) Faculty Outreach: Silas, Maebeth, Sydney

(3) JSAAPP: Susanna, Gabe

(4) Abstract Committee: Joe, Ben, Andrew, Jen

(5) Admissions Committee: talk to admissions about how honor code is presented to prospective students; be a resource in admissions office for prospective who have questions about hc; also, work as a liaison to understand how admissions considers the honor code in admissions process; Council consents to the creation of the position of an Admissions Liaison who will investigate these issues and then consider if the creation of a committee is necessary.

(6) Security Committee: Susana, Ben

C. SC still working on election of the sophomore rep; we should have the rep in time for sophomore retreat which should take place the Friday after Fall Break.

#### III. Private Portion