



THE CHRONICLE OF HIGHER EDUCATION

The Faculty

From the issue dated April 15, 2005

Inquiring Minds**Investigation begets investigation in the wake of Ward Churchill**

By JOHN GRAVOIS



One morning a few weeks back, David A. Sandoval was sitting in his office at Colorado State University at Pueblo and speaking to a local reporter on the telephone. The reporter had called to get the Chicano-studies professor's opinion on Ward Churchill, the University of Colorado at Boulder professor who had recently tripped the switch of national outrage by calling the victims of the World Trade Center bombings "little Eichmanns."

In the firebrand's defense, Mr. Sandoval offered the standard-issue rhetoric of academic freedom: Mr. Churchill's words were hurtful and terrible, yes, but it was nonetheless "appropriate for him to raise the issues" as a university professor. However, with the reporter's next question, the conversation dropped abruptly from the rhetorical sphere.

Can you think of *any* circumstances, the reporter asked, where a professor's speech would constitute a firing offense?

"Yeah," said Mr. Sandoval, "I would pull professor Dan Forsyth from the classroom in a second."

With that, yet another investigation of a professor was set into motion, one that would follow a pattern that is fast becoming typical. In the shadow of the Ward Churchill controversy, the past several weeks have seen a flurry of verdicts handed down from ad hoc investigative committees -- some of them the result of proceedings lasting years; some spurred by complaints made against professors in recent months; all of them vying for the same awkward balance between defending academic freedom and demonstrating public accountability.

In some precincts of the debate over academic freedom, commentators say these investigations are just a natural outgrowth of scholarly debate -- an honest effort to get to the bottom of things. Others contend these are not really investigations, but inquisitions.

A Reprimand

It just so happened that, shortly before the phone rang with the reporter's call, a student had come to Mr. Sandoval's office to discuss a class she had attended the day before -- taught by Dan W. Forsyth, an anthropology professor at Pueblo. The student, a Chicana freshman named Victoria Watson, had brought with her a written complaint that described the last few minutes of the class, when she said Mr. Forsyth ranted about "lazy, bitter Mexicans." Ms. Watson then wrote that, when she moved to exit the classroom before the

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end of her professor's tirade, Mr. Forsyth yelled "screw you."

After answering the reporter's questions, Mr. Sandoval promptly handed the phone to Ms. Watson, who was nearby.

The story that ran on the front of the Metro section in the next day's *Pueblo Chieftain*, dated March 5, was not about Ward Churchill after all. It was about Dan Forsyth.

According to Mr. Forsyth's lawyer, Robert J. Corry Jr., the speech that inspired Ms. Watson's complaint was an announcement of an upcoming campus appearance by U.S. Rep. Thomas G. Tancredo -- a Colorado Republican known for his outspoken views on illegal immigrants. Mr. Corry says that Mr. Forsyth was merely espousing a conservative take on immigration policy, and not making any categorical statements about Mexicans.

By mid-March, the university had kicked off an independent investigation into Mr. Forsyth's speech, and by month's end, the ad hoc investigative team had reached its verdict. The administration cleared Mr. Forsyth of the gravest charge against him -- racism -- but reprimanded him for a variety of ancillary offenses: using his classes as a bully pulpit, using profanity, and being too "animated" in his classroom demeanor. So the committee's action neutralized any threat to Mr. Forsyth's tenure and academic freedom while publicly disapproving of his behavior.

'A Chilling Effect'

In early February, an ad-hoc committee at the University of Nevada at Las Vegas released the results of its investigation into the speech of a professor, Hans-Herman Hoppe, who said in a lecture that homosexuals tend to spend money because they do not feel they have to save for the future expense of raising a family. The word from the committee? A nondisciplinary "letter of instruction" advising Mr. Hoppe that his comments had created "a hostile learning environment because they were not qualified as opinions, theories without experimental/statistical support, topics open to debate, or otherwise limited."

(Later that month, Carol C. Harter, the university president, stood up for Mr. Hoppe's freedom "to teach theories and to espouse opinions that are out of the mainstream" and reversed the committee's ruling.)

At Columbia University, a committee convened to investigate complaints that professors in the university's Middle Eastern studies department had intimidated pro-Israel, Jewish students found that there was no evidence of anti-Semitism in the classroom. The committee did, however, say one professor had "exceeded the commonly accepted bounds" of classroom behavior when he harshly criticized a student for defending Israel's treatment of Palestinians.

Lastly, at the University of Colorado at Boulder, the firestorm over Mr. Churchill's remarks prompted the university to conduct a review of his scholarship -- resulting in a report that defended his First Amendment rights while unearthing a slew of new research misconduct allegations, which will be investigated further.

According to Robert M. O'Neil, founding director of the Thomas Jefferson Center for the Protection of Free Expression and a professor at the University of Virginia School of Law, these investigations are often healthy exercises in institutional self-examination. "I believe

that is, after all, what we do as scholars," he says. "When a controversial premise is advanced, we investigate."

In the midst of these investigations, says Mr. O'Neil, an account of events that exonerates the professor and calms public outrage often comes to light. "If a student ever accused me of, let's say, being insensitive or disparaging a particular religious faith in my class or outside," he says, "I would want an investigation. I wouldn't want that allegation festering."

Mr. O'Neil adds that conducting an independent investigation is often the best way for a university to ward off the encroachments of upset legislatures, trustees, and alumni. "I think I'd rather have the locus of concern within the academic community," he says. "A credible internal inquiry, in my view, is the best possible antidote to outside pre-emption."

But for David French, the president of the Foundation for Individual Rights in Education, a Philadelphia-based watchdog group, the mere threat of an investigation into offensive but constitutionally protected speech is an affront to academic freedom.

"An investigation itself can have a chilling effect, even if it comes out the right way," he says. "If the language on its face is constitutionally protected, then there's really nothing to investigate."

"Nobody wants to be investigated," he goes on. "If you're as flamboyant or as bold in the expression of your opinions as Churchill or Hoppe or maybe Forsyth, that's a deterrent to saying controversial things."

However, Mr. French says he does see an important distinction between the Columbia case and the others. At Columbia, he says, there were credible complaints that a professor had quashed disagreement in the classroom. "There you had allegations that professors had deprived students of academic freedom," he says. For that reason, he thinks the Columbia investigation was merited. "You can't look at a classroom as your personal fiefdom," he says.

For the most part, Mr. French is dead set against investigating diatribes, rants, or tirades, unless they cross the bounds of ethical or professional behavior. "No student has a right to have a professor that won't offend them," he says. "They have a right to a professor who will grade them fairly. They have a right to a professor who will protect their academic freedom."

'One Man's Tirade'

Mr. Forsyth's lawyer says that the Colorado State professor will probably tone down his rhetoric in the future -- a prognosis that the lawyer considers disheartening.

"One man's tirade is another man's passionate teaching," says Mr. Corry. "If you're a professor, you should err on the side of passionate teaching."

As far as Mr. Sandoval is concerned, however, it was the university that erred -- on the side of weakness -- by not taking the investigation of Mr. Forsyth nearly far enough. Mr. Sandoval says that he will be satisfied with nothing less than Mr. Forsyth's termination.

(Mr. Sandoval and Mr. Forsyth, it turns out, have a history. The two men joined the social sciences faculty within a couple of years of each other in the early 1980s. By 1984, their previously friendly relationship had taken an acrimonious turn. "I haven't had a kind word with him since," Mr. Sandoval says.)

Mr. Sandoval says he has already appealed the university's ruling on Mr. Forsyth to the university's board of governors. If he has anything to say about it, the investigations will continue. "Round one has been fought," he says, "and that's it -- just the first round of a 12-round heavyweight bout."

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Section: The Faculty

Volume 51, Issue 32, Page A10

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