



The Cavalier Daily

February 16, 2001

ONLINE EDITION

- News ◀
- Sports ◀
- Life ◀
- Opinion ◀
- Lead Edit ◀
- Letters ◀
- Comics ◀
- Business ◀
- A & E ◀
- Focus ◀
- H & S ◀
- Classifieds ◀
- Events ◀

Current Issue

- [Top Stories](#)

Archives

- [Browse](#)
- [Search](#)

Resources

- [About the CD](#)

CD

- [Policy](#)

Manual

- [Advertising](#)
- [Staff](#)
- [Mailing List](#)

Contact

- [Editors](#)
- [Webmaster](#)
- [Ombudsman](#)

Amendments to honor constitution would limit rights of accused

By **Erich Wasserman**

Cavalier Daily Columnist

STUDENTS will vote later this month on amendments to the honor constitution that will have a profound impact on the fairness of honor trials. Under the guise of streamlining the process, these changes rid trials of vital protections necessary for a fair hearing. By stripping students of the ability to select a random student jury, lowering the vote needed to convict, restricting the role of counsel during the process and forcing juries to expel students who have cheated, honor trials become less a venue to maintain the community of trust, and more an expulsion factory. Since most students will never go through an honor investigation and trial, these proposals likely will mean very little. But it is possible you, your best friend or someone you care deeply for will be put through a procedure that may eventuate in their expulsion from school.

Would you want them tried under these procedures?

Related Links

- [Honor Committee Web site](#)
- [Cavalier Daily coverage of the Honor Committee](#)

Getting rid of random juries and lowering the threshold for conviction. Currently, students are given a choice of who will hear their case: juries of random

students, only Honor Committee members or a mix of both. Most students choose random juries, because Honor Committee members tend to be more militant about what constitutes an expellable offense. Few students choose to have a jury even partially composed of Committee members because, they think, the likelihood of conviction increases.

So is it bad to get rid of random student juries? If students are committing honor offenses, then don't they deserve to be punished? Not if the community of trust decides not.

Currently, student jurors deliberate the seriousness of an offense. Sometimes they decide even though the charge against a student is true, it is not so bad as to warrant expulsion from the University. Nixing random juries radically diminishes the meaning of student self-governance at the University. It greatly curtails the power of the student body to decide what is and what is not acceptable behavior.

Already, the Honor Committee wields immense unchecked power; after all, no one is allowed to inspect what, exactly, the Committee does, since everything (including the bare facts of cases) is confidential. The amendment up for vote denies the student body the ability to decide what is and is not acceptable conduct, and gives it to the Committee: an effectively unregulated, unaccountable and unrepresentative body of students.

Now, give this jury a lower threshold of votes needed for conviction on act and intent - the next amendment up for vote - from four-fifths to two-thirds, and you've all but guaranteed increased conviction rates. Cheaters be gone.

Next is the amendment to make cheating per se serious - to eliminate the seriousness clause. With this amendment, the Committee wants to force student jurors to expel students for cheating by not allowing the jury to consider the seriousness of the offense. Recall that currently, juries consider not only whether the act occurred and was intended, but also was serious enough to warrant expulsion. Proponents of eliminating the seriousness clause say that there is no such thing as non-serious cheating, which is at least a very harsh and unforgiving position that, one hopes, is unlikely to be embraced by the majority of students.

After all, that's why the University has student jurors free to consider all the facts and not an all-powerful body that demands verdicts. The ability to weigh the severity of an offense and decide whether to expel is precisely the powerful and vital role of the jury, who, we remember, is

the voice of the community of trust during honor trials. Diminishing their power, as this proposal will, means the verdicts rendered are not those of the community, but of a secluded Honor Committee.

Limiting the role of counsel. The problem with counsel, it seems, is they are prone to grandstand: too flashy, too loud and, as one Committee member put it, too likely to "be Johnnie Cochran."

Even if true, why should dealing with the problem of overly aggressive counsel mean putting accused students at a disadvantage? There's no connection here. One doesn't deal with bad doctors by denying patients proper care. The help, guidance and advice given by counsel is crucial. These advocates know how the process works and how best to navigate through it. To an accused student who has never seen the honor process at work, it is frightening and complicated.

Would you know how to argue, based on the innumerable honor bylaws and amendments, the admissibility of evidence or the scope of witness testimony? Could you question witnesses against you before a jury? Would you be willing to bet your degree on it? Limiting a defense counsel's role is doubly unfair because the role of the prosecutor is not similarly limited. At honor trials, just as students have counsel representing them, so does the University. To place restrictions on the role of defense counsel while leaving the prosecution's role unscathed thoroughly undermines the fairness of the procedures.

It's disheartening to see that the remedies offered to strengthen the beleaguered honor system involve ridding the process of vital protections for the accused. It serves no one's interest to have a trial system that neglects to provide basic fairness to those who go through its processes: Those who are either completely innocent or who may have had a minor lapse in judgment are punished beyond what is reasonable.

The heavy responsibility of student trials requires the most elaborate protections possible to the accused, on the presumption they are honorable until a fair and impartial hearing shows them to be otherwise. In the interest of seeing the honor system flourish for years to come, students must vote down these amendments, and the Honor Committee

should try again with well-intentioned recommendations for change.

(Erich Wasserman is a former counsel to accused students and a program officer at the Foundation for Individual Rights in Education.)

[Previous Article: Shifting spotlight from...](#)

This paper was published on 2/16/01 by **The Cavalier Daily, Inc.**, at the University of Virginia. Respond by e-mailing cavdaily@cavalierdaily.com.

[Click here for printer-friendly version.](#)

PAID ADVERTISEMENT



Earth Share

Click here to find out more!



©1995-2000 The Cavalier Daily, Incorporated. All rights reserved.

You may not reproduce the contents of this paper in any shape or form without the express written consent of *The Cavalier Daily*.

Address: University of Virginia; PO Box 400703, Charlottesville, VA 22904-4703
Phone: (804) 924-1086 | FAX: (804) 924-7290 | E-mail: cavdaily@cavalierdaily.com