Bridging the Gap:

Reconnecting Georgetown University's Principles to its Practices by Transforming the Code of Student Conduct with Restorative Justice

By: Samantha Stevens
sjs88@georgetown.edu
Georgetown University College of Arts & Sciences
Psychology Major
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Thesis Advisor: Dr. Jennifer Woolard
jennifer.woolard@gmail.com
Associate Professor, Co-director of Graduate Program in Developmental Science

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Forward

The relationship I have with the Georgetown University Disciplinary System is a contentious one. On the one hand, I know the Code of Student Conduct is in place to protect my fellow students and me. It has been constructed with our best interests and utmost safety in mind, and has been fastidiously written to best serve the well being of students. In this vein, I am greatly appreciative of the Disciplinary System, and grateful for its emphasis on my security. However, the shortcomings and imbalances of this system have harmed me in more ways than they have helped me. My story is one of loopholes, miscommunication, faulty advice, and distrust. Moreover is that I am not alone in my unfortunate experience with the Disciplinary System, as many other students have had similarly distressing and unhelpful encounters. As a forward to my Justice and Peace Studies thesis, I would like to lead you down a narrative path that will retell the story that inspired me to write this paper, and ultimately paint a picture of the shortcomings of the current Code of Student Conduct.

One afternoon during the fall semester of my freshman year, I came home to my freshman dorm room after a long day of classes. As I walked in, my roommate Leslie[1] pointed up to our top shelf, which ran along the side of the room. As my gaze drifted upwards and fell upon two tall bottles resting far up at the end of her half of the shelf, Leslie announced that these were are two "empties". In the freshman dorms, there is a no-alcohol policy, however each room is permitted two empty bottles, (a rule that still boggles me). Leslie was a responsible student who, although she liked to party, was smart enough

[1] All names have been changed to protect privacy

not to put bottles containing alcohol displayed in plain sight in the middle of our alcohol-free dorm. We had a good relationship, and I trusted her, her judgment, and her integrity enough to not feel the need to climb up on my desk, retrieve the bottles, and check for myself to confirm they were empty. So I took her word about the bottles, and there they remained, untouched, for the rest of the semester.

Over winter break, Leslie and I received an email from the Hall Director, Craig. The email stated that upon inspection of our room, he found "residual alcohol, about the equivalent of 2 shots" in the bottles in our room. Since the dorm is alcohol free, we were being charged with an alcohol violation. This was Leslie's first violation, so she had to follow the appropriate sanctions, such as doing community service and taking an online alcohol education course. However, I was in a different situation. I had received an alcohol violation earlier in the year: my friend, who was 23, was found with alcohol in his (alcohol-free) dorm, and I happened to be there at the time, and was thus written up. After that first violation, I learned my lesson, and made sure to never put myself in that situation again. However, the accusation of there being alcohol in our "empty" bottles counted as my second alcohol violation, and thus resulted in much more severe punishments. I had to do work-sanction hours, pay a fine, write a reflection essay, and meet with a counselor to discuss potential substance abuse. What's more is that I was put on both housing probation and disciplinary suspension. These punishments would go on my permanent record, mar my reputation, and hurt my chances at getting into graduate school – all for two bottles of alcohol that never belonged to me, and as far as I knew were empty.

Upon returning to school, Leslie and I were asked to have a meeting with Craig. Tensions began between Leslie and me, and our once congenial friendship was slowly

turning sour. In efforts to not make my living situation even more uncomfortable, I decided not to point fingers during our meeting with Craig, and instead attempt to speak with him again later in private, when my roommate wasn't present, about the truth of the situation and to whom the bottles actually belonged.

A few days later, I went to talk to Craig alone. I explained to him that the bottles were not mine, but rather Leslie had put them on the shelf with the rest of her belongings. He told me not to worry, that I could appeal the case - just ask Leslie to write him an email confirming that the bottles were hers. I further confided in him that I had a medical disease with which drinking hard alcohol puts me in grave danger, so I never drink hard alcohol anyway. He told me that there was precedence for this type of situation, and that just a few weeks ago another pair of roommates had the same sort of situation, where beer was found in their room. One of the roommates had Celiac disease, so she couldn't consume wheat/barley, thus exculpating her from guilt. He told me to submit a doctor's note with my appeal, and classify it as "new evidence".

I went back to my room, and began to look up the parameters for submitting an appeal. This was my first exposure to the labyrinth that is the Georgetown Code of Student Conduct. I immediately felt overwhelmed, unable to navigate the endless oceans of legal jargon and twisting proceedings of which the Code is comprised. I printed out the Appeals cover letter, and couldn't make heads or tails of which of the three types of appeals I was filing, so I heeded the Hall Director's advice and submitted it as an appeal based on "new evidence". I awkwardly approached Leslie and asked her to write an email to Craig, explaining that she had put the bottles in our room and that I had nothing to do with them. I also had my doctor submit a letter explaining the life-threatening risks associated with

someone with my medical condition consuming hard alcohol, knowing that precedence for this type of situation had been established. I confidently submitted my appeal, knowing that justice would be served and I wouldn't be held accountable for a violation I did not commit.

I was wrong. My appeal was denied. And not only was my appeal denied, but the decision was final, there was no one for me to discuss this with further, or talk about what had really happened. I was not given the opportunity to speak to an appeals committee, or anyone who would listen to my side of the story, my explanation, and the truth. The bureaucratic arm of the Office of Student Conduct simply stamped a giant red "X" on my plea for truth and justice.

After many phone calls and emails, I was finally able to arrange a meeting with the Director of Student Conduct. He told me that I filed the wrong type of appeal, because the "new evidence" of my roommate claiming responsibility and my doctor's letter about my medical condition were not actually "new" to me, since I had known about both issues at the time of my initial hearing with the Hall Director. I explained that I was not comfortable with placing the blame on my roommate while in her presence. Furthermore, I was uncomfortable openly discussing my medical condition during the initial hearing with my roommate and the Hall Director. My disclosure should be my prerogative, and the fact that I chose to only disclose it at a later time for the sake of my own privacy should not be held against me. The Director of Student Conduct said there was nothing he or I could do, essentially denying my right to privacy and my choice of if and when to disclose personal medical information. He told me that the decision was final and the case was closed.

In the name of justice, I decided to fight. Both my parents and I could not believe the atrocious unfairness that I had encountered in this process, and refused to let the sanctions and damage to my permanent record stand. I approached the University's Vice-President for Institutional Diversity and Equity, who is also a lawyer, and told her about my situation. She immediately wanted to help me, and went on to arrange a meeting so that she, my mother, and myself could finally sit down and have a conversation with members of the Office of Student Conduct.

The meeting did not go as well as I had hoped. The Assistant Director of Student Conduct told me that the email from my roommate was not convincing enough, and the letter from my doctor did not indicate severe enough counter-indications. Simply put, they just didn't believe me. In their minds, the decision that I was guilty had been made long ago, and I was never really given a fighting chance. I was never even given an opportunity to talk, to present my situation face-to-face with the person making the decision regarding my the validity of my appeal.

Administrative action, as it is so dubbed in the Code of Conduct, had completely circumvented any direct communication with me, the person who was actually being affected by the decision. I felt as if I was just another presumed-delinquent freshman being pushed through the system. Not being paid any individual attention was bad enough. But what was worse is that not once in the entire process was there any emphasis on learning from this experience. The sanctions, which were the supposed deterrents for me to not do something like this again, included paying a fine and picking up trash. Where is the relevant learning experience that should teach me and discourage me from committing another alcohol violation? Moreover, where is the justice? Since the end of my freshman year, I've

known something needed to be done about this whole system, and I wanted to be the one to do it.

I have been carrying the burden of this experience on my shoulders for the past three years. It was a permanent reminder within me that change needed to happen; all I needed was the perfect opportunity. Throughout my courses in the Justice & Peace Studies minor, I have seen examples of great change stemming from individual events. Moreover, I have seen educational systems reforming their own disciplinary structures to better serve the needs of students. It is with my personal experiences, and studies of successful implementation of restorative justice practices into school systems, that I propose to reconstruct the Georgetown University Code of Student Conduct. It is my hope that this thesis, a culmination of my work for the Justice & Peace Studies minor, will be a catalyst for change at Georgetown University, and that I can leave this community a little better off than I found it.

Chapter I: Introduction

The Georgetown Ethos Statement emphasizes truth, respect, dignity, integrity, education, and open dialogue. This is an admirable foundation of principles for a justice system. Unfortunately, Georgetown does not "practice what it preaches," so to speak. The school's actual Code of Student Conduct (Appendix A) is written as a legal document, whose jargon is difficult to understand and almost impossible for students to navigate. Furthermore, the current system's disciplinary action and punishments do not actually foster the values that the Ethos statement embodies. In order to best serve and educate students**,** the author believes that a system of restorative justice, rather than a punitive one, will promote a culture of peace and will lead to a stronger community based on respect and integrity. Georgetown's philosophy is based on such principles, however there is a severe disconnect between its goals and its actual practices

The rules of the school are in place for a reason and, the values that the rules aim to uphold are commendable. However, the current Code of Student Conduct and process of what happens when a student breaks the rules do not reflect the values of Georgetown. The current Code of Student Conduct is 29 pages long and full of many different routes, exceptions, loopholes, and unnecessary procedures. The arduous navigation of our school's disciplinary system imposes what Justice and Peace scholar Johan Galtung would call "structural violence" on the students, violating their rights and failing to meet their needs (Galtung, 1969).

In the current Code of Conduct, there are three categories of infractions, ranging from Category A being the least severe, to Category C being the most severe. Category A

violations are dealt with by "Administrative Action". According to the Code of Conduct, "Administrative Action is the resolution of a case by an authorized administrator. The adjudicating administrator has the authority to find a student responsible for violations of the Code of Student Conduct and assign the appropriate sanction(s)." In the 2008-2009 Academic year, of the 1509 disciplinary infractions, 98% of those were category A. This means 98% of students did not have the opportunity for open dialogue or restoration of peace, as the Ethos Statement suggests. These 98% of students were called into speak with one of the thirteen "authorized administrators" laid out in the Code of Student Conduct, usually their Hall Director, to discuss their involvement in the situation. Although the burden of proof rests on the complainant, the complainant in Category A violations is the University, who is represented by the authorized administrators. The standard for determining responsibility is "more likely than not," meaning a 51% chance the student is responsible for the infraction. The problem is that since the University accused the student of responsibility in the first place, there is already the assumption in place that the student was responsible for the violation, making students "guilty until proven innocent" before the student even gets to present his or her side of the story. Students are not permitted to speak to a neutral party, but rather are simply found guilty by the authorized administrator who already assumes they are guilty. Furthermore, there is no opportunity to discuss or create beneficial outcomes for all parties involved, something that restorative justice values.

Upon being found responsible for the infraction, there are 17 possible sanctions with which any of the authorized administrators may punish students. These sanctions include "an official letter of censure, fines, housing suspension, loss of party hosting

privileges". None of these punishments relate to or attempt to restore the values of respect, integrity, and community that the Ethos Statement holds.

The author of this thesis has been personally affected by unbalanced justice system. As she reports, "I have felt victimized by the justice system. My freshman year, I was wrongly convicted of a category A violation. I was not only given multiple sanctions for an infraction I actually had nothing to do with, but I wasn't even given the opportunity to have any sort of dialogue to explain my side of the story. I felt helpless and abused by the system that was supposed to be upholding justice, not committing acts against it."

This thesis proposes a complete overhaul of the Georgetown justice system, resulting in a clear and functioning Code of Student Conduct that is based on a system of Restorative justice, and provides help to students who need it, rather than punishment. Chapter II is a literature review describing the values of restorative justice and citing examples of successful implementations of such systems, (originally written for Professor Andria Wisler's Conflict Transformation class, Fall 2009). Chapter III is a comprehensive critique of the current Code of Student Conduct from a restorative justice perspective. Finally, Chapter IV is the author's proposal of a new Code of Student Conduct that is based on a system of restorative justice.

The New Code of Student Conduct will be clear and easy to read, unlike the legal document-style in which the code is currently written. The new system will transform the complex and arduous process of proceedings that intimidate and confuse students in order to make the process simple, effective, and educational. With the creation of the New Code of Student Conduct, the current gap that exists between the goals of Georgetown and the process by which the University achieves its goals will be bridged. The implementation of

the practice of restorative justice at Georgetown University will uphold the virtues and values upon which Georgetown prides itself.

Chapter II: Literature Review

The world's earliest school systems were founded on principles of retributive justice. Still today, the vast majority of schools in the country and in the world rely on the retributive system to punish students for wrongdoings. The concepts of "the punishment must fit the crime" and "an eye for an eye, a tooth for a tooth" are the foundations of retributive justice. This approach leaves little room for conflict transformation in the justice process. To fill this gap, the field of restorative justice has emerged, and has become more and more prevalent in the primary and secondary education system. In studies, restorative justice has been highly successful, as quantified by measures such as lower crime rates and reduced recidivism rates. Despite these high success rates, restorative justice is only being used in a handful of colleges and universities throughout the country, although the few schools that incorporate the methods of restorative justice into their disciplinary process have seen great success. The proposal for the establishment of a restorative justice system at Georgetown University would help fill the gap in this field, rebuild the connection between Georgetown's goals and its practices, and to serve as a model for other institutes of higher education to adopt restorative justice practices.

Retributive justice and restorative justice practices are fundamentally different. The Central Michigan Restorative Justice Initiative, a movement to implement restorative justice in the school systems in Michigan, differentiates the two in terms of how they both approach conflicts. The punitive system looks at an instance where crime is committed or a rule is broken, and asks, "What should the punishment be?" The restorative system instead asks, "What happened, who was effected, what harm was done, and how can this harm be

repaired?" The schools in Michigan that have implemented restorative justice have found that this system has, "empowered students, opened up possibility for education, and created much stronger community" (The Central Michigan Restorative Justice Initiative, 2009). Restorative justice allows students to see first hand that their actions have an impact on society, both positively and negatively, and exactly how far-reaching that impact is.

Restorative justice can take shape in many different ways, in schools and beyond. Lois Presser and Patricia Van Voorhis of the Division of Criminal Justice at the University of Cincinnati, present three examples of what restorative justice might physically look like: victim-offender mediations, family-group conferencing, and peacemaking/sentencing circles. Victim-offender mediations are one of the most basic practices of restorative justice. As the name suggests, the victim and offender sit down with each other to discuss the situation and answer each other's questions. A moderator is present to facilitate the discussion, and after the situation has been discussed, they work collaboratively to come up with possible solutions or ways to fix the situation. Family-group conferencing builds upon the victim-offender model by involving a wider range of people. The victim, offender, family members, members of the community, and some representatives from the justice system are present to engage in dialogue, to discuss what damages were done and to whom, and to discuss possible reparations. The peacemaking/sentencing circles are similar to the family-group conferences, yet they include a wider range of participants (especially judicial representatives), and there is more emphasis placed on unanimous decisions. These three examples of restorative practices are all connected by three core values: dialogue, relationship building, and the communication of moral values (Presser & Van

Voorhis, 2002). Open dialogue in which all participants feel comfortable in communicating their thoughts and emotions helps build and restore relationships that were damaged by the offence done. The communication of moral values is important to rebuild the sense of community from which the offender has strayed by breaking some sort of rule, and through dialogue and relationship building the offender will be able to regain standing in said community. Open dialogue, relationship building, and the communication of moral values are the stepping-stones for all restorative justice programs, no matter how they are implemented or what they look like when they are put into practice.

Ted Watchel, the president of the International Institute for Restorative Practices outlines his concepts of six overarching goals that restorative justice programs in schools should strive to achieve. These six goals presented in Safer, Saner Schools (Watchel, 1999) embody Presser and Van Voorhis' restorative justice goals of dialogue, relationship building, and the communication of moral values, and apply them specifically to school situations. The first goal is to make the student aware of what he or she did was wrong, and to let him or her know how others were affected by the wrongdoing. Second is to avoid lecturing or scolding the students, which makes them feel attacked and as if they themselves are the victims. The goal should be for students to understand the feelings of those they hurt, rather than focusing on their own feelings that would be evoked if they were scolded. Third is to hold students accountable for their actions by getting them directly involved in the restorative process. Receiving punishment is a passive process that also makes the student focus on himself or herself as the victim, rather than placing the focus on those whom he or she hurt. Fourth, there needs to be an acceptance that ambiguities may arise, and there may not always be a clear answer to who is responsible

for each action in a situation. The point of this goal is to have students take responsibility for as much of a situation for which he or she is clearly at fault, and accept the ambiguities in proceeding with the restorative process. Fifth is to differentiate the student's worth and value as an individual from his or her misdeed. A student should not be made to feel as if he or she is a bad person, but rather a successful restorative justice practice should make it clear that the student is a good person who made a mistake, and who has the opportunity to repair the harm caused by this mistake. The last goal is for schools to see every instance of misconduct as a learning opportunity. As educators, it is imperative that schools teach students to learn from their mistakes, to apply their gained knowledge and experience to future situations, and to constructively create teachable and learnable moments out of such mistakes.

People may be hesitant to implement restorative justice systems into schools because they simply don't know where to start, and the task seems too overwhelming to even be able to begin. However, Lorraine Stutzman Amstutz, a professor at Eastern Mennonite University's Graduate Center for Justice and Peacebuilding, states that with the use of some of the fundamental principals of restorative justice itself, the process of implementing a restorative justice system is very manageable. Restorative justice needs to start with the people who will be involved in the process: the students. It is important for teachers and students to work together to establish the goals and visions of how the classroom will function, and to establish a safe place for students to go and engage in open dialogue. If the students are involved in the creation of the restorative justice system in the classroom, they will be much more willing to engage in it openly, and thus will reap greater benefits from the process. Beyond the classroom, teachers and administrators need to

engage in open dialogue and communicate the moral values and goals they are trying to achieve in regards to the establishment of a restorative system. This cooperative effort involving students, teachers, and administrators, will prevent any party from feeling as if this system is being inflicted upon them.

The physical implementation of restorative justice systems in schools can take on different forms. In response to a drastic increase in school violence in 2001, three different regions in America (the state school system of Minnesota, 15 schools in the Denver metropolitan area, and a group of 6 "alternative" facilities in Pennsylvania) took in three different restorative justice approaches to try and transform the occurrence of crimes (Karp & Breslin, 2001). The result was proof of the applicability and versatility of restorative justice practices. In Minnesota, restorative justice was implemented not to replace, but rather to supplement traditional forms of discipline. Teachers, administrators, and other members of the community who wished to take part were trained in restorative techniques, and thus facilitated restorative practices such as "circling", which is another name for Presser and Van Voorhis' method of family-group conferencing. The implementation of restorative justice systems in Minnesota have been successful, with results such as schools having a 27% reduction in the number of suspensions and expulsions.

The school system in Denver more closely focuses on restorative justice as a sole means of disciplinary action. Practices range from impromptu discussions called by teachers to discuss misbehaviors of students as they occur, to more formal "victim impact panels" for more severe conflicts and violations (Karp & Breslin, 2001). In victim impact panels (similar to Presser and Voorhis' family-group conferencing), victims, offenders,

supporters, and school administrators all have the opportunity to speak their mind. Then, everyone discusses possible solutions and ways for the offender to make amends. Once the solutions have been established, a contract is written and the offender and signs the contract, further morally binding him or her to fulfill his reparations. In very serious offenses, such as illegal drug use or possession, a combination of retributive and restorative justices is used. A student is expelled when found in the possession of illegal substances, and law enforcement authorities must be called. However, once the term of the student's expulsion is complete, restorative tools are used to reintroduce him or her to the school community, educate the student on how his or her acts violated the trust the community placed in him or her, and ultimately prevent the act from recurring.

Buxmont Academy in Pennsylvania is an education center for "at-risk" students who have demonstrated behavioral or emotional problems at their previous high school. The goal of Buxmont Academy is to use restorative techniques to reintegrate students back into their original schools and communities. The principle belief of Buxmont is that punishing students is a passive, and thus ineffective experience. The offender ends up feeling like the victim, so it's hard for the offender to then truly understand how what he or she did affected the actual victim, or why his or her actions were unacceptable. Buxmont integrates restorative practices into its daily educational programs, and its focus on how drug and alcohol abuse not only affects the abuser but also those in the abuser's community, is a key principle of Buxmont Academy.

More recently, in 2007 the Hawthorne Elementary School in South Dakota established the Restorative Justice Center (RJC) as an alternative to traditional school detentions. The process involved in the RJC is very structured. Students are first asked to

fill out a form, which an adult helps them with, describing their behavior and statement about the incident. Students sit down together in a circle, introduce themselves, and hear the goal of the RJC, which is to "make things better for others, myself, and the school" (Ashworth, Van Bockern, Ailts, Donnelly, Erickson, & Woltermann, 2008). The students then individually work with mentors to examine and analyze their feelings, behaviors, and thought processes, and also to brainstorm ways to transform the problem. Students then return to the circle and share the ideas they have developed, and to discuss as a group ways to rebuild the strength of the community.

These are just some examples of the different ways in which restorative justice has been established in schools. But, have these practices proven to be effective? Jeff Latimer (Department of Justice Canada), Craig Dowden (Carleton University), and Danielle Muise (PRA Inc.) conducted a meta-analysis of the effectiveness of restorative justice practices. They collected studies from the past 25 years of literature, coded the data into unifying measurements, and then evaluated the effectiveness of restorative justice in terms of victim satisfaction, offender satisfaction, restitution compliance, and recidivism. Latimer, Dowden, and Muise found that victim satisfaction, offender satisfaction, and restitution compliance were all statistically significantly higher in restorative justice practices than in control groups (using retributive measures), and recidivism rates were statistically significantly lower than in control groups. Another study, conducted by Eric Kasper of University of Wisconsin-Barron County, found a strong correlation between restorative justice systems in Baron County, Wisconsin and a decline in juvenile crime rates compared to other comparable counties across the state. Over the span of 10 years, Kasper found that Baron County had a 49% decrease in juvenile felonies, a 57% decrease in juvenile theft rates, and

a 45% decrease in juvenile arrests compared to the other counties without restorative justice practices.

While restorative justice has been gaining more and more momentum at the primary and secondary levels of education, and despite the staggeringly positive statistical data supporting its effectiveness in reducing juvenile misdemeanors, restorative justice has yet to become prevalent at the collegiate level. However, the few universities that have recently adapted practices of restorative justice, such as Colorado State University, Clemson University, and Michigan State University, have all have seen high success rates and fewer repeat offenders (Sara Lipka, 2009). These schools use varying combinations of Presser and Van Voorhis' models of victim-offender mediations and family-group conferences to engage the students involved in open dialogue, take responsibility for their actions, and rebuild their relationships with the school community. Furthermore, an extremely high proportion of violations in colleges involve substance abuse. During the 2008-2009 academic year at Georgetown University, 42% of all conduct violations were related to alcohol or drug usage, (see Appendix B for complete report). Katherine Kraft (Robert Wood Johnson Foundation), Judith Vicary (Pennsylvania State University), and Kimberly Henry (Pennsylvania State University) composed an edition of the journal *Youth & Society* entitled, "Bringing Justice to Adolescent Substance Abuse Treatment," dedicated entirely to the promising potential of restorative justice in substance abuse. This edition was based on their premise that "Restorative justice is a new way of thinking about [substance abuse related] crime that emphasizes one fundamental fact: crime damages individuals, communities, and relationships. If crime is about harm, then justice is about repairing the harm or healing the wounds crime causes," (Kraft, Vicary, & Henry, 2001). An

article included in the edition by Dr. John Braithwaite (Australia National University) included in the edition, "outlines the process of healing that restorative justice promotes and argues that it is healing that creates the motivation necessary to sustain recovery," (Kraft, Vicary, & Henry, 2001).

Universities that have adopted restorative disciplinary practices have been very successful. With the high prevalence of substance abuse related violations in colleges, and the research thus far suggesting the successful effectiveness of restorative justice in treating substance abuse, restorative justice certainly belongs in the realm of colleges and universities. The key elements of restorative justice are highly versatile, and malleable enough to fit a wide range of scholastic environments, and restorative justice has been statistically proven to be effective. There is a lack of the presence of restorative justice systems at the university level, thus the proposal of a restorative justice system at Georgetown University would to fill the gap in research, serve as a model for other institutions of higher education to follow, and allow Georgetown to uphold its values of community and justice.

Chapter III: The Critique

This chapter walks through the current Code of Student Conduct section by section, presenting a thorough analysis from a restorative justice perspective of exactly how and why the current Code is less than ideal, and where it fails to meet the needs of students and the goals of the University.

The following is the Ethos Statement of the Georgetown University Code of Student Conduct (page 29[2]):

> Choosing to come to Georgetown University means joining a distinctive community. As a Catholic and Jesuit University, Georgetown places special emphasis on the dignity and worth of every person and the love of truth. Membership in this community carries with it high expectations regarding the ways in which each person will act both within and beyond Healy Gates. In particular, students are expected to honor the following commitments in all their actions:
>
> - A commitment to the highest standards of honesty and personal integrity both inside and outside the classroom.
> - A commitment to treat others in a respectful manner, regardless of differences such as race, religion, nationality, ethnicity, gender, or sexual orientation.
> - A commitment to open discourse and the free exchange of ideas. A commitment to exercise mutual care and responsibility in all relationships.
> - A commitment to an active concern for the safety, security, and well-being of each individual and a respect for individual, communal and university property.

[2] Note: All page numbers in this section refer to the 2010-2011 Code of Student Conduct, which can be found in its entirety in Appendix A.

I. Preamble

The Code of Student Conduct's Preamble, like the Ethos Statement, lays out honorable goals such as concern for the community, personal safety, and peace. However, after presenting these goals, the Code threatens that violations will result in punishment:

> A Catholic University is a community of learning characterized by mutual responsibility and the active concern of each for the good of all, in a common pursuit of wisdom. This mutual responsibility includes regard for the safety, security and health of others. It also includes respect and care for what we share in common and hold in trust for the educational mission of this University: tangible goods like the physical facilities of the University; intangible goods like traditions of mutual respect and civil behavior. Finally, it includes fostering an atmosphere in which learning may occur: an atmosphere of openness, freedom and creativity, but also an atmosphere characterized by the order, peace, and tranquility necessary for study and reflection. The following regulations and prohibitions are necessary to protect the common good. Their violation will result in disciplinary action (Page 3).

Until the last sentence, this paragraph of the Preamble outlines goals consistent with those of Justice & Peace Studies. The problem arises in the last sentence, "Their violation will result in disciplinary action," (Page 3). This threat of punishing students who make the mistake of failing to uphold the aforementioned principles does not allow students to learn and grow. If a student breaks a rule of the Code, there is a menu of 17 possible sanctions with which he or she might be punished. (These sanctions will be addressed later in the chapter, see page 18 of Appendix A for complete list). Instead of ambiguously punishing students, restorative justice holds that mistakes should be a learning process and an opportunity for growth. This is not to say that students should not be mandated to take actions to restore peace to their community and repair any harm, however such "punishments" should be both appropriate and relevant to the infraction committed, and should also give students an opportunity to learn from their mistakes. Restorative justice

suggests that students should come out of the discipline system better off than they were before. The punishments of the Code such as paying fines might serve to inhibit students from violating the Code again because they do not want to pay another fine, however these punishments fail to get across a key element: understanding *why* they shouldn't violate the Code again, and why what they did was wrong.

II. Student Disciplinary System

The Code states that, "The student discipline system is designed to be an educational system and does not function as a court of law. Therefore, procedural issues, including the introduction and consideration of evidence, are handled in a manner consistent with that educational focus," (Page 4). As mentioned above, however, the retributive nature of the disciplinary system fails to provide students with a true educational experience.

In terms of the proceedings of the disciplinary system, the Code provides as follows:

> "This system provides an alleged violator the opportunity to respond to complaints brought against him or her and to offer a defense. When it is deemed appropriate for a case to be forwarded to a Judicial Hearing Board, the Respondent will be provided an opportunity to confront the Complainant, to respond to the testimony of the witnesses and for a hearing board composed of students, faculty, and/or administrators to determine whether the student is responsible or not. In cases involving only Category A violations, cases which arise during the summer session, or cases in which a student has admitted responsibility for any violation, the Code provides that the matter may be resolved through Administrative Action." (Page 4)

There are several points in this paragraph that restorative justice takes issue with. First of all, not all cases are given the opportunity to present their side of the story in front of a Hearing Board. Only "when it is deemed appropriate," are students ambiguously granted this opportunity. Furthermore, when students are actually permitted to encounter

a Hearing Board, the role of the Board is to establish guilt or innocence, rather than educate the student as to why what he or she did was wrong, how it caused harm to the community, and discuss how he or she could appropriately make amends so that this experience is beneficial to all parties involved. Finally, and perhaps most reprehensively, the Code states that "In cases involving only Category A violations, cases which arise during the summer session, or cases in which a student has admitted responsibility for any violation, the Code provides that the matter may be resolved through Administrative Action," (Page 4). This means that these cases will have no opportunity to have any sort of hearing, but rather one of several "approved administrators" from the Office of Student Conduct sanction the student as the he or she deems fit, (this is further explained later in this chapter). Category A violations are the least severe, and involve infractions such as alcohol and noise violations. However, according to the most recently published statistics of Code violations, 98% of the 1,509 incidences were Category A violations (2008-2009). That means that 98% of students are not provided with the opportunity to meet with a Hearing Board, present his/her side of the story to a panel, or really gain any of the "educational focus" that the Code suggests – rather they are simply assigned sanctions, which may or may not be relevant to their infraction.

III. Structure of the Discipline System

The Discipline System is comprised of eight different parties: the Office of Student Conduct, the Director of Student Conduct, the Student Affairs Disciplinary Review Committee, the Category C Review Committee, Administrative Action, Hearing Boards,

Advisors, and the Appeals Committee. Any combination of these eight elements may be involved in a student's journey through the disciplinary system, depending on the nature and severity of his/her infraction. All committees are made up of a combination of administrators, faculty/staff members, and students.

Each of these eight elements offers several benefits for a student navigating the disciplinary system. However, there is no method in place that invariably provides students with an Advisor, nor is a student necessarily permitted to express his or her views to a Hearing Board. It is at the discretion of the various officers and administrators within the Office of Student Conduct who decide which students will encounter which of the elements of the discipline system. Justice & Peace Studies scholars argue that this is unjust, and that every student should be granted the same opportunity to be heard by representatives of each member of the community.

Finally, the Code states that, "Each Complainant and Respondent has the right to be accompanied by an Advisor of his/her choosing during all aspects of their case preparing up to and including the hearing proceedings," (Page 6). There are two issues with this statement. First of all, while the Code explicitly states that it is meant to be an informal and educational process rather than a legal one, this statement is uncannily similar to an arrested person's right to an attorney. A university's disciplinary system should not be confusing or arduous enough to merit a student require an advisor to help him or her understand the procedures and navigate through the system. The process should be straightforward and informal enough that a college student can handle it easily and comfortably, and ultimately learn and grow from the experience. Second of all, the Code

does not provide students with a means to obtain an advisor, suggest who students might ask to be their advisor, or explain what exactly an advisor's role might be.

IV. How to File a Complaint Within the University

The following excerpt is the instruction for how to file a complaint within the university:

The Office of Student Conduct reserves the right to determine the most appropriate manner in which to handle each individual complaint. There is no time limit imposed as to when a formal complaint of misconduct may be initiated against any student currently registered at Georgetown University. Anyone wishing to initiate a formal complaint against a Georgetown student may contact the Office of Student Conduct. Typically, Category A level violations are handled by the staffs of Residence Life Staff or Off Campus Student Life. For Category B and C level violations, under normal circumstances, and when the Office of Student Conduct does not serve as the official Complainant, the following guidelines generally apply:

- A Complainant meets with the Department of Public Safety (DPS) to provide a statement and a list of potential witnesses. DPS forwards the Complainant's statement to the Office of Student Conduct. The Complainant meets with the Office of Student Conduct. DPS continues to conduct the investigation and forwards the investigation results to the Office of Student Conduct on an ongoing basis.
- Office of Student Conduct proceeds with its evaluation of the case as investigation results are presented. The Office of Student Conduct's evaluation may involve interviews with involved parties and the collection and review of relevant information, as the Office of Student Conduct deems necessary.

When the Director of Student Conduct or his/her designee has determined that a violation of the Code may have occurred, he/she holds separate meetings with the Complainant(s) and Respondent(s).

- The Complainant/Victim has the option of submitting a written statement to the Office of Student Conduct describing the impact of the alleged violation (an "impact statement"). This impact statement must be submitted to the Office of Student Conduct within seven (7) calendar days of the date of this meeting with the Director of Student Conduct. If the decision of the Administrative Action or Hearing Board is appealed, this statement will be made available to the Appeals Committee so that the original complainant(s) concerns are heard and weighed appropriately in the appeals process.

If the Respondent admits responsibility for engaging in the alleged behaviors or actions: The Respondent(s) is/are typically adjudicated through Administrative Action.

If the Respondent denies responsibility for engaging in the alleged behaviors or actions:

- The Complainant meets with the Director of Student Conduct and is provided an opportunity to sign an Initiation of Judicial Proceedings Form.
- The Complainant has 30 calendar days from the above meeting date to complete and return the Initiation of Judicial Proceedings Form to the Office of Student Conduct.
- Once the Initiation of Judicial Proceedings Form is signed by the Complainant and returned to the Office of Student Conduct, the case moves forward.
- If the Complainant does not complete and return the Initiation of Judicial Proceedings Form within 30 days, then the Office of Student Conduct may choose to close the case and not pursue a resolution through the Conduct system.*

Withdrawal of Initiation of Judicial Proceedings Form after it is submitted to the Office of Student Conduct:

- In the event that the Complainant declares an intent to withdraw the Complaint after he/she has submitted the Initiation of Judicial Proceedings Form, he/she is expected to meet with the Director of Student Conduct to discuss the decision.
- A Declaration of Withdrawal must be put in writing.
- By withdrawing the Initiation of Judicial Proceedings Form, the Complainant waives his/her option to pursue resolution of this complaint through the Office of Student Conduct. *

*Note: The Office of Student Conduct reserves the right to pursue disciplinary action on behalf of the University and serve as the Complainant in the event that a Complainant chooses not to initiate or pursue an action. (Page 7)

The above process outlines how a complaint might be filed against a student who is suspected to have violated the Code. Phrases such as "list of potential witnesses," "investigation results," "written statement," and "Initiation of Judicial Proceedings Form" are simply not necessary for dealing with infractions such as improper trash disposal and playing hall sports, especially since 98% of cases are classified as minor violations (Category A – discussed later; See Appendix B for complete list of all violations). This convoluted process is intimidating to students, and frankly, unnecessary for the minor infractions that constitute such an overwhelming majority of violations.

When a student admits responsibility for a violation, he is "adjudicated through Administrative Action", i.e. given sanctions. Under the current system, students are punished without anyone explaining *why* playing hall sports or improperly disposing trash disrupts the community, or discussing appropriate means to make amends to the community, as a restorative justice system would.

If nothing else, the Code of Student Conduct needs to be reworded so that it is understandable and non-threatening. If a student wishes to file a complaint, especially if he or she is the victim of a serious crime, he or she would likely be intimidated by these colossally worded instructions and procedures. The guidelines should be clear and concise, and instructions for filing a complaint need not be a page-long mandate.

V. Classification and Definition of Violations

Pages 8-16 of the Code of Student Conduct clearly outline what constitutes a Category A, B, and/or C violation. This document is readily available to students, and the onus rests on them to familiarize themselves with the parameters of the Code. This proposal takes no issue with the actions that Georgetown University deems in violation of the Code of Student Conduct, and ultimately seeks to reduce the prevalence of infractions. (See Appendix B for the latest published report of infractions committed.)

Infractions against the Code are divided into three categories, with Category A having the least severe violations, and Category C having the most severe. Category A encompasses violations such as under-aged drinking, excessive noise, unauthorized parties, improper trash disposal, playing hall sports, and smoking in non-smoking areas.

Category B encompasses violations such as such as possessions of dangerous objects (e.g. guns and knives), falsification of records, and harassment. Category C encompasses the most severe of infractions, including arson, use of dangerous objects (e.g. guns and knives), sexual assault, and theft. (N.B. This is intended to present a general understanding of the distinction amongst the three categories and is in no way comprehensive. See pages 8-16 of Appendix C for the full description of each Category A, B, and C violation.)

VI. Disciplinary Sanctions

The Code of Student Conduct presents the goal of imposing sanctions as follows:

> The fundamental principle guiding the imposition of sanctions in the student discipline system is founded on the University's effort to balance upholding community standards with the educational development of its students in addressing individual behavior. The sanctioning component of the University's discipline system is designed to achieve the following goals:
>
> - Reestablishment of order while considering the common good, which sometimes necessitates the temporary or permanent removal of the offender.
> - Mechanism within which offenders can reflect upon their actions and their impact on both themselves and others
> - Restoration of the offender to good standing within the community provided the safety of the community is not jeopardized by the individuals' presence or return.
> - Restitution to those harmed by the offender's actions to the degree possible.

These are commendable goals by any standard, which also reflect values of restorative justice. However, like in so many other areas of the Code of Student Conduct, the goals of sanctions are neither reflected in nor adequately achieved by the 17 possible sanctions laid forth by the Code from a restorative justice viewpoint. Below is the list of Disciplinary Sanctions for Violations that may be assigned for infractions:

1. **Written Reprimand**: an official letter of censure.
2. **Fines**: In all cases of fines, payment must be made in the form of U.S. dollar bills, personal check or money order. Coins totaling more than $1.00 will not be accepted.
3. **Work Sanction**: supervised work in University programs, offices, buildings, residence halls, or off campus programs. All work sanction location must be identified by the Office of Student Conduct.
4. **Restitution**: Repayment to the University or to any affected party for damages and/or injury. 185. Educational Classes/Projects: such as AlcoholEdu, Substance Education Class, or Research/Reflection Paper.
6. **Referral**: To appropriate community resource such as individual alcohol/substance assessment and/or consultation.
7. **Other Sanctions**: as appropriate to the circumstances of a given case.
8. **Party Restriction**: loss of the privilege for any parties to be hosted in a student's residence.
9. **Housing Relocation**: loss of the privilege of remaining in current housing and required to relocate to other housing on campus. This may include requiring a student to move from off campus housing to residential housing on campus. The student's parent(s) /guardian will be notified if he/she is a dependent.
10. **Apartment Living Suspension**: loss of the privilege of registering in the next apartment selection process and barred from residing in a University apartment or townhouse for a specified period of time. The student's parent(s)/guardian will be notified if he/she is a dependent.
11. **Housing Probation**: an official warning that further violations would constitute grounds for loss of the privilege of living in that particular residence hall, apartment complex and/or in any University housing for a specified period of time or until a specific condition or conditions are met. A notification of the possibility of a change in housing will be sent to a student's parent(s) /guardian if he/she is a dependent.
12. **Housing Suspension**: Loss of the privilege of living in any University housing for a specified period of time or until a specific condition or set of conditions are met. The student's parent(s) /guardian will be notified if he/she is a dependent.
13. **Housing Expulsion**: loss of the privilege of living in any University housing at any time. The student's parent(s) /guardian will be notified if he/she is a dependent.
14. **Disciplinary Probation I**: an official disciplinary warning status enacted for a specified duration admonishing a student that any further misconduct during this time period may result in suspension. A copy of the notice is sent to the student's Academic Dean; and to the student's parent(s)/guardian if he/she is a dependent.
15. **Disciplinary Probation II**: an official disciplinary status enacted for a specified duration stipulating that a student, in lieu of active university suspension, is being allowed to remain at the University provided that the student adheres to certain conditions, as set by the Board or Administrator. Failure to meet these conditions will result in automatic active suspension from the University. The Office of Student Conduct shall determine whether the conditions have been satisfied or violated. The student's Academic Dean will be notified that the student is on Disciplinary Probation II, as will the student's parent(s) /guardian if he/she is a dependent.
16. **Active University Suspension**: complete separation from all University activities, services, facilities and grounds. Active suspension may be term or

> conditional. Upon return to the University, the student will be placed, automatically, on Disciplinary Probation for a minimum of one year. An active suspension shall be noted as "disciplinary suspension" on the academic transcript. A copy of the notice is sent to the student's Academic Dean; and to the student's parent(s)/guardian if he/she is a dependent.
> Term suspension shall be for a stipulated period of time, not to exceed two years, after which the suspended student may return to the University. Conditional suspension shall qualify re-entry to the University community pending the fulfillment of certain conditions by the student that are reasonably necessary to his continued academic success and peaceful conduct in the community. Subject to fulfillment of the stipulated conditions, the suspension shall be indefinite. The Office of Student Conduct shall determine whether the conditions have been satisfied.
> 17. **Disciplinary Dismissal**: permanent termination of the individual's relationship with the University. This includes all activities, services, facilities, and grounds, undergraduate, graduate and professional schools. A dismissal shall be noted as "Disciplinary Dismissal" on the academic transcript. A copy of the notice is sent to the student's Academic Dean; and to the student's parent(s)/guardian if he/she is a dependent (Page 18).

A restorative justice approach disagrees with this plentiful list of sanctions that may be allocated to students who have been found responsible for anything ranging from improper trash disposal to sexual assault. The sanctions are drawn from the same list, regardless of the infraction, and each punishment is fair game for any and all violations. The Code claims that details surrounding each specific case are considered when assigning sanctions, such as aggravating factors including alcohol involved in an incident and any injuries that a violation may have caused. However, the punishments for improper disposal of trash are drawn from the same selection pool as the punishments for underage drinking and sexual harassment. The sanctions are generic and unrelated to the violations. A restorative justice approach believes that actions should be taken to make amends and restore justice to the community, however unlike the current Georgetown University system, restorative justice believes that acts of restitution should be relevant to each infraction and individualized in order to emphasize why a violation of the Code caused harm to the community.

The problem with these sanctions is that they are inconsistent with the "educational focus" of the Code of Student Conduct. Sanctions such as fines, written letters of censure, and loss of party-hosting privileges fail to educate a student as to *why* his or her actions were wrong, *how* they negatively affected the community, and *what* he or she can do to avoid making the same mistake in the future. The sanctions are impersonal, arbitrary, and non-educational. A restorative justice approach to the Georgetown Disciplinary System would provide for sanctions that are appropriate, related to the violation as much as possible, and above all, educational.

VII. Resolution of Complaints: Administrative Action

There are two ways in which the University resolves incidents of violations: administrative action (addressed in this section), and hearing boards (addressed in section IX).

Administrative action is defined by the Code as, "the resolution of a case by an authorized administrator. The adjudicating administrator has the authority to find a student responsible for violations of the Code of Student Conduct and assign appropriate sanction(s)." Category A violations, as previously mentioned, account for 98% of violations and are dealt with by administrative action. The Code's description of "administrative action" is vague and provides authorized administrators sole jurisdiction over a student's sanctions. When a student is suspected of a violation, he or she is summoned to speak with an "authorized administrator", usually the Residence Hall Director (RHD). The RHD speaks

to the student, single-handedly decides if he or she is responsible for the infraction, based on the standard of "more likely than not," and then assigns sanctions.

Another issue with this process is that if there is more than one student involved in an incident, all students are called in to meet with the RHD simultaneously, instead of each having an individual conversation with the RHD. This puts peer pressure on students to not deviate from the group majority's story, and does not allow any privacy for a student who might wish to say something to the RHD that he or she feels uncomfortable discussing in a group setting. If a group of students is accused of an infraction, they can easily fabricate a story that lessens the severity of their situation. Group members may feel obligated to stick to this story in order to preserve their relationship among other group members, regardless of whether it is true or not. A student who would tell the truth in a private meeting with the RHD might not feel comfortable disputing the word of his or her friends and peers. At present, this system encourages conformity and peer pressure rather than truth and justice. Furthermore, The standard by which the authorized administrator decides if a student is responsible for an infraction is "more likely than not". Under this standard, if there is a 51% chance a student was involved in an infraction then he or she is held responsible and sanctioned for said infraction. When students are called in to discuss an incident with an authorized administrator, it is because the student is already presumed to be responsible for the violation. Under the current system, students are assumed "guilty until proven innocent" and the onus of exculpation really rests on the students themselves.

This process is often confusing to students. At the beginning of the year, students are introduced to their RHD as a friend and ally. Suddenly, when either rightfully or wrongfully accused of violating the school's Code of Student Conduct, that same friend and

ally is the one interrogating them, and ultimately sanctioning them. The student has no one to guide or advise him throughout this experience, since the person he thought was on "his side" is now the one doing the punishing.

Under principles of restorative justice, students would be able to express their story confidentially and confidently, without any confusion of trust or presence peer pressure. Furthermore, the members of the community who were directly affected by the student's misconduct should be represented in any conversation, so that the student can *learn* how and why what he did was wrong. Instead of an administrator selecting sanctions from a predetermined list, restorative justice provides tailored methods of repayment to the community. For example, a student who violated the trash policy might be required to pick up trash for several hours, so he could learn what the impact of his mistake was, learn how difficult it is for people to clean up after his mistake, understand why the trash regulations are in place, restore balance and harmony to his community, and thus not commit the violation again. Under restorative justice, students are given a chance to tell their story, hear from the community why their actions were harmful, and then make amends to the community through appropriate means.

VIII. Resolution of Complaints: Hearing Boards

Upon first glance, The Code of Student Conduct's Hearing Boards seem to most closely resemble the restorative justice model for a forum in which students have the opportunity to present their side of the story. However, upon perusal, it becomes clear that not only is this far from the case, but the guidelines for the hearing boards are in direct contradiction

to Georgetown's Ethos Statement and the Code's statement of intent. The Code reads, "The student discipline system is designed to be an educational system and does not function as a court of law. Therefore, procedural issues, including the introduction and consideration of evidence, are handled in a manner consistent with that educational focus," (Page 4). Yet the three-page-long explanation of the structure of Hearing Boards is difficult to distinguish from a formal legal trial, and fails to exhibit the "educational focus" that the Code itself suggests. For example, the procedural guidelines in terms of witnesses are as follows (page 21-22):

4. Witnesses

A. Notice of Appearance for Witnesses: It is the responsibility of each party to assure his/her witnesses' presence at the hearing. However, when deemed necessary by the Office of Student Conduct, a notice of appearance will be issued.

B. Witness Lists, Summaries, and Statements: Each party's factual witness(es) must be named on his/her witness list. Each factual witness named must have an accompanying written summary or written statement (as outlined in C below). This list of witnesses and accompanying written summaries or statements must be submitted to the Office of Student Conduct by no later than noon 2 business days prior to the hearing. Complete copies of the list and accompanying summaries or statements will be provided to the parties after both parties' documents have been received or the submission deadline has passed.

C. Every factual witness who will present live testimony at the hearing must provide a signed, written summary outlining his/her testimony. This summary must be submitted to the Office of Student Conduct by no later than noon, two business days prior to the hearing. If the factual witness has already provided an official statement to DPS, a separate written summary describing the same information is not necessary.

1. In instances where a factual witness cannot appear at the hearing, a written statement can be submitted in one of the following manners:
   i. The witness provides an official statement to the Department of Public Safety through a formal witness interview; or
   ii. The witness submits a prepared written statement in person to the Office of Student Conduct. At the time the statement is submitted, the witness must sign it in the presence of a member of the Office of Student Conduct and furnish official proof of identity; or

2. In the event a witness cannot go to the Department of Public Safety or the Office of Student Conduct, the witness may forward a prepared written statement directly to the Office of Student Conduct through one of the following manners:
   i. If the witness is directly affiliated with the University (student, faculty, staff, etc.), he/she may submit his/her written statement via the University's official electronic mail system using the witness's assigned user ID name.
   ii. If the witness is not directly affiliated with the University, he/she may submit a signed, original, and notarized written statement.

D. Parties are generally forbidden to contact another party's witnesses. All arrangements for contacting another party's witnesses must be made through the Office of Student Conduct. Please note: Witnesses are not required to meet with the other party.

E. The Office of Student Conduct's adjudication process is designed to be impartial and serve both the Complainant and the Respondent. Student Affairs staff members with no first-hand knowledge of the facts who testify against one student on behalf of another student risk jeopardizing the system's fairness, integrity, and impartiality. Consequently, a Student Affairs staff member may be called as a witness in judicial proceedings only when he/she serves as a Factual Witness who 1) was present at the time of the alleged incident; 2) was officially engaged in the investigation of the alleged incident; and/or 3) is/was providing medical care as a result of the alleged incident and testifies with the consent of the patient. This is not intended to interfere with or compromise doctor/patient confidentiality.

F. Failure to submit witness lists, statements or summaries in accordance with the above listed regulations may jeopardize the admissibility of a witness' testimony into the hearing process. Additional witnesses may be called only with the consent of the Board. The Board may elect not to hear witnesses whose only purpose is to offer redundant or insubstantial statements. This decision will be made by the Board, in consultation with the Judicial Coordinator.

G. During the hearing, witnesses must remain in the immediate vicinity of the Hearing Room. Upon completion of their statements, the Board may either release the witness, or the Board may request that the witness remain nearby for possible further statements. Once the proceeding has begun, all participants (excluding members of the Board) are strictly prohibited from sharing the contents of their testimony with any other participant.

These guidelines indisputably reflect the state legal system for witnesses. While this system might be effective in the judicial arena, it does not resemble anything close to an

"educational focus". Without spending pages discussing just how divergent from the "educational focus" path these witness parameters are, it is clear that these procedures are deeply rooted in formal legal proceedings and are, in the author's opinion, inappropriate for a Student Disciplinary system. Between requiring witnesses to submit formal, notarized written statements and parties being prohibited from contacting each other's witnesses, this incredibly formal system places its emphasis on adherence to strict procedural guidelines rather than encouraging the student to learn and grow from his or her mistakes. Even the hearing itself follows almost identical procedures to a litigation trial (page 23):

> 4. The Hearing
> An opening statement by the Judicial Coordinator, or his/her designee, introduces the Board and indicates the rules of procedure which govern the hearing. Witnesses are present when the statement is read but leave the hearing until their testimonies are needed. The chairperson then reads the alleged violations. The Respondent is then required to admit responsibility, deny it, or admit it with an explanation.
> a. Each party, Complainant and Respondent, is permitted to make an opening statement limited to five minutes.
> b. Each party is permitted to present evidence.
> c. Parties may question all witnesses who testify at the hearing.
> d. Parties may make timely objections.
> e. Parties may make closing arguments limited to 10 minutes.

Drawing upon principles from Justice and Peace Studies, this process of Hearing Boards subject students to structural violence – using procedures and regulations to intimidate and confuse the student. Students going through this system are so distracted by the structure of the proceedings, and so focused on how intimidating the process was, that they lose all sight of the "educational focus" of the incident, and end up feeling like victims themselves, rather than focusing on the harm they caused and how to make amends. The opportunity to learn from mistakes and become a better person by going through this process is shattered by the Code's structural violence. Although Hearing Boards on the

surface provide students with an opportunity to present their story in front of members of the community, the current Hearing Board structure is far from the pinnacle of restorative justice.

IX. Procedural Guidelines for Sexual Misconduct (Category B) and/or Sexual Assault (Category C) Hearings

From a restorative justice viewpoint, one of the most galling stipulations of the current Code of Student Conduct, and quintessential deviations from retributive justice is found in the short section of the Code regarding sexual misconduct/ assault. It provides that, "Upon request by the Complainant, in cases in which the Complainant is not the alleged victim, the Witness who is the alleged victim, or the Respondent, or when deemed appropriate by the Board, a partition shall be placed between parties during the Hearing Board proceedings.

One of the most important aspects of restorative justice is presenting the victim with the opportunity to speak directly to the offender, face to face, as difficult as it may be. It provides the victim with the privilege of airing his or her grievances to the offender and explaining how hurt he or she has been by the incident. According to a study, victims most commonly participate in victim-offender dialogue to seek answers to lingering questions, express the impact of the incident on their lives, experience a more human interaction with the offender, and advance healing (Koss & Achilles, 2008). Restorative justice holds that it is highly beneficial to the victim, victim's family, and community as a whole to be able to face the offender directly. On the other hand, it is extraordinarily difficult for an offender to

come face to face with his or her victim, but at the same time, extraordinarily worthwhile. The offender can see and hear with his or her own ears and eyes precisely how he hurt the victim/community. As trying and emotional this may be, it is perhaps the most effective way to make an impact on the offender, allow the offender to understand the pain he or she caused, begin to repair the harm done by apologizing, and prevent the offender from committing that kind of crime/violation again.

X. Appeals of Disciplinary Decisions

If a student is found responsible for a violation, yet wishes to appeal the decision, he or she may file an appeal on one of three grounds set forth by the Code: Substantial Procedural Error, New Evidence of a Substantive Nature, or Substantial Disproportionate Sanctions. An appeal must be filed within seven days of the decision of the Hearing Board or Administrative Action. However, if a student files an appeal on the wrong grounds for any reason, including lack of adequate counsel or misinterpretation of the legalese-filled Code of Student Conduct, his or her appeal is denied. This means that the Student Disciplinary System at Georgetown is more concerned with the adherence to guidelines and obedience to structural procedures than it is with the search for truth and pursuit of justice. While the current Code looks at *how* a student is saying what he or she has to say, restorative justice focuses on *what* a student is saying, regardless of how he or she says it.

XI. Conclusion of Critique

The Georgetown Disciplinary System in its current state is intimidating to students, difficult to navigate without a law degree, and focuses on structure and procedure rather than truth and justice. The final page of the Code of Student Conduct ends with the statement, "The Office of Student Conduct serves as a resource of the entire University community through its efforts to meet the educational and developmental needs of students related to community standards, conflict management, and resolution, civility, respect for self and others, and the love of truth," (page 28). The author has shown in this chapter that this statement is simply not reflected in the current Code of Student Conduct.

Chapter IV: The New Model

The author's vision for a new model of the Georgetown Discipline System and Code of Student Conduct is firmly rooted in restorative justice principles. This chapter will provide a complete outline of the vision for the New Code of Student Conduct, and will present the Restorative justice research upon which this new system has been based. It is beyond the scope of this thesis to address *what* the University deems as a violation; this paper aims to change *how* the University reacts to and handles violations of its rules. Therefore, this proposal will maintain the current descriptions of Category A, B, and C violations (pages 9-16 of the current Code of Student Conduct), however will re-categorize the them into two sections, as will be described below. The new Code will also retain the following sections: Preamble (page 3), Student Discipline System (page 4), Mission Statement for the Office of Student Conduct (page 28) and Ethos Statement (page 29). The rest of the current Code, however, will be replaced by the system presented below.

The new system is based on Karp and Breslin's report of the 15 schools in Denver that adopted a restorative justice model (2001), as described in Chapter II. The new system will utilize Denver's "victim impact panels," which include victims, offenders, supporters, and school administrators. Each party is given the opportunity to speak, and discuss ways for the offender to make amends. In the few situations where state or federal laws have been broken, the student will be suspended and will go through the judicial system. Upon completion of the suspension, restorative justice tools will be used to reintegrate the student back into the school community (Karp & Breslin, 2001). Based on the empirical evidence that restorative justice systems reduce recidivism rates, increase

both victim and offender satisfaction, and increase restitution compliance, the author believes that restorative justice will be an effective option for Georgetown University.

The following diagram has been taken from the *Transforming Conflict* organization's description of Restorative Justice in Schools. It portrays the shift in perspective from retributive justice (and the current Code of Student conduct) to restorative justice (the vision for the new Code of Student Conduct). These 10 transformations eloquently display the problems with the current Code, as set forth in the previous chapter, and how to solve them, as will be presented in this chapter through the description of the New Code.

Transforming Conflict: Restorative Justice in Schools

OLD PARADIGM RETRIBUTIVE JUSTICE		**NEW PARADIGM RESTORATIVE JUSTICE**
Misdemeanour defined as breaking the school rules	1	Misdemeanour defined as adversely affecting others
Focus on establishing blame or guilt, on the past (did he/she do it?)	2	Focus on problem-solving by expressing feelings and needs and how to meet them in the future
Adversarial relationship and process	3	Dialogue and negotiation – everyone involved in communicating and cooperating with each other
Imposition of pain or unpleasantness to punish and deter/prevent	4	Restitution as a means of restoring both/all parties, the goal being reconciliation
Attention to right rules, and adherence to due process	5	Attention to right relationships and achievement of the desired outcome

Conflict represented as impersonal and abstract: individual versus school	6	Misdemeanours recognised as interpersonal conflicts with some value for learning
One social injury replaced by another	7	Focus on repair of social injury/damage
School community as spectators, represented by member of staff dealing with the situation	8	School community involved in facilitating restoration
People affected by misdemeanour not necessarily involved	9	Encouragement of all concerned to be involved – empowerment
Miscreant accountability defined in terms of receiving punishment	10	Miscreant accountability defined as understanding the impact of the action, seeing it as a consequence of choices and helping to decide how to put things right

While all ten of the above principles are applicable in the case of transforming a system from retributive to restorative justice, there are several principles and opportunities for transformation from the above diagram that particularly stand out in the case of the Georgetown Disciplinary System. First, the Restorative paradigm shifts the focus away from breaking school rules, adversarial processes and relationships, and imposition of punishment to deter/prevent future actions, and instead puts the focus on adversely affecting others, understanding the impact and harm of one's actions, and reconciliation between the victim and offender/community. It is the author's belief that this shift or paradigm will better uphold the Mission Statement for the Office of Student Conduct, which states:

> The Office of Student Conduct supports Georgetown University's Catholic and Jesuit educational mission by enforcing regulations designed to promote an environment in which students can develop intellectually, morally, spiritually, and socially while

> exercising a balance of partnership and autonomy within the campus community. The mission of the Office of Student Conduct is to promote concepts of fairness and due process in judicial settings while striking a balance between community standards and individual behavior through the educational development of its students.
>
> Ideally, as a result of a focus of education of the whole person, students will come to view their campus with a sense of community and will actively contribute to the development of that community. Such a setting reinforces an individual's innate value as a human being, while generating his/her recognition of the same values in others. It is this basic tenet upon which Georgetown University's adjudication process is founded. […]
>
> Inherent in the University's adjudication process is the commitment to serve, equally, all involved parties in an unbiased and fair manner. When a student has his/her rights violated and/or fails to meet prescribed responsibilities, as in society at large, consequences will follow. The Office of Student Conduct is commissioned with the task of detailing the rights and responsibilities of students, adjudicating the disciplinary matters and, when necessary, imposing sanctions for violations in accordance with the Code. (Page 28)

The Restorative justice paradigm most closely reflects the goals of building a community, restoring the harm that comes as a result of violating rights, the focus on education of the whole person, and intellectual/moral/spiritual/social development as stated in the Mission Statement for the Office of Student Conduct. For this reason, the author believes that the following system will be most beneficial to the community by more effectively upholding values of justice and peace.

The New Code

I. Mission Statement for Creating the New Code

The author's vision for a New Code of Student Conduct embodies the principles and practices of Restorative justice and transforms the way the University views conflict. When a student violates any aspect of University rules, the New Code looks at this as an opportunity for character growth, a chance for an important learning experience, and a

way for students to not only more fully understand *why* what they did is considered "wrong" in the eyes of the University, but how he or she can take steps to repair the harm he or she caused.

II. Structure

The New Code does not focus on what the University deems in violation of its policies, but rather focuses on how such violations are dealt with, i.e. through Restorative justice rather than retributive justice. Drawing from the Restorative justice practices of Circling and Restorative Conferences (Transforming Conflict, 2007), which reflect the family-group conferencing and peacemaking circle models of Presser and Van Voorhis presented in Chapter II, each and every instance of a student being suspected of violating the Code of Student Conduct will be given the opportunity to meet with members of the community to discuss the alleged violation, present his or her case, listen to the viewpoints of those he/she caused harm to, and then collaboratively discuss ways to properly make amends to the community.

This forum will be called the "group conference" and will consist of representatives of all members of the community. The individual members of the group conference will constantly change, however each group will consist of one member from the Office of Student Conduct, two faculty members, and three members of the student body. The author believes the ratio establishes the most accurate yet realistic proportion of the Georgetown Community who would be available to participate in group conferences. The member of the Office of Student Conduct may be selected internally; perhaps they will even select one member to be the permanent representative. As for faculty members, the student may appoint one professor (or other adult of his or her choosing, such as a Chaplain) to act as an

advocate and provide moral support; the other faculty member will be selected at random. This process of selecting a faculty member at random will also be used to select the three student body representatives. According to The Princeton Review statistics on Georgetown University, there are 7,433 students and a 10:1 student-faculty ratio, meaning about 743 faculty members (www.princetonreview.com). Based on the most recently published statistics of Violations & Sanctions (2008-2009), there were 1,509 infractions committed. This means, each year, a faculty member will likely be asked twice to participate in a group conference. For students, there is an approximately 40% chance he or she will be asked to participate in a group conference in a given year. A list of students and faculty who have participated in group conferences will be kept in the Office of Student Conduct and monitored by staff; in order to provide an equal opportunity for participation and the chance to represent the community, unnecessary repeated participation will be discouraged. If there is a conflict of interest between the accused student and the randomly selected members of the group conference, such as someone who might be positively or negatively biased, a different member of the community will be selected. 1,509 group conferences may seem like far too many to arrange in a given academic year, but one of the proven outcomes of restorative justice is reduced rates of infractions and repeated infractions, so the number of group conferences will not, in fact, be so high.

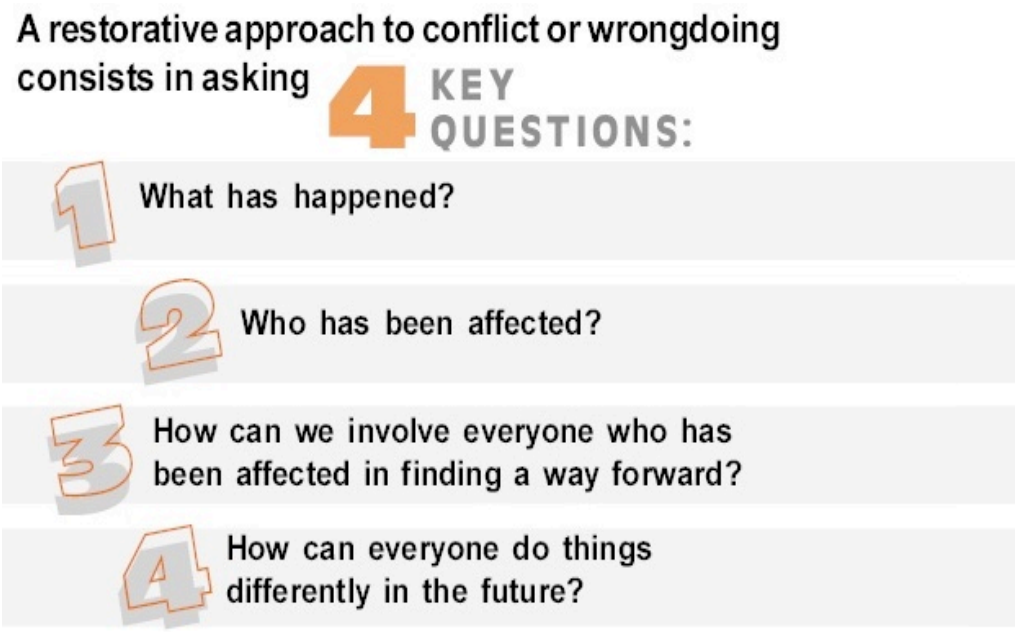
The group conferences will be arranged by the staff of the Office of Student Conduct, and will try to accommodate the schedules of everyone involved. The meetings will take place in a neutral, non-threatening atmosphere, such as an empty classroom arranged by the Registrar. Chairs will be arranged in a circle to facilitate open communication and eradicate power imbalances to the greatest degree possible.

In order to best uphold the principles of Restorative justice, violations will be divided into two categories: violations that directly involve the safety/wellbeing of the student himself/herself (such as the current Category A violations or drug possession) and harm the community at large, and violations that directly impose harm to another person (such as sexual harassment or physical assault), thus creating a specific victim. These will be called "Self/Community Violations" and "Direct Victim Violations"

III. Process

a. Harm to Self Violations

There are four key questions, adopted from the organization *Transforming Conflict*, which will facilitate the discussion within the group conference:



After re-categorizing the 2008-2009 violations, all Category A and 22 of 25 Category B violations (99% of total violations) fall into the Self/Community Violations category. In these cases, the process will be as follows: The faculty member who the student has

selected will facilitate the conversation, serving as the mediator. He or she will ask above questions in sequential order, pausing after each to allow each member of the group conference to respond with his or her own opinion. The student in question will be asked to take notes on the group conference, recording each participant's answers and opinions for his or her own understanding and future reference.

The three randomly selected students and one randomly selected faculty member will not have any prior knowledge to the alleged infraction, so they may not be able to answer the first question. Their responsibility will be to objectively listen to both the student's and the Administrator's account of what happened. After both sides of the alleged infraction have been presented, the members of the group conference will vote on the responsibility of the accused student in the matter at hand. The vote will be open, and the student will also be allowed to vote. If the majority (four or more members) of the group finds the student not responsible, the mediator will then proceed directly to question number four, discussing potential flaws in the system and addressing how the situation of a wrongly-accused student can be avoided in the future, and restoring any harm done to the student and/or community.

If the group members vote and the majority finds the student responsible for the alleged violation, the mediator will proceed to address the remaining three questions in order. Each member of the group conference will have the opportunity to reflect upon who has been affected, brainstorm how the student can effectively and appropriately repay any harm or damage he/she may have done to the community and all members thereof. The conclusions that various group conferences reach may vary from case to case, even if the alleged violations are the same. This is not a negative outcome, however, since each

member of the group conference is an equal representative of the community. The key factor is coming up with ways for students to appropriately repair damages caused to the community while simultaneously learning *why* what he or she did caused harm. The methods of repairing harm should be educational and relevant to the violation, rather than simply punitive such as a fine.

Finally, in the spirit of continuously improving the community and Georgetown's theory of "Cura Personalis," which translates into, "care of the whole person," the final question the group conference will address is how to do things differently in the future to prevent this situation from happening again.

b. Direct Victim Violations

When a student has infringed upon the basic human rights and/or safety of another person, and there is a direct victim who has been harmed, an alternative procedure will take place to ensure the comfort of the victim. As mentioned earlier, this proposed system draws upon the methods used by Denver metropolitan schools, where when a student breaks a law, he or she is suspended and goes through the process of the legal system. When the student's term of suspension is completed, a restorative practice will be used to reintegrate the student back into the Georgetown Community, and he or she will make amends to his or her victim.

In the most recently reported statistics of violations to the Code of Student Conduct, there were 25 situations of Category B/C violations, three of which would be considered direct harm to another person (two incidents of Harassment and one incident of Physical Assault – see Appendix B). Only these three incidents would be dealt with by the Harm to Other Violations system; the remaining 22 incidents, which include violations such as Use

of Drug Paraphernalia and False Testimony, would be processed in the previous system, Self/Community Violations.

First, the accused student will have the option of admitting his or her responsibility for the violation. If he or she does, in fact, admit to being responsible, he or she will be suspended for 6 months. This step is to allow the victim time to recover from the incident, and give him or her the comfort and safety of remaining in the Georgetown Community without the constant threat and presence of his or her offender. During the time of suspension, the offender will be required to spend his or her time making amends and educating him/herself as to the wrongfulness of the crime, as both the victim and the Director of Student Conduct deem appropriate. This would be in addition to going through the state legal system, since causing harm to others (eg. sexual assault) is a criminal act. Upon the offender's return to Georgetown, and when the victim is ready, the Restorative process will begin in the shape of victim-offender dialogue. "In one study that included felons incarcerated for crimes of severe violence including sexual assault in Texas and Ohio, the most commonly stated reasons that survivor/victims participated [in restorative justice dialogues] were to seek answers to lingering questions, to express the impact, to experience a more human interaction with the offender, and to advance healing," (Koss & Achilles, 2008). The dialogue would look much like the group conferencing which takes place in the Self/Community Violations section, except the dialogue would be on the Victim's terms and would cater to his or her needs and comfort level. "One model that has been used for sexual assault is initiated when a survivor/victim notifies correctional authorities of a desire to meet and the offender agrees. The agenda of the dialogue is determined by the survivor/victim and may include stating the impact of the crime, asking

questions, and seeking acknowledgement of responsibility," (Koss & Achilles, 2008). This group conference will be more flexible and conducted on the victim's terms, since the primary goal is to repair harm to the victim and community. The victim will determine who she would like to have present in the group conference; the only required member is the Director of Student Conduct who will serve as the mediator, however if the victim objects to this, provisions for a different mediator can be made. Both the victim and the mediator will propose actions that the offender can take which will repair harm to the victim, repair harm to the community, make appropriate amends, and be reintegrated into the community. Furthermore, the members of the group conference will establish if certain provisions should be made to the victim in order to make him or her feel safe and comfortable in his or her community. For example, the victim might ask for the offender's class schedule, so that he or she does not have to cross paths with his or her offender throughout the day if that would make the victim feel unsafe or uncomfortable.

In order to enact Restorative justice, an offender needs to be clearly identified. If an accused student claims that he or she is not responsible for the alleged violation, steps need to be taken to seek the truth and identify the real offender. Unfortunately at the present time, restorative justice does not offer an option for establishing guilt or innocence in a crime involving harm to another person, and it is beyond the scope of this thesis to address a different option. Therefore, if a suspected student denies responsibility in a Direct Victim Violation, and there is reason to believe that he or she was, in fact, responsible for the violation, then the original Code of Student Conduct's Hearing Board procedure will be used to establish responsibility or lack thereof. If the student is found responsible, the aforementioned guidelines of suspension followed by restorative justice practices of group

conferencing and reintegration will be followed. If the student is found not guilty, after having gone through this strenuous process, a group conference will be held to repair harm to both the victim and the offender, who actually became a victim by being wrongfully accused of an atrocious crime, and restore the relationship between both parties.

From a restorative justice standpoint, the thought of using the Hearing Board process is not ideal, however the author feels it is the only way to determine guilt from innocence, within the scope of this thesis. Based on the most recently published statistics, however, only three incidences of what this thesis considers Direct Victim Violations took place in 2008-2009 (Appendix B). If the student knows that if he or she is responsible for an infraction, he or she can choose to forego the process of the Hearing Board, and instead will just accept his or her terms of suspension and the following opportunity for restorative justice in reintegration.

Response to Potential Criticism

As with implementing any new system, there are pros and cons of changing the status quo. Often, it is easy to criticize a new system to the point of rejection because of inconvenience, complacency, or even fear of change. One of the biggest criticisms against a restorative justice approach is that it is too “weak”, and does not effectively punish students, or adequately serve justice from a retributive standpoint. Critics hold that juveniles need severe punishment that really makes an impact on them, so they will be unlikely to commit the same infraction again. They might say that restorative justice, with its emphasis on communication and reconciliation rather than punishment, is too lenient

and not stern enough to deter wrongful behavior.

While these criticisms are valid arguments, restorative justice is not, in fact, a lesser punishment or more lenient option. In fact, many hold that restorative justice may even be more "punitive" to the student in certain senses. Restorative justice invokes peoples' psychological wellbeing and moral philosophy. As long as the offender is not a sociopath with no scruples, he or she will feel guilty about what he or she has done wrong. In the retributive justice system, such as the current Code of Student Conduct, students may passively and anonymously navigate through, receive automated emails from the Office of Student Conduct, pay a fine, and simply be done with the ordeal, no better off than he or she was before. This is an easy way out. The restorative justice approach of having to face those who have been harmed is much more effective, as shown by the reduced recidivism rates shown in Chapter II. The following image, taken from the Restorative Justice Consortium, presents convincing counterarguments to the viewpoint that restorative justice is ineffectual, effectively showing how restorative justice is at least as effective, if not more so than the standard retributive model:

Restorative Justice Consortium

IS RESTORATIVE JUSTICE A SOFT OPTION?

Restorative Justice	**A system based on retribution**
Offenders speak for themselves from start to finish.	Apart from saying "guilty" or "not guilty" the offender doesn't have to say anything at all in court – everything else can be and usually is said on their behalf by their legal counsel.
The offender has the opportunity to say sorry, often to the victim in person or indirectly, as long as the victim wants this.	The offender has little chance to say sorry.
Offenders find the restorative process emotionally demanding and tough	Offenders can remain emotionally detached from what they have done.
The restorative process can last many hours over a period of weeks – with the offender taking an active role in repairing harm.	The offender's court appearance may be over in a few minutes.
Research suggests that more people stop offending after the restorative process than after court.	Retribution and punishment alone often leave people resentful and more likely to re-offend.
The offender is treated as having harmed a person – the victim and also sometimes the local community.	The offender is treated as having committed a crime against something rather anonymous – the "state".
The offender is brought face-to-face with the impact of what they have done, and there is less room for denying harm.	Denial is easy – the offender rarely has to see the victim – and certainly is kept from meeting them.

Chapter IV: Conclusion

Restorative justice has great potential for colleges and universities around the world. With its focus on strong community relationships, high morals, and personal integrity, all schools can benefit from changing their discipline systems from retributive to restorative practices. Georgetown University, who already shares the goals for which restorative justice strives, would especially benefit from such a system, since there is such a disconnect between its goals and current praxis.

While there still exists a gap in the research of restorative justice uses in issues of Direct Victim Violations (such as sexual harassment, rape, and physical assault) and more research needs to be conducted, the implementation of a restorative justice system at Georgetown University would be a huge advancement in the field, and would hopefully pave way for many other schools to follow in its footsteps.

Through the proposed new Code of Student Conduct, with the method of group conferencing including representatives from the whole community and an opportunity for everyone's voices to be heard, Georgetown will be better able to uphold its own Ethos Statement and goals of the Code of Student Conduct. A restorative justice system best embodies the school's values, such as commitment to community, focus on education, intellectual/moral/spiritual/social development, and respect for the self and others, and should therefore be implemented at Georgetown University.

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Appendix A

Georgetown University Code of Student Conduct

2010-2011 Academic Year

Appendix B

Georgetown University Code of Student Conduct Violations and Sanctions

2008-2009 Academic Year