Purpose

The purpose of this report is to evaluate the current state of Hearings, in order to ensure that they are operating in a fair and efficient way. After reviewing the Pre-Hearing training materials, Hearing polices and procedure, post-Hearing follow-up, interviewing Support Officers, we compiled our information and recommendations into this document. The Committee will hopefully use this report to address some of the issues discovered in the current Hearing process to incorporate the suggestions contained here.

Advisor Training
Advocate Training: Leading Questions
Closing Statement
Hearing Chair Instructions and Training
Reporter Evaluation Form

Appendix

Interview Responses, Closing Statement
Advisor Training

Recommendation

These preparations should be incorporated to the Support Officer Training Manual, to prepare both the advisor and accused student for any outcome of the trial. The corresponding practices should also become standard procedure for Advisors hereafter.

A Few Days Prior to the Hearing:

A few days prior to the Hearing, the Advisor should sit down with the accused student (without their Advocates present) to discuss their post-hearing options. I think it is important to clarify that you always have this meeting with students and this conversation does not in any way demonstrate your concern about the outcome of a case - you simply want the student to be prepared for either outcome. Additionally, I think it is extremely important to acknowledge how stressful it is to think about a guilty verdict.

During this meeting review the following information (which is an excerpt from the Support Officer Training Manual):

GUilty VERDICT:
(a) Appeals: if any rights were infringed upon, if any new evidence presents itself that was not known of or available during the investigation, or if he or she feels the process was fundamentally unfair or not completed in a timely fashion
(b) Fully explain the expedited post-hearing options and the advantages/disadvantages of choosing such an option if the opportunity should arise. (See the section below on Appeals.)
(c) Receive aid in transferring from the Vice President and Chief Student Affairs Officer.
(d) Receive some pro-rated tuition reimbursement if appropriate.

NOT Guilty VERDICT:
(a) All records are destroyed.
(b) Student resumes full status at the University.

Make sure that the student feels completely comfortable with this information but know that this is just a quick overview to prepare for the outcome of the Hearing in a few days.

Immediately After the Hearing Verdict:

Post-Guilty Verdict:
- After the verdict is read, walk with the student back to the room you have been meeting during breaks with the Advocates. It may or may not be appropriate for the Advocates to join (the student may want to just speak to you or take a moment to let the Hearing outcome sink in).
- Take a moment and then ask the student how he/she how she feels, what he/she is thinking.
When the student seems ready to discuss, review the items listed in the Support Officer Manual on pages 105 - 106.

If the student’s parents are present, make sure to balance their inclusion with the student’s needs.

Make sure the student knows that they are more than welcome to reach out to you if any questions or concerns arise.

Post Not Guilty Verdict:

- Inform the student that all records of the proceedings will be shredded/destroyed.
- Ask the student how she or he is feeling and talk through the proceedings with them - making sure to address any lingering questions or concerns.
- Make sure the student knows that they are more than welcome to reach out to you if any questions or concerns arise.
Advocate Training

Purpose

In order to address the general issue of “leading questions” during a hearing, we prepared materials to be incorporated into the Support Officer Training. Additionally, for Hearing Chairs not trained as support officers, these materials will aid in discerning leading questions during Hearings.

Recommendation

These preparations should be incorporated to the Support Officer Training Manual, to prepare both the advocate for the expected standard of Professionalism at Honor Hearings. The corresponding practices should also become standard procedure for Advisors hereafter. This document should also be made available to Hearing Chairs during each hearing.

Leading Questions

What is a Leading Question?

- **Definition**: Honor broadly defines leading questions as ones that “can be answered with yes or no.”
- Most objectionable leading questions pressure a witness to answer a question a particular way.
  - Example: “Isn’t it true that a student in your class should have known that would be considered an Honor offense?”
  - Example: “Wouldn’t you say that the instructions for the exam were unclear?”
- Examples of problematic leading question stems: “Isn’t it true that”, “wouldn’t you say”, “do you agree that”; “…, right?”
- **It is unacceptable to repeatedly ask leading questions to your own witness.**

Why are Most Leading Questions Unacceptable?

- Because they normally create pressure to answer a question a particular way, leading questions can make witness testimony stressful and undermine the non-adversarial hearing atmosphere that advocates should strive to maintain.
- By encouraging witnesses to respond with a simple “yes” or “no” answer and no further explanation, leading questions often limit the detail of a witness’s testimony, which can have a detrimental impact on the pursuit of the truth.
- **Remember: the goal of an advocate should always be to ardently pursue the truth, and never to “win” a case.**
- Advocates can—and should—object to problematic leading questions that are asked during the hearing.
When are Leading Questions Acceptable?

- In certain circumstances, leading questions are permissible. Such questions generally refer to information that is uncontroversial and agreed upon by all parties.
  - Example: *Were you the professor for ECON 2020?*
- When cross-examining a witness, advocates may ask some leading questions to highlight a particular point. The Hearing Chair will allow such questions at his or her discretion.
  - Example: *To the best of your knowledge, did your syllabus state that collaboration on homework assignments was prohibited?*
  - Nevertheless, leading questions, even during cross-examination, should be avoided when possible. Always attempt to make questions open-ended.
    - Example: *Can you explain the rules for completing homework assignments? How was it communicated?*

Avoiding Leading Questions

- Advocates should always attempt to ask open-ended questions.
  - Tip: begin questions with words and phrases such as “which”, “how”, “can you please explain”
- These question stems will allow the witness to explain particular information or circumstances in detail, encouraging them to give a full account of the events surrounding the accusation.

Other Things to Consider

- Most importantly, always remember to treat all witnesses at a hearing with respect.
  - **Maintain a polite, conversational tone.** It is important to make the witness feel as comfortable as possible while testifying.
    - Avoid becoming accusatory, especially during cross-examination.
  - Think about how questions may be perceived by the witness.
  - Remember to thank witnesses for agreeing to testify, both before beginning questions and after your final question.
- It is completely acceptable for co-advocates to jointly question a witness. Ask your co-advocate if they have any further questions.
- Object to problematic leading questions, to ensure that questioning remains as fair and non-adversarial as possible.

<table>
<thead>
<tr>
<th>Commonly-Used Question Stems</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leading</td>
</tr>
<tr>
<td>“Isn’t it true that…?”</td>
</tr>
<tr>
<td>“Wouldn’t you say that…?”</td>
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<td>--------------------------</td>
</tr>
<tr>
<td>“…, right?”</td>
</tr>
<tr>
<td>“Wasn’t…?”</td>
</tr>
</tbody>
</table>
Student-Read Closing Statement

Purpose
This section of the report addresses the question of whether allowing accused students to read their own closing statements at hearing is (1) legal, (2) permissible by the By-Laws, and (3) a beneficial practice to implement.

Legality:
Considering the fact that students can and have served as their own advocate, and that By-Law language is clear that the burden of formulating the argument officially falls to the student, there should be no legal concerns, especially as it relates to Due Process.

Permissibility:
Everything in the By-Laws says that the responsibility of the argument lies with the student, so students reading their own closing statements is permissible. The following By-Laws sections are most relevant:

- **II.C.3.a**: “The responsibilities of the Honor Hearing Advocates are to assist, in a fair and balanced manner, in the presentation of the views of both the accused student and the Community throughout the Honor process. Notwithstanding the availability of Honor Advocates to assist in the presentation of the views, arguments and defenses of the accused student at the hearing (and later, if applicable, to assist the dismissed student on appeal), the primary responsibility for any Honor case lies with the student. Accordingly, the student is expected to take the principal role in explaining his or her actions and formulating arguments or defenses at the hearing (and, if applicable, thereafter).”

- **IV.E.1.b**: “Role of Accused Student. Notwithstanding the assignment of Advocates to assist the accused student at the hearing, the primary responsibility for any Honor case lies with the student. In other words, the accused student is expected to take the principal role in explaining his or her actions, formulating arguments and defenses, and arranging for witnesses, if any, to testify on his or her behalf at the hearing.”

- **IV.H.2.f**: “Following the giving of student panel instructions by the Hearing Chair, each party (or his or her Advocate) may make a closing statement of up to five minutes (or longer, in the sole discretion of the Hearing Chair) in duration. The Community’s closing statement is made first, followed by that of the accused student, followed by a brief rebuttal, if desired, by the Community; provided that the total time allotted to the Community, for the closing statement plus the rebuttal, shall not exceed the total time allotted to the accused student for the closing statement.”
Thus, no By-Laws would need to be changed to allow it, rather, this would be a matter of changing hearing practice and training Support Officers accordingly.

**A good idea?**

In a survey responded to by 38 members of the pool, 55.3% (21/38) thought students should be allowed to read their own closing statement, while 39.5% (15/38) did not, and 5.2% (2/38) were unsure. Of respondents who provided reasons for their belief, those who thought students should be able to thought so because:

- It gives students an opportunity to be heard/ defend themselves
- The job of Advocates is only to advise, students always have controlled their defense and ought to continue doing so

Of respondents who thought students shouldn’t be able to, they believed so because:

- It could be too emotional/passionate rather than factual
- It could be too combative/ hostile against witnesses
- Students are not as well trained in writing a closing statement
- Could unfairly bias jury for/ against student depending on their speaking ability

A list of all responses is included at the end of this document.

**Final Thoughts:**

Since this practice is already permissible per the By-Laws, there is no language that has to be changed to allow the practice. If it is the consensus that students should be allowed to read their closing statement, it would be imperative to train Support Officers to help the student in this process, ensuring that a student-read closing statement is factual, unemotional, civil, and does not unduly bias the jury in favor of either side. Accused students also could be given a version of the training manual given to Support Officers that would outline the purpose of closing statements and tips about how to construct/ read them. If it is decided that this practice should be formalized in the By-Laws, a Pre-Hearing motion should be added, and IV.G.5 of the By-Laws amended from:

Opening Statements. The Pre-Hearing Conference will determine the content of the Hearing Chair’s opening statement at the hearing, the identity of observers to be allowed in closed hearings, whether the hearing should be delayed, and whether, in the case of multiple accusations against a single student or related accusations against more than one student, such accusations should be heard in a single or in multiple hearings.

to:

Opening Statements. The Pre-Hearing Conference will determine the content of the Hearing Chair’s opening statement at the hearing, **whether the accused student will read their own closing statement**, the identity of observers to be allowed in closed hearings, whether the hearing should be delayed, and whether, in the case of multiple accusations against a single
student or related accusations against more than one student, such accusations should be heard in a single or in multiple hearings.

The Pre-Hearing Conference Record would also need to be changed accordingly. If it were the consensus that students should not be able to, nothing should be done. There would be no point in changing By-Law language to restrict students from doing so, as although it already is permissible for students to read the closing statement, in practice this option is never exercised and is unlikely to be unless Advocates explicitly tell the accused student that doing so is an option.
Hearing Chair Instructions and Training

Purpose
In Hearing training and instruction materials, no mention is made for Hearing Chairs about how Hearing Chairs should interact with accused students, reporters, and witnesses on the day of the Hearing. As the face of the Committee to the participants in the Hearing, better training should be provided to standardize interactions from Hearing Chairs with participants of the Hearing.

Recommendation
Inclusion of language particular to three specific points:
1. Pre-Hearing Instructions should contain language that requires each Hearing Chair to introduce themselves
2. Post-Hearing Meeting with the Student, regardless of the verdict, and an overview of post-Hearing options
3. Hearing Chair Training should include language of professionalism, as they serve as the face of the Committee during the Hearing procedures

Hearing Chair Instructions, Current Language

General Instructions:
Pre-Hearing Action:
“Check on everyone involved with the case (they should have arrived by now). Check in with the advocates for both sides and make sure that they’re ready to go, and don’t need anything… Make sure they have all of their witnesses lined up, that those witnesses know when to come in, and that they have accurate and reliable contact info for all of them.”

Post-Hearing Action:
“After the verdict is read and everyone has left the hearing room, clean everything up and put it in the appropriate pile…Once all of the advocates are ready, pull them in for post-hearing.”

Official Procedure Script:

“Post-Hearing Instructions for Hearing Chairs:

Guilty Verdict, after reading the verdict:
1. Conduct the Post-Hearing Conference with all the Support Officers involved in the case. Keep in mind that you may have to schedule a later time to conduct this conference (between the Pool Meeting and the Committee Meeting is probably the best time).
2. Give the student the signed copy of the Post-Hearing letter and Expedited Appeal Form. (Again, please leave clean copies of these in the hearing chair folder for future hearings).
3. Place the copy of the signed Post-Hearing letter on the Special Assistant’s desk along with a clean copy of the Evidence Packet.”
Not Guilty Verdict, after reading the verdict:

1. Conduct the Post-Hearing Conference with all Support Officers involved in the case. Keep in mind that you may have to schedule a later time to conduct this conference (between the Pool Meeting and the Committee Meeting is probably the best time).
2. Make sure to shred all evidence packets and any notes from the hearing.”

Hearing Chair Training, Role and Post-Verdict

Role of the Trial Chair

- Arrive at least 1.5 hours before the trial
- Welcome jurors as they arrive
  - 30 minutes before the start of the trial, begin Jury Instruction; follow the trial script
- The trial should start promptly at 10 am
  - Make sure counsel and witnesses are ready
- During the trial, follow the script and watch for scope limitations
  - Anticipate problematic answers
- Conduct jury deliberations

Verdict

- The Trial Chair will read the verdict for the record and go off tape. The counsel and any observers should then leave the room.
- Dismiss the jury
  - Thank the jury for their hard work and assistance
  - Have them fill out the questionnaire
- If guilty, immediately give the post-trial letter to the student
Reporter Evaluation Form

Purpose
Currently, no formalized system exists to follow up with Reporters after a Hearing. In order to address concerns that might have been raised during every stage of the process, or to investigate areas of improvement, these materials were written to address this issue.

Recommendation
This form should hereafter be sent to all reporters, and if substantial issues are raised, the Vice Chair for Hearings should follow up.

Reporter Evaluation Form

To be completed by reporters after the case has been closed. The questionnaire is meant solely for the purpose of gathering information and opinions to aid in improving the Honor System.

1. Have you ever formally interacted with the Honor System before this instance (i.e. served as a witness or reporter on another case)? If so how, and in what context?

2. Have your thoughts about the Honor system and investigation/hearing process changed positively or negatively after participating as a reporter, and if so, why?

3. Please circle the answer that best describes your level of education about the Honor system before and after serving as a reporter.

   Level of Education Before:
   Uninformed Somewhat uninformed Somewhat Informed Informed Highly Informed

   Level of Education After:
   Uninformed Somewhat uninformed Somewhat Informed Informed Highly Informed
4. Have you ever attended an Honor presentation or orientation? If so please rank how well Honor orientations and presentations prepared you to participate in an Honor investigation/hearing:

Scale: Unprepared Prepared Highly Prepared
1 2 3 4 5 6 7

5. What did you learn from the process that the rest of the community should know?

6. Please rank (1—highly inadequate, 7—highly competent), the work and professionalism of:

Advisor for the Community (your advisor): Name(s):

Competency: 1 2 3 4 5 6 7
- Able to answer questions and provide relevant information in an coherent and timely manner

Attitude 1 2 3 4 5 6 7
- Empathetic and emotionally supportive
- Respectful of all parties

Please list at least two things the Advisor for the Community could have improved on or did well:

Investigators: Name(s):

Presentation: 1 2 3 4 5 6 7
- Confident
- Well phrased and coherent questions and answers

Professionalism 1 2 3 4 5 6 7
- Clear preparation for interviews
- Calm and professional demeanor during interviews
- Respectful of all parties
Please list at least two things the Investigators could have improved on or did well (feel free to address comments to a specific Investigator):

Hearing Advocates for the Accused: Name(s):

Presentation: 1 2 3 4 5 6 7
- Confident
- Well phrased and coherent answers

Professionalism 1 2 3 4 5 6 7
- Clear preparation for trial
- Calm and professional demeanor during hearing
- Respectful of all parties

Please list at least two things the Hearing Advocates for the Accused could have improved on or did well (feel free to address comments to a specific Advocate):

Hearing Advocates for the Community: Name(s):

Presentation: 1 2 3 4 5 6 7
- Confident
- Well phrased and coherent answers

Professionalism 1 2 3 4 5 6 7
- Clear preparation for trial
- Calm and professional demeanor during hearing
- Respectful of all parties

Please list at least two things the Hearing Advocates for the Community could have improved on or did well (feel free to address comments to a specific Advocate):

7. What could be improved about the investigation and hearing process?
8. Did the single sanction factor into your decision to report the case? Please explain your answer.

9. Did anything during the investigation/hearing make you uncomfortable? If so, why did you feel uncomfortable?

10. After going through the process, if you were to witness an Honor Offense in the future, would you report again? Why or why not?

10. Please include any additional comments:
Appendix

Responses to Closing Statement Survey

**Response 1:** Yes  
**Reason:** People have the right to defend themselves. I'd recommend to students that a trained support officer reads it, especially if the student is emotional, but if they want to they should have the choice.

**Response 2:** Yes  
**Reason:** I don't think this matters either way.

**Response 3:** No  
**Reason:** It would lead to too many emotional pleas and criticisms of the witnesses.

**Response 4:** Yes  
**Reason:** I don't see a reason that we should disallow it.

**Response 5:** Yes  
**Reason:** Students should be able to represent and defend themselves.

**Response 6:** Yes

**Response 7:** No  
**Reason:** The purpose of the closing statement is to summarize and reiterate the three criteria of act, knowledge, and significance. As we know, some jury members are not attentive throughout the whole trial, so this is an important safeguard.

I strongly believe the student should have a chance to speak for him/herself, so in my opinion we should consider carving out a separate time for a student statement.

**Response 8:** Yes  
**Reason:** The trial process must be centered around giving the student every possible opportunity to defend himself. Therefore, it is my opinion that allowing the student to speak as much as possible gives the student a greater opportunity to present his case and, at the end of the trial, feel that the trial process treated them fairly even in the case of a guilty verdict. Furthermore, this would allow the members of the panel to have one last opportunity to hear from the student. I cannot see a downside to this, particularly in light of a large amount of popular discontent with the Honor System and its perceived lack of transparency.

**Response 9:** Yes

**Response 10:** Yes

**Response 11:** Yes
**Reason:** It's literally giving them a voice and last word in their defense; since they have the option to help craft it, when properly prepped, they should have the option to deliver it.

**Response 12:** Yes  
**Reason:** If you flip the question in reverse I don't think there is a strong enough argument why they should not have this option.

**Response 13:** No  
**Reason:** I think that the prejudicial effect that this could have on the jury is unnecessary. Hearing an accused student plea their case would probably have a substantial affect on a jury, particularly when the community isn't given the same opportunity to have a non-support officer read the closing statement. Especially when closing statements are not supposed to have emotional pleas or inflammatory remarks, it seems like they would be hard to avoid when in the final moments before it is decided if a student will be expelled, they appeal to the jury one last time not to expel them.

Other considerations that I think are important are students' ability to read a closing statement that has been written for them, or alternately to write a closing statement that frames their case clearly within the bylaws. Advocates are trained to write and deliver the closing statements and students are not. I think it would contribute to inconsistent verdicts and make the day of the hearing more stressful as you would likely have to spend the week previous prepping your student to deliver the statement. It is hard enough to make them feel prepared to answer questions, much less asking them to deliver a 5-minute speech.

Furthermore, if there are any rebuttals to be made, it would be difficult to prepare a student to rebut the community's closing statement on the fly like advocates often have to do on the day of the hearing.

I would even go as far as to suggest that the advocates for each side should read the factual contentions portion of their prose narrative rather than the hearing chair. I think that it would clearly delineate each sides' narrative, and would immediately signal to the jury who was representing which side.

To sum up, I think it would be a risky idea which would introduce unnecessary complication into the hearing process.

**Response 14:** No  
**Reason:** The one case that I was part of that a student read his own closing was overly emotional and I think made the jury uncomfortable.

**Response 15:** Yes

**Response 16:** No  
**Reason:** Often students are very emotional and not calm.

**Response 17:** Yes  
**Reason:** It's their case. Advocates are only there to advice students.
Response 18: No  
**Reason:** Students who are worse at public speaking would be at a disadvantage if this were the case. Chances of an emotional plea or emotional aspects being read would increase. Support officers reading it gives a level playing field for all students.

Response 19: No  
**Reason:** I feel like that could be a) combative and b) would bias the panel for or against the student, based on how good of a speaker they are or how convincing they are. It would make it more like you were voting on the student and less of voting on whether a significant offense took place. I don't think it's in the student's best interest to pressure them with the idea of reading their final statement when there's so much at stake.

Response 20: No  
**Reason:** too emotional

Response 21: No  
**Reason:** I think it could lead to impassioned statements rather than more factual statements summarizing the case. With that said, I think they should have more impact on the framing of the closing statement.

Response 22: No  
**Reason:** We recruit Support Officers for their ability to speak well and spend a lot of time preparing them for Hearings. I think offering this option opens for problems in terms of consistency and effectiveness in the closing statement.

Response 23: Yes

Response 24: No  
**Reason:** The accused student deserves a zealous defense from counsel. Their credibility comes into question if they present their own closing statement. They deserve a jury that hears their final argument without bias. Forcing them to read their own statement removes that right.

Response 25: Yes

Response 26: Yes

Response 27: Unsure  
**Reason:** I understand the effect of hearing the student speak last, but am worried it may be too emotional. Additionally, would this mean the advocates write it but student says it? Not only may student not know to address act, knowledge, significance, but may be too nervous day of to write it. If they don't address 3 criteria, would the closing statement still have the same effect? Worried it could get confusing, but I don't think it's a bad idea to offer as option just don't mislead students into thinking they HAVE to. Additionally, would this mean the reporter has the option to do the community closing statement? May be unfair if student does but community advocates do (as Honor SO's would be inclined to write stronger ones). Unsure was a good option.
Response 28: Yes

Response 29: Yes
Reason: As the by-laws permit an accused student to read his or her closing statement, this question seems to have a clear answer - a student not only should but does have the option to do so.

However, I think the answer would be different if you asked "Should advocates encourage students to read their own closing statement at a hearing?" I believe that they should not, for the following reasons:

1. Encouraging a student to personally read his/her closing statement has the potential to unfairly bias the jury. While 9/10 students would not, there is always the possibility that a student, who understandably faces a very stressful situation, will make emotional or impassioned appeals to the jury panel, which would have a detrimental impact on the fairness of the proceedings. And, in the case that such an appeal is made, the Hearing Chair would have the uncomfortable responsibility of cutting the student off, which could be confusing and embarrassing to the student and possibly diminish their ability to continue to defend themselves in the remainder of the statement (by hurting their confidence, etc.). By working with the student to prepare the statement, advocates could attempt to prevent this from occurring- however, there's no way to know if a student will suddenly go "off script."

2. Additionally, the student already possesses the opportunity to have their voice heard by proxy, as advocates should always work closely with the student to draft closing statements (as well as prose narratives and all witness questions). This practice exists so that advocates can help apply the framework of an Honor hearing (three criteria, standard of proof, etc.) to the student's line of argument. If advocates are doing their job, then the closing statement should reflect the arguments that the student herself wants to make.

In closing, I think that, when you consider the potential risks of allowing students to read their own closing statements (low as they may be) in conjunction with the fact that the student's voice should already be heard in the closing statement, one comes to the conclusion that advocates should not actively encourage students to read them. That being said, I think it is best left as an option for those students who express interest in personally reading closing statements, since it is clearly not prohibited in the by-laws and has been done in the past.

Response 30: Yes

Response 31: No
Reason: So this is a soft no. My main concern comes from seeing only one hearing but its that the overall tone of the trial is very neutral and unemotional. It is highly factual. My concern with students reading their closing statements is the tone and delivery becomes emotional which can help or hurt the students case but either way it detracts from the actual facts of the case.

Response 32: Yes
Response 33: Yes
Reason: If they are allowed to solely read it, I do not see the problem. If they were to write it, I think their advocate (who is trained in the process and knows what is expected) should help them write it and cut out what is not allowed (emotional appeals, things about their character, etc.).

Response 34: No
Reason: For me, it comes down to who is writing the closing statement. I would not feel comfortable having the student read words that are not his own. Therefore, I would want the student to write his or her own closing statement. However, I don't think that a student could write a comprehensive closing statement without significant oversight and direction, which defeats the purpose of the student writing the closing statement. Therefore, I think that advocates should continue to read and write all closing statements.

Response 35: Yes
Reason: I'm all for giving accused students more options. I think it would improve their satisfaction with the system.

Response 36: No
Reason: It would be too emotional.

Response 37: Unsure

Response 38: No
Reason: I believe that the process is incredibly taxing emotionally and mentally and the performance of students may be detrimental to their case. I believe that we should reduce the stress and the angst of students as much as possible, especially those that are experiencing the nerves that should be expected of someone facing expulsion. The statement may be overly emotional, if not explicitly in content then in the tone of the reading that may bias a jury.