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VII. Conclusions: What the Documents Reveal About the System and Academe

The preceding sections contain a great deal of documentation and explication specific to that documentation. The details of individual arguments by the UCLA Slavic Department Faculty, and those agencies which are in a position to investigate and exercise putative oversight over the this department, e.g. the external committee of the Eight-Year Review team, the Dean of the Humanities, the UCLA Administration, etc, have been examined in detail. The question that remains at this point is how to best interpret that information and place it in a larger overall context.

How to View the System Currently in Place

As can be seen from the material in the previous section, one cannot say that there is any sort of real oversight in place to ensure that tenured academics are not engaging in abusive behavior, and there seems to be no system in place that has the will and the ability to discipline tenured colleagues who have participated in such abuse, or who have attempted to cover it up, or even those who have out and out broken state and federal law. Not a single member of the UCLA Slavic Department faculty was disciplined for the abuses that were uncovered by the Internal Review team, and not a single member of the UCLA Slavic Department faculty was punished for covering up this abuse. Indeed, the one member of the Slavic Department who went so far as to break the law in his attempts to smear the one graduate student who had enough courage to speak up was not only not disciplined—this faculty member was promoted—two steps, not one.

The question that must be answered is how can this state of affairs have gone on for so long? The answer is complex, but there are certain core issues that must be addressed before any substantive change can be brought about. One of the reasons that the current system was able to defend the abusive faculty members of the UCLA Slavic Department and cover up what had happened has to do with the culture of secrecy and opaqueness that permeates academe, certainly when it comes to dealing with the tenured professoriate. At every turn, students, lawmakers, and taxpayers are told that decisions made in academe affecting the tenured professoriate must be made in confidence, in the dark, in secret. Decisions on tenure and decisions on the disciplining of faculty are all done out of sight. Further, the public is told that this is the way it *must* be, lest

those tasked with making these decisions be intimidated into making a decision against their conscience.

This is untrue. If those tasked with making those decisions are so easily intimidated that their decision would be influenced by embarrassment or intimidation, then 1. These individuals should not be assigned to these tasks, or 2. These tasks (e.g. granting of tenure, disciplining of faculty) should not be handled by fellow professors, but by powers external to the University itself. What should not be allowed to remain, however, is the opacity that characterizes the University's dealings with its tenured faculty. The conflict of interest that is associated with the tenured professoriate policing its own is so obvious that it cannot even be termed a "potential" conflict of interest. As the Eight-Year Review of the UCLA Slavic Department has shown, such a conflict of interest is almost inevitable. The opacity of the various procedures dealing with the tenured professoriate, however, makes it almost impossible for anyone external to this group, e.g. to students, trustees, lawmakers, taxpayers, and the public at large, to know what is actually transpiring within the University itself.

This fact has been born out in recent years in other large, top-heavy bureaucratic institutions. At about the same time that the UCLA Department of Slavic Languages and Literatures was undergoing review in 2000-2001, California was experiencing periodic energy shortages, now known to have been planned and manipulated by various energy companies. Around this same time Texas energy giant Enron, thought at the time to be a rock solid company, went bankrupt, and it became known with time that the corporate leaders of Enron knew all along that there were problems, but by keeping up a united front, and by keeping the inner workings of the company private and non-accessible to the employees and shareholders, they were able to keep these problems from coming to light, at least until the entire house of cards finally collapsed on them and everyone else associated with them. (Including, coincidentally, the University of California itself, which lost untold millions in investments in Enron.) This same story played out not long after with the collapse of WorldCom, with the same story line: those in charge kept the reality of the situation from those who were employed by the firm and from the firm's own shareholders. Lies, cover-up, and deception were the watchwords of the day at both Enron and WorldCom.

The points of comparison between the present world of academe, at least in so far as it is represented by the UC system (and, if the actions of David Bethea are taken into account, presumably by the University of Wisconsin as well) and firms such as Enron and WorldCom are many: in both cases one sees self-evaluations in which the offending entities paint themselves as successful and at the top of their game, in both cases one sees an initial denial of wrongdoing, in both cases this denial of wrong-doing continues well past the point where it would make any sense at all, in both cases one sees attempts at cover-up on the part of the principal players involved. One point of contrast, however, is that with Enron and WorldCom, the façade would

eventually have to be dropped if for no other reason than the fact that what the top officials in these companies were engaged in was the building of a pyramid scheme that, like all pyramid schemes, was doomed by the logic of mathematics to eventually collapse. In other words, there was a real-world criterion by which to judge the success or failure of the executives directing Enron and WorldCom operations, and that criterion was the bottom-line. One could talk until one is blue in the face but that would not hide the fact that both of these firms were eventually going to go broke.

In this respect, the University is somewhat different than the business world. After all, it is not the job of the University to make money, but rather to teach and to train scholars, to send out new blood into the academic world. This is a much harder task to judge, simply because it is more difficult to come up with quantifiable criteria that can be used to determine success or failure. For instance, an academic institution can, at the expense of quality, churn out a great many graduates, both at the undergraduate and graduate levels, but then the question becomes how well trained are these graduates and what kind of contribution will they be able to make to society at their current level of training? On the other hand, a university department can be so rigorous that only a few of those who start ever wind up finishing, which in turn raises the questions of efficiency and fairness to the students themselves. If questioned about the quality of its program, a University department can point to the former case and claim that it is quantitatively extremely successful, a virtual Stakhanovite department. If its numbers of graduates are small, however, then this same program can point to the latter scenario (as the UCLA Slavic Department often did) and claim that so small a number of successful graduates is indicative of the difficulty of the program and thus, presumably, indicative of its high quality.

This inability to define clearly what success actually is for an academic department is precisely one of the systemic flaws that needs to be addressed. In this sense, what happened specifically in the UCLA Slavic Department and what in general happens all over academe is perhaps better compared to the Catholic Church sex scandal than to the Enron or WorldCom debacles. Enron and WorldCom had indicators for success which could be covered up and denied for a while, but a company runs on money, and when it is seen that the company is no longer creating as much money as it is consuming, then it is clear that this particular company is not succeeding. The main criterion for business success is profit: without profit, there can there be no success. The Catholic Church, however, is quite different: while it has many worthy goals, few would argue with the proposition that the main objective of the Catholic Church is to save souls, a markedly more challenging standard to quantify than making money. Who's to say if a soul has been saved? Here the parallels with academe are strong. Because the process of graduate education is so opaque, it is difficult to quantify the success of a program. A program can choose to reduce its standards to the point of a diploma mill, thereby guaranteeing that everyone who enters the program will finish it. Or it can make the standards so high that no one can finish. Or, it can ignore standards and just pass people through at its will, claiming that those

who have fallen by the wayside just didn't "have what it takes", whatever that might have been.

Like Enron and WorldCom, the abusive system in place at UCLA (and, presumably, elsewhere) depended on the dark and the fog of the academic bureaucracy to function, but like the Catholic Church, it was largely free of any obligation to show any quantifiable evidence of its success and thus has been able to avoid suspicion. And when questions are raised by those not intimately familiar with academe, it was always possible to come up with some set of "facts" designed to show how well this or that department was doing: the percentage of entering students who get their graduate degrees was high (or not high, thereby showing the rigor—and thus, it is presumed, quality—of the program in question), the aggregate grade point average of their students was high (never mind that GPA means almost nothing in graduate school), or the number of graduates a given program placed in tenure-track positions was high (and if that number were not high, then never mind—one can always make up a number and present it as fact, as happened with the UCLA Slavic Department—after all, who's going to check?)

Even more so than companies such as Enron and WorldCom, institutions such as the Catholic Church and academe are dependent upon the good will, honesty, and integrity of those charged with running the system to ensure that abuses do not occur. Barbara Blaine, the founder and president of *The Survivors Network of those Abused by Priests* (SNAP), rejected attempts by the Catholic Church to minimize the damage caused by abuse within the Church, attempts designed to make it appear as though these problems were in the past, and to excuse those who were in positions of power who did nothing to stop the abuse. To quote Ms. Blaine:

It's about the bishops, not the priests.
It's about the enablers, not the abusers.
It's about the cover up, not the crime.
It's about the present, not the past.

(Taken from the SNAP webpage http://www.snapnetwork.org/snap_statements/2004_statements/022704_john_jay_numbers.htm)

This holds true for academe and higher education as well. The exposure by Ms. Blaine of the bureaucracy and its attempts to paint the problem in a less severe light are instructive, as the academic bureaucracy makes many of the same attempts to cover many of the same problems. There are those who could have spoken up, but who, for any number of reasons, chose not to. It was not possible to have been in the UCLA Slavic Department and not known of how abusive the situation was, and it was not possible for the UCLA Administration not to have known how abusive it was, certainly not after the results of the Eight-Year Review and the feedback provided to the UCLA Administration by graduate students at great risk to themselves.

This is a system in which, either by design or happenstance, there is very little centralized authority. Whether the failure of the UCLA Administration to discipline the faculty of the UCLA Department of Slavic Languages and Literatures was a result of fear or the desire to protect tenured colleagues, or both, the fact remains that the system as it currently exists is unable to discipline faculty effectively, and thus is utterly incapable of protecting graduate students. This is not to say, of course, that the UCLA Administration isn't capable of making statements *claiming* that they will protect graduate students. This they do very well. As can be seen from the details of this report, however, when it comes to backing up those claims, the UCLA Administration has no credibility left. The result of this is a system that exists to perpetuate itself for the benefit of a single group within that system, namely the tenured faculty. Of course, the tenured faculty have nothing against others benefiting from this system as well, as long as it doesn't infringe upon their abilities to do almost whatever they please in the University, and to so without serious challenge from the University itself, regardless of how odious or foul the conduct.

The Results of Having Such a System As Seen in the Case of the UCLA Slavic Department, the Review, and Cover Up

The repercussions of having a system in place that would allow a department like the UCLA Slavic Department to escape without faculty sanction, and without losing its graduate program (to say nothing of losing the Department altogether), are felt at many different levels.

At the student level, it has been made abundantly clear that, whatever hopes might have been raised in the initial stages of the investigation, there is no substantive protection that will be provided to students in the future. The system in place that was putatively designed to protect them from retaliation is in fact designed to protect the faculty. Students have been cowed and the old guard is still in place. Of course, some students/ex-students might still have the courage to speak out, but given the results of the last "promise of protection" by the UCLA administration, how could any student once again bring himself/herself to believe such a promise coming from the UCLA Administration? This is turns calls into question the results of any student survey that is distributed and which seeks honest feedback from the students. These surveys "might" result in honest feedback, or, as in the case of some of the class evaluations for Slavic Department classes, they might simply result in telling the Department/Administration/University what it wants to hear.

Also worth noting is that many of these students who did speak up were linguistics students and had been told by those running the review and by the UCLA Administration that the only way to improve the linguistics component of the program, which was seriously deficient in modern linguistic theory, was to cooperate fully with the investigating committees. Many (not

all) of the linguistics students took the UCLA Administration at its word and did do exactly that. The result was not only that their trust was betrayed when the UCLA Administration reneged on the promises given earlier of protection from faculty retaliation, but that the linguistics component of the Slavic Department, far from being improved, has now all but been disbanded. Two of the main abusers have retired, one is deceased, but one is still active within the UCLA Slavic Department. Even with this individual still active (and presumably immovable because of tenure—more on that topic below) it would have still been possible to resurrect the linguistics program. The two senior linguists who remained are world renowned for their work in a wide variety of fields, not just in linguistics but in literature as well. Had the UCLA Slavic Department and the Humanities Division followed through on the initial recommendations of the Eight-Year Review and hired a South Slavic linguist, the program could have gone on in spite of the remaining abusive faculty member. Instead emphasis was quietly shifted from a South Slavist and from a 19th century specialist to the an area that would allow the Department to hire someone who would fit in more with the literature faculty and be sensitive of the "situation" in which this faculty now finds itself.

As for the linguistics program, it now exists in name only. One of the two remaining linguistics members, one of world renown and who personally knew (unlike, apparently, Timberlake/Bethea) the rigors of being an academic in a Stalinist environment, and a second faculty member, the one who was specifically excepted from culpability by the Internal Review, a scholar who has been lauded continually and often by colleagues, not only for scholarship, but for dedication to principles of fairness and for "rigorous personal integrity... concern for justice and for the emotional as well as intellectual well-being of others" (February 2002 Vol. 45, Issue 1 AATSEEL NEWSLETTER, page 21 http://aatseel.org/AATSEEL/Feb2002.pdf). It was the same individual whose attempts during her brief tenure as the chairperson of the Slavic Department to bring about even modest change in a department sorely in need of change resulted in her being crushed by the inertia of the Department, thus ending both her brief stint as the nominal head of the Department, and the Prague Spring that had accompanied it.

These two individuals, in combination with a well-chosen South Slavist, would have been in an optimal position to move forward in the linguistics program, bringing it up to date and removing from it the element of academic and scholarly thuggery that had characterized it for years. This would have been an appropriate result for those linguistics students in the UCLA Slavic Department who had put it all on the line and had agreed to talk with the investigating committees at the behest of the UCLA Administration. And yet, none of this happened. Given the nature of academic tenure, it cannot be seen as too surprising that the one abusive faculty member still remains in the Department. What is unfortunate is that there were not even any serious attempts at disciplining this individual for her conduct. Even so, in the proposed "caucus" system which artificially divided the Department into linguists and literature faculty, this

individual would still have been easily isolated and thus been unable to wreak havoc on students' lives any longer.

Nothing like this, however, happened. As has been discussed above, the focus of many of the senior literary members of the faculty was not only *not* on rewarding the linguistic students for having the courage to accede to the repeated requests of the UCLA Administration and participate fully in the Eight-Year Review process ("Remember, the only way you as a graduate student are going to change the linguistics part of the program is to participate in this review") by trying to rebuild and reshape the linguistics side of the house, but quite the contrary: the idea was floated among some faculty of actually shutting down the linguistics portion of the program altogether. *That* was the reward the linguistics students received for their efforts.

The fact that the UCLA Administration avoided conducting an official investigation into the faculty, i.e. the fact that there was never any official investigation intended "to conduct a fact-finding mission or to determine the guilt or innocence of particular individuals" (from the Eight-Year Review, Internal Report) had ramifications throughout and beyond the UCLA Slavic Department itself. To give but one example: as a result of the cover up, one of the worst abusers and least stable personalities in the Slavic Department itself not only was not disciplined, not only was not demoted or terminated, but to the contrary, was allowed to continue without censure. This was the same faculty member whose behavior is mentioned specifically in the Internal Report ("physical displays of faculty anger including frequent yelling and even slamming a chair on the floor", insulting and yelling at students, the same faculty member that caused XX to leave the program, and so forth.) It had reached the point that no one—no one—among the tenured Slavic Department faculty itself, relatives excepted, would deny that this individual was in desperate need of some sort of psychological counseling/treatment. This fact notwithstanding, this individual, because there was no official inquiry as to the conduct of the faculty "designed to determine guilt or innocence," not only went unpunished, even worse, she was allowed to serve on one of the most important committees in the University, the so-called "CAP" committee (University Committee on Academic Personnel), the committee which, among other things, recommends whether or not to give tenure to tenure track assistant professors on campus.

Thus, this abusive faculty member who was considered psychologically unstable by all of the colleagues in the UCLA Slavic Department (relatives excepted) was actually allowed to be a part of the mechanism that to a very great extent determines who is allowed to remain at UCLA and who must go. It is shocking that a person in this condition would be allowed to determine the fate of so many others in the University, but this is what happens when there is no system in place to discipline faculty members at UCLA. It is not just students in the UCLA Slavic Department that are hurt, but the entire University.

The University's actions in this instance hurt UCLA in an even more sensitive area, that

being its reputation. Every year UCLA is the recipient of hundreds of millions of dollars of grant money coming from various sources: federal, state, private foundations and institutions, and individual donors. One of the things that make governments, people, and institutions so willing to donate to UCLA is their belief that their contribution will be not only appreciated, but also well used. In this respect, the University's reputation is everything to the donation process. No potential donors would want to donate to an institution that they feel is lying to them, or covering up misdeeds on the part of its employees, especially if that institution is a public institution run with the public's money, authorized and funded by the taxpayers themselves. One expects that such an institution will conduct itself—or at least attempt to conduct itself—according to the highest of moral and ethical standards. What then do the actions of the UCLA Administration and the Academic Senate say about their commitment to such high standards, about their commitment to the truth? If UCLA is willing to go to such incredible lengths in order to lie and cover-up concerning a small academic program such as seen in the UCLA Slavic Department, then to what extent would they be willing to lie and cover up about larger issues, e.g. the cadaver scandal (Willed Body Program) that recently hit UCLA? Not too long ago media mogul and UCLA-aficionado David Geffen donated an astonishing $200 million to the UCLA Medical School. No doubt crucial to his decision to do so was his belief in the credibility and integrity of UCLA as an institution.

If this examination of the UCLA Slavic Department and how UCLA reacted to the results of this examination illustrates one thing beyond question, it is that UCLA is very protective of its reputation and has in place the above-mentioned "fail safe" system designed to keep scandal from getting out of hand. Since every case is different, however, UCLA must maintain a flexible response capability, one ready for different and unexpected events. An example of this flexibility can be seen in UCLA's two-track approach to the disciplinary process as it applies to tenured academics, on the one hand, and officials in the athletic program, on the other. One of the ways UCLA shapes the way it is viewed by the public is through its athletic program, which has been one of the most successful ever at the major college level. UCLA claims to seek not only athletic excellence, but also to shape its scholar-athletes according to elevated standards of honesty, sportsmanship, and academic excellence. Accordingly, UCLA is always quick to highlight those involved in its athletic programs who are emblematic of these proclaimed goals, athletes who are not only gifted in their sport, but who also reflect well on UCLA in terms of their intellectual abilities and the way they present themselves to the public at large. Few universities anywhere can approach UCLA in this regard: Kareem Abdul-Jabbar, Bill Walton, Arthur Ashe, Ann Meyers, Gail Goodrich, Walt Hazzard, Rafer Johnson, Troy Aikman, Florence Griffith-Joyner, Jamaal Wilkes, Jackie Joyner-Kersee, and hovering over these and many more associated with UCLA athletics are Jackie Robinson and Coach John Wooden. These athletes and coaches are the image that UCLA likes to project: not only great athletic ability and knowledge, but also men and women of considerable academic ability and integrity who understand that sport need not be an end unto itself, but rather a means to an end, one influence among the many that shape the

whole person.

Given this attitude that UCLA has taken towards athletics and its athletes, the response of the University to the 1996 scandal involving men's basketball coach Jim Harrick was telling. Ever since the last days of John Wooden, UCLA had been looking for someone to lead UCLA back to an era of greatness in basketball. UCLA had won an unprecedented number of championships under Coach Wooden, but the last had come in 1975. Under Coach Jim Harrick, it looked as though UCLA might finally win another championship, and in 1995 UCLA under Jim Harrick did indeed win the NCAA championship in basketball, its first in twenty years. Several years after this, however, UCLA shocked the sports world by firing Jim Harrick, not for any lack of ability with regard to his coaching, but rather for alleged ethical violations in the recruiting of high school students. According to the November 7th, 1996 issue of the UCLA student newspaper, *The Daily Bruin*, Harrick had lied about the number of basketball players present during a recruitment dinner, a violation of NCAA rules.

What followed was a prime example of how UCLA manipulates the media in order to shore up the image it so desperately wants to project to the public that pays for public education. At first, many were shocked that UCLA would fire a coach who had brought them a long sought after basketball championship. While alumni howled, the UCLA Administration stood firm, claiming that as much as it hurt them to have to do this, their unshakeable commitment to the principles of honesty and integrity allowed them no other option. In the campus news bulletin of November 7th, Chancellor Charles Young wrote that "We have concluded that Coach Harrick conducted himself in a manner that was inconsistent with his position as a *role model to students*, where *ethical behavior* is so important." (Emphasis added.) Gradually, the tide began to turn as praise started to pour in to UCLA for having the moral courage to stand up and do the right thing, regardless of cost. Of course, those who were on the inside of UCLA, those who knew of the special treatment afforded to tenured members of the faculty, those who knew that the system was already set up such that what had happened to Jim Harrick could never have happened to a tenured faculty member, could only smile as Chancellor Young waxed poetic on UCLA's dedication to the principles of honesty and integrity. For while the UCLA Administration shed a public tear that so harsh an action was necessary, in fact this same administration was delighted that it had so public a forum to demonstrate what a deeply moral and ethical public institution it really was. As long as it was not one of the tenured elite being "sacrificed" on the altar of public opinion, but only a basketball coach, then by all means, onward, onward to yet another public relations victory.

The events surrounding the Eight-Year Review of the UCLA Slavic Department only serve to confirm that view. As has been pointed out above, time after time after time the Chair of the UCLA Slavic Department lied to investigators, he lied on paper to the Academic Senate (as

was pointed out to the Academic Senate in the graduate students' response to his statements) and he went so far as to break the law in releasing without authorization grades from the undergraduate transcript of the one UCLA Slavic Department graduate student who was brave enough to allow her story to be told in such a way as her identify would be known. If one looks back at Part II of these disclosures (Context of the Problem) one will come upon a *partial* list of the lies told by Michael Heim during this investigation, from its very inception to the very end, when he lied directly to the Graduate Council of the Academic Senate. No doubt he continues to lie about what happened during the Eight-Year Review. Michael Heim, however, was a fellow tenured academic and the UCLA Administration could not allow his lies to result in his termination as had happened with Harrick. Not only would this be bad precedent, but it could lead to Heim breaking ranks with those in the Slavic Department whom his lies were designed to protect.

Once again, the hypocrisy involved here is simply breathtaking. In the article from the *Daily Bruin*, Chancellor Chuck Young explained why he felt it was necessary that Jim Harrick be terminated from his position at UCLA. An excerpt from that article is given below:

--But according to university officials, it was the next couple of weeks that actually cost the second-winningest coach in UCLA history his job. He *repeatedly misinformed members of the athletic department* about the details of the dinner, officials said.

"We might have responded less severely if (the infraction) had been the only violation," Young said. "But the situation was exacerbated by other actions that followed. It would have been treated differently if he been forthright from the beginning."

Although some thought the punishment was too severe, considering it was the first ethical breach by Harrick that the athletic department had been aware of, Young seemed to think otherwise.

"I think Watergate is the analogy - the break-in to the Democratic National Committee Headquarters was not all that big of an act," he said. "But, what followed it brought down the President of the United States."--(Emphasis added) (*Daily Bruin*, November 7th, 1996)

Young continues this tone in the campus news bulletin of November 7th, 1996, stating that "We hope that the firmness with which we dealt with this issue reinforces for prospective students that UCLA is not only a premier academic institution with a rich athletic tradition, but also an *institution of integrity*... But we cannot allow a winning record to cause us to overlook such an *ethical breach*." (Emphasis added.)

The contrast here could not be starker. Jim Harrick lied and then repeatedly lied to cover

up his original lie, thus found himself in violation of his contract and his obligation to serve as "a role model to students" and was consequently fired by UCLA. Michael Heim repeatedly and consistently lied to UCLA over a period of time far in excess of the few weeks involved in the Harrick case. Michael Heim lied to internal investigators and to external investigators. Michael Heim lied to students, Michael Heim lied to the Graduate Council of the Academic Senate. Michael Heim betrayed the trust of graduate students not just by these lies, but also by illegally releasing a graduate student's private information in his attempt to defend himself after his on-going prevarication had been exposed in the Internal Report. Was not Michael Heim as much a role model to students as Jim Harrick? After all, Jim Harrick's job as a basketball coach, while high profile, was only peripheral to the functioning of the University, while Michael Heim interacted directly with many, many more students on a daily basis. Were not Michael Heim's ethical breaches many times those of Jim Harrick's? If the University is not going to demand the highest standards of conduct from the professors themselves, then of whom would the University demand adherence to such a high standard? Was Michael Heim's employment with UCLA, in the end, terminated in the same manner as Jim Harrick for what was without question a series of "ethical violations" far exceeding Harrick's in both intensity and scope?

No. Michael Heim was promoted.

Promoted not one step, but two steps.

Thus, the failure of the system to work (and by "work", what is meant here is *not* the system's ability to cover up abuse and suppress dissent, i.e. its *de facto* purpose, but rather to "work" in the sense that the system is publicly promoted, to prevent such abuse and cover up) has set up UCLA for yet another devastating blow to its reputation. The failure of the system to discipline the faculty of the UCLA Slavic Department and its complicity in the cover up of abuses that went on there completely undermine the University's credibility, the same credibility that is so crucial in the decision making process of those entities, be they governmental, business, or private, that normally provide grant support and donations to UCLA itself.

How This System Is Able To Perpetuate Itself

The above-described scenario exemplifies one of many ways that the existing system is able to perpetuate itself. As can be seen by the radically different responses to lying in an official capacity that were experienced by the ex-basketball coach Jim Harrick and the Chair of the UCLA Slavic Department Michael Heim, there exists a multi-tiered system for standards of conduct, with the greatest leeway being provided to those at the top tier, the tenured professoriate. By providing for different levels of punishment for what is essentially the same offense, the UCLA Administration not only fulfils its obligation to the tenured professors who run the institution, but it also sends a subtle message to those who see the injustices every day, i.

e. administrative personnel, non-tenured academic personal, and most of all graduate students, that there can be consequences for speaking out. It becomes very clear very quickly that non-tenured members of the UCLA community are not playing on a level playing field with their tenured co-workers, but this is usually apparent only to those within the system. The unbalanced nature of the system is shielded from those outside it by the secrecy in which the University operates.

This dark and opaque nature of much of the academic administration is also a pillar that props up the system. The opacity of the University in terms of tenure decisions, disciplinary decisions, investigations, and so forth has already been discussed at length above, but it is worth repeating that this opacity, like the institution of tenure, is fiercely defended by those who run the University, i.e. the tenured professoriate. The University, speaking for its tenured faculty, will present a litany of reasons why decisions must be made in the dark, but few of the reasons given outweigh the benefit of having the University operate in an open and transparent environment. The temptation for corruption is just too strong. There is no strong, central authority in the University setting to cut through the smoke and mirrors used to hide what is truly happening at the University, at least in so far as the tenured faculty are concerned.

To give one example how the University combines the institutionalized secrecy with its use of subtle disinformation in order to confuse those who are outside the system (and, as can be seen in this example, even students themselves within the system) one need look no further than the case of Joshua Muldavin, a popular geography professor who was refused tenure. This in turn set off student protests and even hunger strikes. The Chancellor of UCLA, Albert Carnesale, met with the fasting students and paid lip service to the complaint that the tenure process was too opaque, but would not budge in his refusal to discuss the specifics of the Muldavin case. From the *Daily Bruin*:

"Carnesale made one point clear during the discussion: he was not going to entertain questions regarding Muldavin's tenure case. He insisted questions about the tenure process be generic.

'I am not going to discuss this case,' he said to one student requesting the creation of an external review committee to look over the process by which Muldavin was denied tenure.

'That would be like if someone called me and asked for your grades,' he added." (*The Daily Bruin*-Thursday, May 31, 2001 http://www.dailybruin.ucla.edu/db/articles.asp?ID=15742)

It is this last line that is so typical of how the UCLA Administration, in its role as the *de facto* representative of the tenured faculty, tries to obfuscate its motivations for keeping things quiet. Here Carnesale tries to equate talking about the decision process that resulted in a popular

professor being denied tenure to a gross violation of privacy rights, namely releasing a student's grades to a third party without that student's permission. Now, on the surface, if one does not spend much time thinking about it, such a comparison might somehow resonate. It would be Carnesale's hope that the students would buy it (not likely, but maybe), and if not them, then certainly the public at large, those whose taxes pay for the University. Of course, when one subjects such a comparison to scrutiny, the logic behind it quickly breaks down. Carnesale here compares apples and oranges and finds them as one, when in fact this is not so at all. In the case of students having their grades revealed without their consent, this is not only a violation of their privacy rights, it is a violation of the law, on both the state and federal level. Of course they would object. In the case of discussing the details of the decision process that denied tenure to Joshua Muldavin, does Carnesale actually expect people to believe that to do so would violate Muldavin's privacy rights? Muldavin himself asked for this information, only to have it denied him. Whose "rights" is Carnesale protecting here? The answer is that he is protecting the "rights" of the tenured faculty not to be forced to justify the decisions they make in the hiring and firing process. Thus, Carnesale's comparison of the protection of students' privacy rights with the refusal of the University to lift the veil of secrecy on tenure decisions is shown to be weak, if not outright disingenuous.

Still, one might have been able to have taken comfort from Chancellor Carnesale's supposed concern for the privacy rights of students vis-à-vis unauthorized release of their grades were it not for the fact that at the time he made this statement, the UCLA Administration had already been informed about the violation of student privacy rights regarding the unauthorized release of grades from student transcripts in the UCLA Slavic Department. At the time Chancellor Carnesale made this statement, the UCLA Administration had already known for over a half a year that UCLA Slavic Department Chairman Michael Heim had illegally released grades from the transcripts of XX, the one Slavic Department graduate student who had allowed her story to be told. Had Chancellor Carnesale truly been concerned about the privacy rights of students at the time he made this statement, then he would have already taken appropriate action with regard to Michael Heim: he would have directed the UCLA Administration "to conduct a fact-finding mission" to look into whether or not Michael Heim had actually released grades from XX's transcripts without XX's permission. Of course, it wouldn't have been much of an investigation since every graduate student and every faculty member in the UCLA Slavic Department got the email, which can be seen in both the raw and annotated versions of the Eight-Year Review report in Section IV of this document, in which Michael Heim does just that, release some of her grades in his attempt to discredit her and to discredit UC Riverside with charges of grade inflation. This hypocrisy notwithstanding, the fact was that in this instance, the University was able to cleverly combine its decentralized nature with subtle acts of disinformation from the University's highest officer in order to keep the veil of secrecy in place.

This decentralized nature of the University Administration also serves well the interests of the tenured professoriate, again in so far as that "interest" is the continuation of a system in which their conduct can go virtually unchallenged and almost certainly unpunished. It is a system in which power is purposely diffuse, thereby providing every so-called "authority figure" at every point on the so-called chain of "command" an excuse not to act. Because the actual lines of authority are so blurred and actually taking action against an abusive faculty member so complex and involved a procedure, and because, as was discussed above, faculty are for the most part loath to be seen as having enforced discipline against one of their tenured colleagues, what is almost built into the system is an element of "plausible deniability" at every level, i.e. the ability to say "Hey, it's not *my* job to do this!" This was seen time and again by those students in the UCLA Slavic Department who tried to bring about change, who tried to alert the UCLA Administration as to what was happening in the UCLA Slavic Department. This practice of "slipping out of responsibility" was a common occurrence. One supposed "authority figure" would listen with a sympathetic ear and then say that only another "authority figure" would be allowed to deal with whatever the particular issue was. While this is of course acceptable to an extent, it soon became the case that whoever was approached to deal with the goings-on in the UCLA Slavic Department almost always looked for an excuse not to act and almost always tried to direct students elsewhere. It was only the Internal Review Committee that accepted responsibility and took charge, and then even this committee was met with resistance and with incidents of University bodies charged with oversight failing to follow through, e.g. the Graduate Council's decision to accede to Michael Heim's request to reopen graduate admissions to the UCLA Slavic Department, this in spite of the Internal Committee's recommendation against it, or the Dean of the Humanities refusal to follow through with the committee recommendation that the UCLA Slavic Department be put into receivership.

Finally, there are times when all the safeguards that the University has in place to keep the true nature of the University from seeping out to the public at large and to the taxpayers who support the University simply are not enough. At these times, when matters threaten to erupt into possible legal action, the University has proven itself quite adept. Rarely does the University address these issues outright, preferring instead to lapse into the convenient "no comment because the case is being litigated" response. Beyond that, the University has various layers surrounding it, various methods by which it responds. In other words, the responses by the University are often muddled and self-contradictory and difficult to follow. Which response is definitive, which response is merely advisory, which response needs to be heeded, which response can be ignored—these are questions that make it extremely difficult for any entity, be it within the University or external to the University, to act to bring about real change. In addition to making it difficult for any potential reformer to know where to focus his energies, this uncertainty also serves to lengthen the process, to draw it out, to delay without seeming to delay, hoping to wait out the accusers while at the same time fogging the picture in an attempt to blunt the accusations leveled against the University. The one advantage that the University has—an

advantage that no single potential reformer has—is that the University is not a single person, or even a group of persons, but rather an institution. Institutions can afford to wait months and months and years and years in terms of investigations and legal litigation. In fact, institutions such as the University would prefer that this be the case. Individual complainants and/or reformers have lives to lead. An institution can afford to give up years and years, but rarely is that the case for individuals or groups of individuals trying to achieve redress or bring about reform or both.

(It should be noted here that this same decentralization of power—or "perceived" decentralization of power, as they case may be—can serve the University in other ways. One of the best descriptions of how the University uses such decentralization can be seen in the description by a University lecturer [non-tenured college teacher] of how the University negotiates with the lecturers' union:

"Bargaining with the UC is an "Alice In Wonderland" experience. All the unions say the same thing; the process is surreal. The reason why is because they don't have their internal act together. They argue among themselves. One representative always has veto power, and the group is paralyzed. They can't give us an answer. There's no back-and-forth bargaining because the representatives are incapable of making decisions among themselves. They've engaged in regressive bargaining, and we've filed a formal grievance for that. Also, it's so decentralized; nobody has any power. The only way to get an agreement is to ask for very little or to use political pressure." [*Daily Bruin*, Thursday, January 23, 2003 http://www.dailybruin.ucla.edu/news/articles.asp?id=22444])

When, however, not even stalling for time works, or when the conduct on the part of the offending faculty is simply so egregious that for it to go public would be too great a stain on the University itself, the very last resort is simply to settle out of court, to, in effect, buy the silence of the aggrieved party. This approach, of course, is not unique to educational institutions such as UCLA, but is seen quite commonly outside academe as well, usually in the business world, but also at times in non-secular institutions: witness the current slew of court cases and legal settlements involving the Catholic Church in its attempt to deal with the sexual scandals involving sexual abuse perpetrated by priests. Unlike either the business community or the Catholic Church, however, a public educational institution like UCLA is supported by California taxpayers. The idea behind settling out of court to avoid publicity is rooted in the idea that the offending party feels he/she would be better off simply taking a large financial hit rather than facing the publicity for what was done. This may work as intended when the offending party is an individual or a private corporation: after all, the offending party still has to pay some sort of penalty for the transgression in question, and that same offending party, with full knowledge of the transgression, will (one hopes) learn from this action and take steps to avoid its recurrence,

lest he be forced once again to pay the penalty for his action. This works because the same party that is engaging in the offending action is also the same party that will have to pay the penalty.

When it comes to large public educational institutions such as UCLA, however, this option actually works against the acknowledgement of error and actually serves to discourage reform for the simple reason that the parties who are committing the offending actions, namely the tenured faculty member and those of his colleagues and those in the Administration who are covering up for him, are not the people who wind up paying the price when these matters go to court. Far from it. For in the case of a public university, the offending party, almost always sheltered beyond what most could hope for and protected by tenure, is never the one who ends up paying the bill when his behavior causes the university to be sued. It is the people who support the public university, the government coffers that support it, and ultimately the taxpayers themselves who are the ones that end up footing the bill. Since, however, the public university already has in place excellent spin control and public relations infrastructure designed to deal with incidents such as this, the public is usually kept from knowing just how much the legal judgments against the university are. This information is kept secret from the very people who are actually going to end up paying for the misconduct of this or that university faculty member. The aforementioned spin infrastructure will, after agreeing to a settlement figure, begin the process of trying to convince the public at large, who then end up either paying directly for the settlement or for increased insurance costs as a result of the settlement. The public is told that the university did its level best to win the case, but sometimes things like this just happen, and in order to avoid a blow to the public university's "prestige" it is usually best for all concerned just to settle this issue as soon as possible and thus allow the university to put this "unfortunate incident behind it."

When the university, however, says that something is "usually best for all concerned", one should take this judgment with an enormous grain of salt. What the university usually means when it says something like this is that it is usually best for the tenured professors who run the university, and not for the process of learning and not for the welfare of the students placed in their charge. The university, however, needs to preserve at all costs (literally) in the mind of the taxpaying public the idea that what is best for the tenured professoriate is in fact what is best for the university. If that means paying out large sums of money to buy the silence of those who would sully the reputation of the university with a truthful depiction of how the system operates, then those in charge of the university are more than willing to do so. After all, this money is not coming directly out of their pockets, it is coming from the funding the university receives from the taxpaying public, either directly or from insurance policies paid for by taxpayers.

The problems here are obvious. The public, hoodwinked by the propaganda of the university administration, comes to believe that whatever happened, the reputation of the university must not be sullied, since this would be "bad for the university". The university

administration itself, on the other hand, makes no real effort to bringing about substantive change, since there is no financial incentive for them to do so. From their point of view, this is just how the system works. Every now and again there is an "unfortunate incident" that requires to public to pony up money, and the public does indeed step up to the plate and do so. Thus, the original act of wrongdoing is never brought to the attention of the public, there is no pressure brought upon the university itself to reform itself, the offending tenured faculty members are protected from further investigation into their behavior, and best of all, the university administration can take the view that the money paid out to buy the silence of those who were aggrieved by the university can simply be chalked up as the cost of doing business in an academic environment.

Why doesn't the taxpaying public object? Because the taxpaying public doesn't know, or better put, doesn't realize exactly what is happening with regard to the favored treatment granted by the university administration to its tenured professors. Why doesn't the public know about individual instances of abuse by faculty members when it is the taxpaying public who eventually get stuck with the bill? Because, as a condition of settlement, as a condition of payment, a non-disclosure agreement is mandatory. Because there is a division between those who *commit* the offences and those who *pay* for the offences, those who wind up paying never find out what offence they are paying for. The university system, in effect, tells the taxpayers "Trust us. You need to pay for this. We will make every effort to ensure that this doesn't happen again." This sort of scenario in which the public is forced for pay for the behavior of those in its employ is not unique to the University of California, of course. The California Legislature and state community colleges are among the many other public institutions that employ this strategy when one of their own is in trouble. (See "Taxpayers Finance Settlements and Silence" in the March 19th, 2001 issue of the *Los Angeles Times*.) Still, in order to understand how the university system manages to protect its tenured professoriate from outside investigation and to maintain their privileged position within the university system, it is essential that this relationship between the university and those who pay for the university's mistakes be understood by the public who is actually doing the paying.

The Systemic Problems within the University That Promote Abuse

The above descriptions of how the University works (or doesn't work) begs the question, why does the system work so very badly? In part, this question has been answered repeatedly throughout this tract, and that answer centers on which level of the University system controls the operational, investigative, and disciplinary apparatuses of the University, and the reluctance of those on that level to use the systems in place against colleagues on the same level as themselves. There are other factors, however, which contribute to the culture of abuse, deception, cover-up and inertia that is seen here.

One of the major problems is that of quantifying and measuring success and prestige in academic institutions. When pressed to explain instances of abuse against students, one of the common responses by institutions such as UCLA is the almost obligatory "qualified" statement of regret, e.g. "Should any abusive have occurred, we would of course regret it", followed swiftly by a reminder to the public that whatever instances of abuse may have (or may *not* have!) occurred, the institution involved is still of the highest caliber and that this fact must be taken into account, it must be included in the broader picture of the institution itself.

The problem with this is that it so difficult to know whether or not the high praise the institution is bestowing upon itself is actually true. As can be seen from everything revealed here with regard to just one single problem, that of the abuse of graduate students in the UCLA Slavic Department, the University itself will spare no effort to dissemble if it feels that it is in its interest to do so. Call it what you will, disinformation, untruths, out-and-out lies—if the University feels its core values are being attacked—and by "core values" what is meant here is not the pursuit of truth and open discourse, but rather the absolute and unfettered rights of the tenured faculty to do what they please when they please to whom they please—then the University will do whatever it takes to either distract the taxpaying public's attention away from this activity, or to "re-state" the problem in such a way that the bad is offset by all of the "good". It will do so preferably in a way such that it would be difficult for the average Californian taxpayer to understand but would nonetheless say all the right things and touch upon all the right notes that usually resonate with the people outside of academe. The result is a public who is getting two different stories and is not quite sure how to interpret what it is hearing, and even worse, a public that has no objective way to evaluate the claims made by the University and thus is usually forced to make this judgment based on information provided by the University itself.

What is, then, the type of information provided by the University to confirm the claims of its own excellence? How does it prove its "prestige"? The problem is not that there are no quantifiable criteria for success, for there are. One can look at the number of articles published by its faculty, the number of conferences hosted by the institution, the number of patents secured by the faculty, the amount of grant money, the graduation rate of its students, the number of its PhD's who secure tenure track or other high level positions, average test scores of its graduates in standardized exams, and so forth. Given that there are so many different criteria for success, the University is able to pick and chose what it wants to present to the public at large. To give just one example of how this works, one need look no further than the subject of this report, the abuse of graduate students in the UCLA Slavic Department. Now that the report is out for everyone to see, no one could seriously advocate against the charges made against the Department and the faculty members in it who abused students and those who worked to cover up this abuse. The report itself was devastating. And yet, there was an attempt by the External Review team to present the situation of the UCLA Slavic Department in a better light, as Bethea/Timberlake not

only outright ignored the instances of lying (documented by the Internal Review team) on the part of Department Chair Michael Heim, but actually took the data fed to them by Heim as fact, without checking on, for example, whether or not the statistics he gave regarding the tenure-track rate of the Department's graduates were accurate. When the UCLA student newspaper, the *Daily Bruin*, got wind that something was amiss in the UCLA Slavic Department, it interviewed the Departmental Chairman, Michael Heim ("Grad Students Contest Treatment", Friday, February 2, 2001; http://www.dailybruin.com/news/printable.asp?id=2743&date=2/2/2001). By this point, most Slavic Department students had already seen the system in action and were aware of the fact that faculty members in the UCLA Slavic Department were not going to be held to account for their actions, and no doubt Michael Heim knew that as well. After all, the Graduate Division of the Academic Senate had lifted the ban on new graduate students, the Dean of the Humanities had refused to follow through with the recommendation that the UCLA Slavic Department be put into receivership, and none of the professors had even been officially investigated, much less disciplined. Order had been restored.

Given these developments, Michael Heim no doubt felt emboldened when facing the questions of the *Daily Bruin* reporter assigned to the case. Two points stand out here. One was the pattern of deception that had been described by the Internal Report continued here. From the article: "To preserve the anonymity of the students, Michael Heim, chair of Slavic Languages and Literatures, declined to comment on the specific nature of the situation." (Apparently Michael Heim's sense of dedication to students' privacy had grown markedly since the time he had illegally released grades from the undergraduate transcript of XX, the one graduate student who allowed her story to be told openly, in his attempt to discredit her.) When asked to address the allegations made against the Department, Michael Heim said this: '"The students never expressed any dissatisfaction with the level of education they were being given,' Heim said. 'The external committee of the eight-year review rated the department among the top departments, if not the top, in the country.'"

The first part, of course, is complete nonsense, just another example of the blatant lie being trotted out, probably in the belief that the newly-cowed graduate student body would not call him on it. Slavic Department students did indeed express dissatisfaction with the level of education they were being given, especially those concentrating in linguistics, who were not only not instructed in current linguistic theory, but were at times actively discouraged from pursuing this course in the Linguistics Department proper. The second part of his statement, however, illustrates well the problem of deciding how well an academic entity, be it an academic department or an entire university, approaches the problem of questions regarding its quality. Since there are so many different factors that are used to decide the quality of a given program or institution, the program or institution has the option of picking and choosing those facts associated with that program or institution that best portray it in a positive light. Thus, the

presence of Bethea and Timberlake on the External Review team turned out to be crucial for the UCLA Slavic Department itself, since it gave the Slavic Department faculty something to grab on to, something that they could hold up to the public at large and say, see, we're actually pretty good. Of course, the UCLA Slavic Department and Michael Heim knew very well that neither the public at large nor the *Daily Bruin* had access to the mountain of evidence that suggested otherwise, and not surprisingly, it appears that no graduate student from the Slavic Department was willing at that point to contradict these statements. Michael Heim could just as easily have quoted from that part of the Internal Review report that said "This level of graduate program dysfunction is unprecedented in the collective experience of this review team", but for some reason, he chose not to do so. Instead, he continued as follows: "'The graduate council voted unanimously to lift the sanctions on the department,' he continued. 'They felt the department has dealt with the issue effectively.'" Thus, as far as the press is concerned, the issue is over and done with, a thing of the past, an unfortunate aberration, but certainly nothing more than that. Michael Heim took the power his tenured colleagues on the Graduate Council of the Academic Senate gave to him (by removing the ban on admissions, this against the recommendations of the Internal Review team) and ran with it, parlaying it into a winning hand in the student media.

This type of response is not unique to Michel Heim and the UCLA Slavic Department, but is commonplace in academe. The tenured professoriate chafes at any attempt to hold them to a standard for success that is not their own. In other words, they insist that any standard for judging their success be self-imposed and that to impose such a standard from without would be unacceptable, no doubt a violation of their "academic freedom", at least as they define it. It is this lack of a standardized set of criteria for success, however, that contributes to the ability of academic entities to shape the interpretation of these entities by parties external to them. What Michael Heim did in the *Daily Bruin* article is something that happens in academe quite frequently.

This sort of ability to cloud the true nature of a program is an important tool for the University to have, for the University realizes, even if the public at large does not, that ultimately the University is accountable to the people of California. For all that is said about the independence the University is supposed to have from the legislature that funds it with taxpayer dollars, this independence was never meant to be total. No government entity should be given complete and utter independence from the people who fund it, and none should be allowed to operate unsupervised. Realizing this, the University (both UCLA and the UC system itself) fears bad publicity because this can lead to precisely the sort of questioning of the University's authority, and of its independence from higher authority, that is happening here in this report. Bad publicity has the potential to erode the independence that the University enjoys from the legislature and from the taxpayers who fund it. Of course, if one listens to the proclamations coming from the University itself, one will learn that they value this independence because it protects their ability to do independent research free from political pressure, and there is no doubt

an element of truth in that. The larger truth, however, is that there is much less fear of political pressure than there is a fear of being held accountable for their actions by oversight that is truly effective and not just a façade of supervision meant to satisfy the public while essentially leaving the faculty free to behave in any matter it sees fit.

When the success or failure of a particular academic effort is judged not by clear, concise, quantifiable standards, but rather by the "instinct" and "feel" of a faculty member drawing on "years of experience", the potential for abuse becomes much greater. The difficulty in quantifying success has led to what is in effect an institutionalization of graduate student abuse within the University. This is not to say that every graduate student at UCLA or throughout the UC goes through the same level of graduate student abuse that was seen in the UCLA Slavic Department. Rather, this institutionalization of abuse manifests itself more as an acceptance by the faculty and by the institution at large of the fact that, at times, the abuse of graduate students is simply an "inescapable" part of graduate study, a sadly unavoidable part of the process. The fact is, this is one of the dirty little secrets of graduate school. Not always and not in every program or institution, but it is much more common than someone looking in from the outside would be led to believe. Graduate students are also quick to learn that, if they want to survive and thrive in graduate school, they have to not only absorb the blows that might come their way, but also to look the other way and join in the collective aversion of the eyes as faculty viciously abuse their graduate student colleagues, simply because their own success in finishing graduate school might depend on those same professors, be it in a comprehensive exam, or in seminars, or in getting signatures for the dissertation, or even after graduation, when the all-important recommendation letters can determine years after a graduate student has graduated from a program whether that newly minted PhD will sink or swim in the world of academe. (The negative repercussions associated with inability to quantify success in the world of academe are especially apparent in the practice of recommendations letters, which, as a result, take on tremendous importance. The value of a good letter from a big name in the field, his or her tendencies toward abuse of graduate students notwithstanding, cannot be underestimated. A bad letter from one of these big names can stop careers before they even begin.)

This reality on the ground has led to a culture that permeates the University, a culture that accepts the unstated rule that one should never rock the boat. This affects not only graduate students, but other faculty as well in so far as individual members of the faculty and/or the UCLA Academic Administration will bend over backwards so as not to have to be the one who has to exercise discipline when it comes to one of their fellow faculty members. This contrasts markedly with the way rules are normally interpreted in academe, where they are routinely ignored or stretched or exceptions to them are made, but when it comes to one faculty member or one administrator disciplining a tenured faculty member, then suddenly those rules become rigid: administrators will read word for word (and, in the case of the UCLA Slavic Department, did in fact read word for word) out of a manual in order to prove to students that it is not their job to

actually initiate or carry out a disciplinary procedure against a given faculty member. Because of this extreme reluctance to set in motion disciplinary proceedings against their colleagues, it is just generally accepted that there is nothing that can be done about faculty members who overstep their bounds or who abuse graduate students. This then allows power to grow almost unchecked among the faculty themselves, to the point that they can easily make or break a graduate student's future career. A culture of academic hazing sometimes arises in which, not unlike the thuggish and brutal hazing in the fraternity systems, students are made to go through this ordeal or that, never sure of what they are doing or what they are supposed to be doing. One linguistics professor in the UCLA Slavic Department, one of the worst abusers, commented on the system in place and actually referred to it as "hazing", saying further that this is what he and his colleagues had to go through when they were gong through graduate school and that this is what graduate students in the UCLA Slavic Department would have to go through as well.

It is important to note that just because this happened in the UCLA Slavic Department does not mean that it happened in every academic department in UCLA. Graduate students in the Slavic Department often spoke with other graduate students in other departments who were aghast at what was happening in Slavic. Nor is it the case that every tenured professor at UCLA fits the profile of a thuggish, abusive academic. Far from it. Many really are dedicated to their field and to the welfare of their graduate students and conduct themselves in an honorable and upright fashion. The problem is that because of the impotence of the system (be it a planned impotence or an evolutionary development) to discipline its own faculty members, these honorable faculty members often feel at a loss as to how to proceed when confronted with colleagues who are abusive. If the whole incident with the Eight-Year Review of the UCLA Slavic Department showed anything at all, it was that no matter how abusive the professor, no matter how egregious his/her actions towards graduate students, the University was going to bend over backwards to keep from actually disciplining the offending faculty. Given this fact, what are the good, honorable faculty members to do? What they should do, of course, is speak up, even knowing in advance that the effort, in this particular instance, would be for naught, for by speaking up they lay the groundwork for eventually changing the system, but that is not always readily apparent to these good faculty.

An example from the case of a UCLA Near Eastern Studies professor Andras Bodrogligeti, involving Dean of the Humanities Pauline Yu and an alleged cheating scandal in Professor Bodrogligeti's class and the University's alleged efforts to cover up the cheating and to discredit Bodrogligeti as a first step in shutting down the Near Eastern Studies program. The specifics of this episode are readily accessible and will not be debated here. (For more information, see "Professor files suit against UC, administrators" *The Daily Bruin*, May 2, 2001 [http://www.dailybruin.ucla.edu/db/articles.asp?ID=4014], the accompanying schemata for that story [http://www.dailybruin.ucla.edu/db/rcissues/01/05.02/images/news.lawsuit.gfxbig.jpg],

"Why Professors Don't Do More to Stop Students Who Cheat" *The Chronicle of Higher Education* 1999 [http://chronicle.com/colloquy/99/cheat/background.htm], "Colleague allegedly accosted professor" *The Daily Bruin*, May 22, 2001 [http://www.dailybruin.ucla.edu/db/archivedarticles.asp?ID=15585&date=5/22/2001].) What is instructive is the attitude of the head of the Near Eastern Studies program, a perfect example of the duality of thought that can affect academics who want to do the right thing, and yet, because they are skeptical of whether or not true change can be effected, default to the impulse to cover up. The following email is from the chair of the program, Antonio Loprieno, sent to the Dean of the Humanities Pauline Yu on March 12, 1999 concerning the Bodrogligeti case:

"To show evidence of cheating is too legalistically high to be of real value. Needless to say, this is something that should never be divulged to the media or public, but it does show ... the fear of legal consequences often makes UCLA (or perhaps all Universities) reluctant to behave courageously against moral lapses by faculty or students alike."

Here in a single message is captured the conflict of academics operating under the current system: recognizing that a fear of legal action can often stop the University from acting courageously in the face of inappropriate behavior (take, for example, the failure of the University to live up to its promise to protect those Slavic Department students who cooperated and how quickly it backed down from its demand that Slavic Department faculty not question Slavic Department students about the Eight-Year Review report when the Slavic Department faculty threatened legal action), while at the same time fearing the only thing that will ever bring about real change in the system, that being exposure of the problem "to the media or public".

The "Moosa"-ization of the University and What this Portends for the Continued Paralysis of the System.

The one question that always arises when the abusive behavior of tenured faculty is documented is why this behavior is allowed to go on unchecked, which is the same thing as asking the question, why are faculty allowed near unlimited latitude with regard to their behavior? There are two reasons for this. As has been made clear above, an academic administration comprised of tenured academics has no will to impose discipline on their tenured brethren. Beyond the question of will, however, there is also the question of ability. No case illustrates this any better than the case of Suleman Moosa, a professor of finance at California State University, Chico (CSUC).

Moosa, who has been a tenured professor at CSUC since 1980, has a reputation for being a very tough grader and for having an abrasive teaching style. He has also often voiced a common complaint among university professors, namely that students in his classes are often

under-prepared and not schooled in the basics, thus frustrating the learning process in the classes that he teaches. While many other professors have voiced a similar complaint, few have gone to Moosa's lengths in order to prove their point. The Master Plan for the State of California states that the upper 12.5 percent of all graduating seniors will be deemed eligible for admission to a University of California campus, while the upper third of all graduating seniors will be eligible for admission to a California State University campus, with the remainder eligible for admissions to the state's extensive community college system. Thus, regardless of what any individual may think about his or her students preparation or background with regard to the classes taught in that particular university, the state which is paying the professor and subsidizing the students' education has made the determination that the students who do wind up in a UC or Cal State campus have the right to be there and are, *a priori*, qualified. (They may be deficient in one or more academic areas, but the question of their being qualified is one that has already been answered by the state's Master Plan.)

Few academics in these institutions are pleased with this fact, and yet most come to realize that the state that pays them expects them to adjust to the fact that students are being accepted according to these standards. In other words, they realize that their students are not going to be, on the whole, as well prepared as students at one of the top Ivy League or liberal arts schools. Moosa, however, was not inclined to join in this realization, demanding instead that the University either provide him students who met *his* standards of preparedness, or be prepared for him to hand out disproportionately large numbers of D's and F's. The results were predictable. Students, knowing very well that admission to graduate school, business school, or the type of job they land after college could very well depend on their undergraduate grade point average, began dropping out in droves, with classes of thirty students shrinking to classes of three students in just a few days time. At one point, according the Chico State university newspaper *The Orion*, Moosa was scheduled to teach four classes during one marking period with not a single student enrolled. (See "Prof's Empty Classes Under Investigation" in the March 18, 1999 issue of *The Orion*—back issues of *The Orion* are presently being posted at http://orion.csuchico.edu/Pages/backissue.pl.cgi). And yet, not surprisingly, Moosa was backed up by a three-member peer review committee, with two agreeing with Moosa that the problem was with the preparation level of the students, and one issuing an minority report, saying that Moosa may or may not be the cause of the low enrollments. (MORE LAW.COM-A Litigation Digest & Directory--http://www.morelaw.com/verdicts/case.asp?n=C038494&s=CA%20%20%20%20%20%20%20%20&d=21474)

In January of 1998, the chair of Moosa's department in a report to the dean suggested that Moosa “develop a plan that would address . . . the areas of course mechanics, material coverage, testing procedures, and grading practices.” The following month the dean issued a report which stated "Professor Moosa’s performance in the area of instruction continues to be unacceptable,"

and directed Moosa "to develop an improvement plan as suggested by Dr. Van Auken [The chair]. The plan is to address the issues that have been discussed within the areas of course mechanics, material coverage, testing procedures and grading." Moosa then failed to do this, submitting instead merely a copy of the "majority report" noted above.

As a result of this direct refusal to produce the aforementioned improvement plan, the president of the University demoted Moosa (who could not be fired because he has tenure) from the rank of professor to associate professor "for [his] unprofessional conduct and [his] failure or refusal to perform the normal and reasonable duties of [his] position." In June of 1998, the president noted in a separate document that Moosa:

1. had failed to submit the aforementioned improvement plan
2. had treated students in a demeaning manner
3. was unresponsive to student requests for assistance
4. had used class time to discuss his personal educational philosophy
5. had failed to adhere to CSUC’s grading policy
6. had exhibited a severe lack of collegiality in the materials he submitted to the peer review committee

According to the president, the first four of these factors contributed to the startlingly low enrollments in Moosa's classes. In March of 2000 an administrative law judge ruled that only two of the allegations had substantial evidence supporting them, the ones concerning his failure to adhere to CSUC's grading policy and his failure to submit an improvement plan covering areas of course mechanics, material coverage, testing procedures and grading.

To those unfamiliar with academe, these demands by the dean and by the president of the University might seem to be relatively modest. After all, what were they asking? That Moosa improve his teaching, the way he tests and grades, how the course is run and that he keep the content of his course relevant to the nature of the course. And yet, for so many in the academic world, this is tantamount to a glaring intrusion into what they define as "academic freedom". Academic tenure, as it was originally conceived, was designed to protect a scholar's right to publish what he wanted to publish, and to teach what he wanted to teach (again, within reason: a French teacher cannot teach chemistry to his students) without fear of losing his job because of controversial views. This freedom, however, has now been, in the eyes of some, extended to all aspects of the teaching process: to grading, to how one teaches, to how one assigns grades.

Certainly that appeared to be Moosa's contention as he continued to appeal his case, all the way up to the Court of Appeals of California, Third Appellate District. While agreeing that the merits of the University's complaints against Professor Moosa might have been valid, the court nonetheless reversed the University's decision, and ordered the University to reinstate

Moosa to his original rank, along with back pay, and to reimburse him for his legal costs. The reasoning used by the court was that, although the collective bargaining agreement between the University and the California Faculty Association allowed the University to *suggest* changes, nowhere was it stated that the University could compel faculty members to go along with these suggestions. The salient point from the decision is reproduced below:

"There is nothing in the collective bargaining agreement authorizing the dean or any other administrator, as part of a periodic performance evaluation, to direct a tenured professor to engage in any activity, whether or not that activity is aimed at improving the professor's performance as a teacher. On the contrary, the applicable provision in the collective bargaining agreement authorizes only a discussion of the professor's strengths and weaknesses, 'along with suggestions, if any, for his/her improvement.'"

This, then, is what is meant by the Moosa-ization of the University. The University, at least in this particular instance, finds itself powerless to act, powerless to exercise some sort of oversight in even the most minor of matters. This in effect gives *carte blanche* to the faculty to act in any manner they see fit. No matter how petulant the response, no matter how arrogant the attitude of the offending faculty member, the University is seen to be unable to enforce its own standards with regard to the treatment of students by faculty, and with regard to grading policy and the preservation of acceptable and reasonable teaching practices. Individual faculty members may, with total disdain towards, and disregard for, the academic administration, unilaterally implement policies, regardless of how unfair these policies may be or how much they hurt the University or how ludicrous the situation that results from their unilateral action, e.g. the University paying a tenured professor $70,000 per year to teach no one. To claim, as many faculty members do, that such a state of affairs is necessary to preserve "academic freedom" strains the credulity of even the most naïve of taxpayers who support the University, and it is an insult to the students who are forced to deal with such conditions.

The term Moosa-ization is meant to cover not just the events that occurred specifically at California State University, Chico, but rather the phenomenon in general. The faculty at CSUC are unionized, represented by the California Faculty Association, the union whose collective bargaining agreement with CSUC prevented Moosa from being disciplined. The lack of such union representation, however, should not be seen as precluding the process of Moosa-ization from occurring, and UCLA, which has no official union for tenured faculty, is a case in point. In the second section of this report (*Context of the Problem*) it was stated that at UCLA the Academic Senate acts as a *de facto* union, and that certainly appears to have been the case with regard to the events surrounding the Eight-Year Review of the UCLA Slavic Department. This can be seen in two specific areas, although it occurs in many others as well.

The first would be the controversy concerning the UCLA Administration's promises of protection that were given to graduate students in return for their voluntary participation in the review. When the UCLA Administration, at the behest of these same students who had been questioned about the results of the Eight-Year Review by the UCLA Slavic Department faculty, directed the faculty not to talk to students about the review, professors in the UCLA Slavic Department threatened to bring suit against the University for violating what they claimed were their First Amendment right to free speech. Instead of holding firm, the UCLA Administration immediately folded and buckled under to these threats, in effect abandoning the very students they had promised to protect. Thus, in this instance, we see very clearly that these particular UCLA faculty members had no need of a union, because the UCLA Administration was acting in a dual capacity, both as the overseers of the UCLA Slavic Department, but also as its unofficial union. At least in the Moosa case, the CSUC Administration had the courage to mete out punishment and to stand up to offending faculty when challenged in court. At UCLA, however, the Academic Administration, again working in its dual capacity, in effect issued its order (UCLA Administration as overseer of academic departments) and then turned around and nullified it (UCLA Administration as *de facto* union for the faculty).

The second area in which the Moosa case highlights weakness in the system that would allow abuse such as was seen in the UCLA Slavic Department to occur is the improper inclusion of some aspects of the education process under the rubric of protected academic freedoms. The Moosa case very clearly highlighted how adamant the faculty are about allowing no one other than themselves to determine how tests should be given or how homeworks should be assigned or graded. Normally, these issues are not a problem since many tenured academics adhere to a reasonable standard in this regard, but as the Moosa case shows, there are times when supervising action is not only justified, but required. Much attention was focused in the Eight-Year Review report on the abuses of students by the UCLA Slavic Department faculty. Although this abuse took many forms, one of the most insidious was the abuse of grading or testing procedures. Faculty would freely wield the powers granted to them in the name of "academic freedom" to hone in on those students they wanted to remove from the program. Grading was assigned, in some cases, without regard to the extent to which students had assimilated the assigned material. In other instances, it was never clear what the assigned body of material to be learned really was. If a student does not know what he is supposed to be studying, then there is no way he can protest what was asked of him on exams.

The exam process itself was at times cryptic at best. Unlike undergraduate programs, graduate studies leading to the Ph.D. require students to pass not only exams in individual classes, but also several sets of additional exams, from language exams to comprehensive exams, at both the masters and doctoral levels. These exams are notorious for what can be put on them. The faculty are absolutely adamant when it comes to their right to ask everything and anything that they may see fit. Since there is no set path for some of these exams, there can, as a consequence, be no set

of predetermined right answers. Indeed, some of the questions shy away from the concept of a single "right answer". While this might in some respects be seen as appropriate for an intellectual training regimen which is meant to push the limits of knowledge in a given field, a consequence of this fact is that since there is no set right answer, it is (under the current system, in which testing methodology is utterly off limits to outside inquiry, lest "academic freedom" be threatened) also possible to abuse this subjective power in order to ensure a student's failure or success. If faculty want to blackball certain graduate students, it is easy enough to do, and in fact has been done in the UCLA Slavic Department. There are many cases of students who had done extremely well in their classes and yet not managed to pass their comprehensive exams, and other examples of students who had not done well in classes, but yet passed the exams. The faculty, of course, tries to pass this off as evidence of how rigorous their program is, e.g. "Our program is a quality program—we don't let people slip through just on the basis of good grades alone..." The problem is, there are no independent, verifiable standards by which to judge whether or not the faculty are passing students based on their ability and the extent to which these students have actually absorbed what they were taught. The standards are completely subjective, dependent solely on the opinions of the individual professors who comprise the exam committee. Were the University to demand that the Department come up with a less arbitrary method of testing, again, the hue and cry would arise that the faculty's "academic freedom" is being impinged upon.

The randomness seen in comprehensive exams can also be seen in testing that occurs in individual classes. One of the worst abusers in the UCLA Slavic Department used to prefer writing out testing questions on index cards and then having graduate students come up and pick a question at random and answer it in front of the entire class. He would then, quite subjectively, assign a grade to the student based on that answer. Whether the question was particularly difficult, or particularly easy, didn't matter. If the goal of testing is to determine the extent to which a student has or has not assimilated the totality of material presented during the course of a given class, then this method of testing in reality tests very little. It is more of a raffle than a scientifically valid method of determining a student's success. One thing it does do, however, is make it that much easier for a professor to dole out any grade he sees fit. As is the case with comprehensive exams, if the academic administration were to dare to demand that the professor in question employ a more accurate and less subjective means for testing students in individual classes, the administration would immediately be accused by not just that faculty member, but by the collective faculty, of infringing upon academic freedom, if not something far worse. (See, for example, Bethea/Timerlake's embarrassing comparison of the UCLA Slavic Department faculty with victims of Stalinist oppression.)

Until the UCLA Academic Administration, and every academic administration, for that matter, can lay claim to some ability to control the behavior of its own faculty and to discipline them when the need arises, the attitude and atmosphere that gave rise to the many abuses in the UCLA Slavic Department will continue to be the norm on most campuses.

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