Mueller, J. H. (2004).
Research Ethics: A Tool for Harassment in the Academic Workplace.
In K. Westhues (Ed.),
Workplace mobbing in academe: Reports from 20 universities.
Lewiston, NY: E. Mellen Press.
Chapter 15, pp. 290-313.

Research Ethics: a Tool for Harassment in the Academic Workplace

John H. Mueller

In his book on administrative mobbing, Westhues (2004) analyzes in detail the events leading up to the dismissal of Herbert Richardson from the University of Toronto in 1994. In addition, many other cases are noted, and a pattern emerges. The way that a distinguished academic's career can end in dismissal seems to follow a strategy that Westhues describes as "mobbing." The targets for such elimination usually have a history as popular achievers in their discipline and department, then at some point they find themselves subjected to intense attack. The attack focuses on some minor proclaimed offense, but the criticism is personal and directed toward the individual rather than the alleged incident. The demonizing criticism is highly emotional in tone, typically about a minor issue, and the critics are intolerant of dissenters or public scrutiny. The target must be removed from polite company, and thus the mob begins its vigilante action. The outcome may be elimination from the faculty, but even in the case of vindication such an experience leaves a large scar on the individual and the workplace.

It is sad that there have been enough cases of academic bullying to fill a book, but one suspects there are even many more that have not reached the public eye, if anything the trend seems toward more such incidents rather than fewer over the years. Understanding mobbing

requires, in part, acknowledging that universities have changed over the years, and so the environment in which one starts an academic career will inevitably change. Among these changes, Westhues (p. 154 ff.) notes the distinction between a "covenant" and a "contract." A covenant is a loose and even open-ended commitment to duties and goals, "a broadly defined relationship of trust, governed mostly by unwritten rules ... (with) reciprocal loyalties" (p. 161), as in marriage vows. This is an "old-fashioned" approach, which implies, among other things, a mutual obligation to resolve conflicts in a collegial manner between equals. In contrast, the modern legalistic contract is a technical, detailed arrangement which is unbalanced in power favoring one party, and which requires an adversarial approach to conflict resolution. Rather than resolving the conflict, the contractual approach focuses on either finding a loophole to absolve a party from the agreement, or finding a technicality to coerce a party into an action – the letter of the law rather than the spirit of the law.

Although the growth of the legal industry no doubt plays some part, this rigid and detailed road-map approach has become the campus arrangement of choice coincident with the rise of a professional-manager type of campus administrator, the administrator self-styled as an executive, hired not by the campus but by an external consulting firm. Campus administrators today come less often from within and more often from outside the institution, and when they leave office they return to the outside, a national churning of 90-day wonders. As a result, these transients have no shared investment in the institution's history, nor any commitment to an ongoing shared future. This is hardly the foundation of a good marriage or any other covenant.

Although one might at first think a vague agreement offers the greater opportunity for treachery, in fact the lopsided contractual environment provides a laundry list of possible missteps for an academic, that is, a variety of "traps" that an administrator or mob can spring to induce a "difficult professor" to depart. Thus the incident used for elimination is usually some minor contractual oversight, in the context of longstanding overall satisfactory-plus achievement, that is, a matter of no fundamental importance from the perspective of a covenant.

It is possible to see this transition over the years in terms of the expectations about research on campus, and I will describe some of the ramifications of this. There are some recent incidents that are very disturbing in regard to how contractual aspects of research activities

may become the incident that provokes a dismissal effort. Westhues (2004) briefly noted one of these, Justine Sergent at McGill, and I will describe some others. However, first, there is an historical incident that precedes formal ethics reviews that indicates the longstanding vulnerability of researchers in the social and behavioral sciences, in particular, to "right-thinking" censorship.

Max Meyer: "A matter of no fundamental importance"

As a new academic in the late 1960s, I was assigned to teach the History of Psychology course at the University of Missouri. I learned of the sorry experience of Max Meyer, a former faculty member in that same department forty 40 years earlier. His case seemed mostly quaint at the time, but I used it in class because it provided some local-color interest for students, and because it seemed to illustrate progress in academe and society over the years. I now believe that the progress is an illusion, caused by focusing on sexual mores as the issue, whereas that was more a symptom. Aside from the sexual content of the controversy, the general mechanics that were involved then are not only alive and well but flourishing in the modern research ethics industry on campus. Recast in this light, Meyer's case reinforces the notion of harassment and mobbing as described by Westhues (1998, 2004), and documents that social science research has long been subject to criticism and censorship by self-appointed morals police.

Max Meyer (1873-1967) was born in Germany and studied with several German psychologists in the 1890s. In 1898, he disagreed with his mentor, Carl Stumpf, over a substantive intellectual issue, and was dismissed from the University of Berlin by Stumpf. Meyer moved temporarily to London, and then to the United States. He was eventually hired at the University of Missouri in 1900, where he stayed until the incident in question led to his departure in 1929. Much of this time he was the only person in the department, and pursued his interests in areas such as the psychology of music and hearing. The circumstances of his career have been chronicled by Esper (1966, 1967), and I will only highlight the key points from Esper's treatment.

Although acknowledged as an excellent scientist and teacher, Meyer in some respects would be recognizable as what has been termed the "difficult professor" (Westhues 2001). That is, he was very principled himself, and he expected the same of those around

him. His high standards earned him respect, but his demanding approach also contributed to making him an intellectual isolate. It is said that he had few close friends on campus, and his professional contacts also were few and often strained. There are a number of anecdotes about his outspoken behavior at academic meetings, where his direct, objective, and generally accurate critiques were not well received.

Over the years, his frustration grew because his own work did not receive the respect that he felt it deserved. History seems to support him on this; that is, his ideas deserved better coverage. There seem to be several reasons for this lack of influence. In part the problem was that his interests (hearing and music) were outside the mainstream, plus his approach was quite mathematical and thus very difficult. Furthermore, he made a series of poor choices of publishing outlets, and then his limited social "networking" skills were not able to bridge such limited dissemination. Nonetheless he performed quite well for the university for three decades, until "the incident."

Moral panic: Save the Children

As described by Esper (1967, p. 115), "Meyer's productive and dedicated career at the University of Missouri came in 1929 to the sudden and crashing end which is a nightmarish possibility for every professor deficient in protective coloring who teaches in a university governed by politicians and businessmen and at the mercy therefore of those mass hysterias which newspapers can so easily whip up ...." Fekete (1994) succinctly describes the contemporary manifestation of this as a "moral panic."

In 1929, Meyer became a benefactor for a sociology student, O. Hobart Mowrer, who wanted to develop a research questionnaire. In taking a sociology course entitled "The Family," Mowrer's group was to pursue a research project on "The economic aspect of woman." This materialized as an anonymous 11-item questionnaire sent out to university students, 500 fraternity men and 500 sorority women, using campus mail with the approval of someone within the University.

Most of the questionnaire items were about things such as divorce, alimony, economic independence for women, splitting expenses on dates, whether women should be able to ask men for a date, and such. However, the questionnaire also involved three items dealing with attitudes about extramarital sex: (1) one's position on the establishment of a legal system of trial marriage, (2) one's attitudes

about finding that a prospective spouse had indulged in illicit sexual relations previously, and (3) whether one's sexual relations were restrained most by religious beliefs, fear of pregnancy, pride, fear of disease, or fear of social disapproval. The preamble for the questionnaire started with the statement, "It has become increasingly apparent that there is something seriously wrong with the traditional system of marriage ...."

Meyer's involvement was minor, helping with the wording of a few questions, and then graciously providing some envelopes for the questionnaires, obsolete letterhead with Meyer's name on it. Such admirable "recycling" around scarce materials would have been common practice in that era. As copies of the questionnaire surfaced in the community, the local newspaper editor traced them back to Meyer. In an editorial (*Columbia Daily Tribune*, March 13, 1929), the questionnaire was denounced by proclaiming, "Even asking an opinion, and this of 500 girls, as to trial and companionate marriage is a desecration and an outrage." Further, the basic premise of the study was rejected: "We wonder who told this graduate student, hardly dry behind the ears, that there is anything wrong with the 'traditional system of marriage'?"

At this point in time, what Westhues (2004) has described as a "covenant" was more the nature of campus interactions between faculty and administrators than an itemized contract. Although most of us could have readily explained our limited role and smoothed the waters, such was not Meyer's style nor did subsequent developments encourage him to capitulate. Likewise, any competent administrator could have handled the incident. However, the University President of the day was in conflict with the Board of Curators and with many politicians in the state legislature, and so chose to inflame this minor and atypical incident to try to deflect attention from his own troubles.

Meyer was suspended without pay for one year, and the Sociology professor (H. O. DeGraff) who taught Mowrer's class was summarily dismissed. The American Association of University Professors (AAUP) was a rather new institution at the time (formed in 1915), and the concept of "academic freedom" was in its infancy. Nonetheless, the AAUP had successfully pursued similar cases, including another "difficult" psychologist, James McKeen Cattell at Columbia, who had been dismissed for expressing pacifist views during World War I (Gruber 1972). Two other high-profile scandals involving sexual behavior by psychologists were recent developments. One was John Watson at Johns Hopkins University,

whose affair with his research assistant led to divorce and dismissal in 1920. Ironically, Watson followed James Mark Baldwin at Johns Hopkins University, who was caught in a bordello raid and dismissed in 1909. However, Meyer's case was different from these in that it involved his intellectual behavior rather than his sexual peccadilloes.

Examining Meyer's case at Missouri, the AAUP investigation (Carlson et al. 1930) concluded that the punishments were excessive, that the only defensible charge against Meyer in particular was "a lack of attention or judgment on *a matter of no fundamental importance*" in the context of a fine collective career. The AAUP concluded that Meyer could, perhaps, have anticipated that the content would be socially sensitive, but given his 30 years of highly competent performance he was entitled to far better treatment by the President and the Board. This is the essence of many mobbing incidents described by Westhues (2004), where a minor incident in the context of a distinguished career is escalated to harass the professor to depart.

Meyer spent part of his year of suspension at Ohio State University, but the campaign of derision followed him there. He then spent part of the year at the University of Chile, but rumors plagued him in South America as well. The controversy may have been fading somewhat on his return from Chile, and some faculty and alumni were even planning to welcome Meyer back to campus. However, Meyer, speaking at a national meeting of psychologists in the spring of 1930, told the details of his story publicly, and in the process he characterized some members of the Board of Curators as "senile." Local newspapers by this time sided with Meyer against the Board, but the Board now tried him for "insubordination" and dismissed him. Then, in a curious gesture to his competence, it was arranged that he become a "research professor [without salary] on permanent leave of absence," in a research institute working with deaf children in St. Louis. After two years there, Meyer became a visiting professor at the University of Miami for several years, and gave professional presentations even to age 90.

Post-Mortem

In response to a hypothetical inquiry years later, Meyer was asked if he would consider a return to the University to speak, and he is said to have replied that he "would not return unless he received an

engraved invitation from the Board, because after all they had let him go for a mild version of what made Kinsey famous."

The university at first refused to give Mowrer his diploma, but eventually relented. Mowrer became famous and served as president of the American Psychological Association (1954). As some would say, the best revenge is living well.

Finally, perhaps in the category of evidence for a just world, the President lost his job because he had let the incident mushroom publicly.

The Moral of the Story

When I first learned of this incident in the late 1960s, humans had just landed on the moon, America was in the throes of social movements such as women's liberation, bra burnings, the sexual revolution, birth-control pills, open marriages, and the Berkeley Free Speech movement. The controversy about Meyer seemed comical, just dumbfounding – Meyer's attribution to senility seemed apt, even generous. The students and I could feel smug about the social progress that had been made in the forty years since the incident. Whether spoken aloud or not, the consensus was that "It couldn't happen today." Yes, I was a naive young academic. Now, adding another 30 years of experience, I can smile again, but for different reasons. Today, the same questionnaire – with the very same preamble about the sorry state of marriage – could be administered in a sociology class. The media criers would again be mixed in their judgment, the university administration would again try to dodge bad publicity, and politicians would again threaten to cut off funding unless the corruption of our youth ceases immediately.

Social science research seems destined to raise questions that often provoke the response that "*such research just shouldn't be done*." For example, those who have tried to gather data on sensitive topics such as racial differences (e.g., Arthur Jensen, Phillipe Rushton, Richard Herrnstein and Charles Murray) know all too well that not only must the children be saved but so too must many sacred cows (cf. Hunt 1999; Tavris 2001). The turmoil surrounding Scott Lilienfeld's (2002) effort to publish an article about child sex abuse illustrates that this is a continuing problem (Tavris 2000). Likewise, a recent issue of *Child Development* (August 2003) included an article on day care, but given the nature of the results, apparently, it was published with nine commentaries and an editorial. Not only should some research just

not be done, but some outcomes are undesirable. Mark Twain observed, "Sacred cows make the best hamburger," but there seem to be many vegetarians at work today.

However, today there is one difference from Meyer's day, in that we now have a new class of "gatekeepers" who would almost surely challenge a research effort such as his, namely the Research Ethics Bureaucracy. These new gatekeepers are now on campus instead of in the community, and the "ethics" reviewers operate quietly, out of the public eye, star-chamber style. Although a newspaper editor has a bully pulpit to plead for censorship, that plea is at least in the public domain, and thus is subject to assorted checks and balances. Sex may have been the sizzle in Meyer's case, but the substance was really how the institution and some of its members used an atypical and insignificant incident to trash the career of a competent colleague. In Meyer's case, the newspaper publicity was of some value even if it did not ultimately lead to justice, but today such opportunities for harassment are provided to a secretive and self-policing group of "colleagues" with no accountability. What better place to squelch "undesirable" research than *before* such research is even done?

Research Ethics Industry

My purpose is to examine academic harassment involving a specific tool, namely the restrictions on scholarship that have emerged over the past three to four decades in the "research ethics industry." In Canada, the research ethics boards (REB) have the mandate of ensuring safety for the participants in research activities (TCPS, 1998). In the United States, the Institutional Review Boards (IRB) serve a similar function. Initially these reviews were mainly concerned with medical research and high-risk procedures, and justifiably so. However, solely as a matter of bureaucratic convenience, the softer sciences became subject to such screening as well. The idea that medical research is not an acceptable model for all research continues to be ignored by research ethics bureaucrats.

As a result, we have a solution apparently lacking an associated problem. The most fascinating aspect of this thirty-year "experiment" is that no one bothered to collect data to demonstrate that there ever was a bona fide *need* for such reviews to begin with (Mueller and Furedy 2001a, 2001b), nor has anyone collected data to document that the regulations have actually *improved* the subject's research experience (certainly not in the social and behavioral sciences)! Over

thirty years of work to improve research, with no research to show that it has done so – Meyer's attribution of "senility" doesn't quite fit that, maybe "dementia" comes closer? In defense of its own existence, the research ethics industry typically cites some deplorable historical incidents, such as the Nazi war research in World War II, as a rationale for today's REB reviews. In truth, this is an intellectually dishonest subterfuge, simply an effort to deflect criticism, because nothing that is done by REBs today would have prevented the historical incidents. That is, the only people who submit to the REB are those who are trying to do things properly; the violators and "mad scientists" are not slowed at all, so the behavior of the latter is beside the point. It is merely another instance of using a moral panic strategy (Fekete 1994) to achieve constraints on individual behavior.

In practice, the lack of accountability awards remarkable one-sided power to an REB. We, the researchers, are supposed to "trust their good intentions" (covenant), whereas we are expected to comply with a mine-field of highly specific regulations (contract) or face Draconian censure. The research ethics regulations now resemble the tax law in Byzantine complexity and in their proclaimed scope.The implementation of the regulations is left to the discretion of the local REB, and so local regulations may, officially or unofficially, add traps that the federal regulations do not really have. Further, as some of us may know too well, even if you get advice from the tax authorities they are not necessarily bound by it, and this "flexibility" seems to exist in the research ethics industry as well. Making up rules and "reinterpreting" them as you go along are among the advantages of a lop-sided contractual arrangement.

Further, the local boards are usually composed of *volunteers*, and if there is one thing we should know after all these years of social science research it is that volunteers are not "normal." That is, they come to this position of unaccountable power with some motivation, some agenda, and with an unmonitored license to pursue it. The adage that "absolute power corrupts absolutely" seems to apply, at least potentially, because federal agencies disclaim responsibility for abuses or misapplications by local REBs, whereas local REBs piously justify themselves by arguing that "the Feds make us do it."

Shifting Criteria: Safety vs. "Doing Good"

There may be some merit in medical research for reviews with respect to safety, but in practice REBs had to shift their focus in the

social and behavioral sciences away from "public safety" to such nebulous goals as "worthwhile topics" and "socially desirable outcomes." Their concerns today seem adequately described as "censorship" rather than efforts to protect public safety. In so doing, the REBs have become another tool of the political correctness movement, one specifically concerned with screening research proposals. Research done without formal REB approval thus becomes a potential "incident" in Westhues's terms, quite aside from whether any public safety issue was involved, and even with an ethics review, missing a specific technicality has the same repercussion. Not only does the behavior of an REB circumvent the notion of academic freedom and freedom of speech, it more generally restricts an academic's freedom of association. The atmosphere also seems quite lacking in civility and due process: today's scholars face a situation where they are considered guilty (unethical) until they prove themselves otherwise. On the other hand, there are no penalties for the REBs, nor the institution that houses them; apparently they are infallible. This is about as far from a mutual covenant as one can imagine.

Compared to a generation ago, where the expectation of an academic's research activity might have been described as more like a "covenant," the present contractual arrangement has diminished the autonomy and flexibility that academic researchers enjoyed and which served universities and society so well historically. The present state of affairs was originated by federal grant agencies, that is, conditions were imposed in exchange for money. Fair enough perhaps, but the new breed of university administrators, bureaucratic managers with little or no scholarly commitment, then spinelessly extended the coverage to even nonfunded research and then classroom activity. The ethics industry has become thoroughly entrenched on campus. The issues are nebulous, the number of regulations continues to grow, and the lack of accountability all provide many potential contractual violations "of no fundamental importance" that may be used to harass a scholar. Research has become a contractual requirement, a job requirement or degree requirement, but one with quite lopsided expectations and penalties.

To illustrate the minor technicalities that REBs may claim authority over, consider some of these. A study approved for 200 subjects unexpectedly found that 300 subjects were available, hooray, except that the ethics committee claimed the need to re-review. Projects must be re-reviewed each year. A colleague was told that

students would need to go through the review process in order to interview their grandmothers to write an essay. A colleague was recalled from his father's death bed, to sign forms in blue ink so as to distinguish the original. To such important concerns we can add the proof reading and etiquette changes that commonly arise in requests for revisions. Further, there is the endless pursuit of the *paper trail*: things that once could be resolved with a simple telephone call now require a new paper submission and re-review. That's how bureaucrats try to avoid being blamed for a problem, as opposed to solving a problem. Whether the paper trail protects the institution is questionable (*Nature* 2001), and clearly it does nothing for public safety. Small wonder that we frequently find that the ethics review process takes longer than the actual data collection in social science research. As part of this paper trail, the lengthy legalistic consent forms now intimidate normal people, they are incomprehensible, but what else would one expect when you blend modern academic "communicators" with legalese?

Further in the category of pointless technical details, a doctoral student examining factors related to intelligence test scores asked permission of the REB to get students' scores on Test X (a specific name brand, e.g., the WISC). However, some schools did not administer Test X, but gladly provided their equivalent scores obtained using Test Y (a different brand name). The external examiner of the thesis sanctimoniously opined that this would not have been allowed by her ethics board (with no corroboration). The student was obliged to re-analyze and re-write omitting the offending Test Y data. One wonders, had the student not mentioned any brand names, just "intelligence test scores," would that have been "ethical"? Another student had a project approved by the provincial department of education (which was responsible for funding and ultimately governing her university), only to find her local university ethics board insisted her project had to be re-reviewed – once is never enough when you are trolling for victims.

All of these and more illustrate the rich mine-field of minor technical problems that can be used against the researcher. Interestingly, the tactic of being obliged to deal with minor and apparently meaningless demands is a key part of the process whereby prison guards establish authority over prisoners, such as in Zimbardo's (1999) infamous prison experiment. As Zimbardo noted when the study was terminated, "All the prisoners were happy the experiment was over, but most of the guards were upset that the study

was terminated prematurely." Contracts do not establish a "we're all in this together" atmosphere; there is no longer anything "collegial" about the campus research climate, there are lawyers and auditors everywhere, plus the morals police. The campus research climate has changed, the researcher has become a second-class citizen, a problem to be purified by the ethics board, and valued most by the university as an extension of the fund-raising office.

Whatever the case for medical research, there never was concrete evidence of a need for public-safety screening in the social and behavioral sciences (Mueller and Furedy 2001a, 2001b), nor is there any concrete evidence that the subject's research experience has been improved by over thirty years of accumulated regulations. In the absence of evidence for public safety benefits, one can justifiably wonder whether right-thinking censorship is not the actual mission. Certainly that temptation looms. A book need not be burned for there to have been censorship, nor does a research project have to be totally rejected. Furedy (1997) refers to this as "*Velvet Totalitarianism,*" and the condition is also captured nicely in the title of Jonathon Rauch's book, *Kindly Inquisitors*. You need not be beaten in jail to be coerced; for example, when a junior scholar's research proposal on odor and memory is described as "silly," the message is quite clear.

Rauch (1993) refers to "*Fundamentalist Totalitarianism,*" an unwillingness to take seriously the notion that you might be wrong. Although this may have a religious basis, it can have other forms – all that is required is that the right answers are already established by some overarching set of infallible assumptions. As Bertrand Russell observed, "Assumptions have all the advantages of theft over honest toil." Rauch also notes "*Humanitarian Totalitarianism,*" which involves the notion that "all opinions have a right to be respected." On the surface this sounds reasonable, even admirable, but in practice it also has come to mean that *any* criticism is hateful and hurtful. From this self-righteous platform, critics can be shunned or treated as harshly as necessary to assure "respect," defined as "silence." It is telling that such observations came from a journalist (Rauch) rather than an academic.

What has happened is that these ideologies have effectively *criminalized mere criticism*. These closed systems claim to know what is right and wrong for everybody else and thus provide the tools for those who feel that "such research just should not be done." This is upsetting for those of us who think that everyone has the right to criticize, and be criticized, and that no one has the right to force

opinions on others. The result is that actual banning may not be necessary, because such influences on campus have cultivated a chilled atmosphere of self-censorship and deference among scholars. Speech codes (e.g., Kors and Silverglate 1998; Ravich 2003) contribute to this atmosphere on campus, and then the research ethics industry can censor further by its list of "ethical" restrictions on inquiry.

Is This Paranoid, a Conspiracy Theory?

As I looked at this endeavor (REB) over the past few years, on a few occasions I wondered, "Am I really seeing what I think I'm seeing?" Regrettably, I have had to conclude that there is at least the potential for serious abuse in the present process, and in fact there are some cases that validate that concern. Some of the problems stem from the general corrosive atmosphere created by the research ethics industry, not just specific REB actions, where an opportunist can capitalize on the fear of the research ethics technicalities. There are good reasons to believe that there are many of these abusive incidents, as I will discuss later. I will describe just three here, in chronological order, and illustrate how they seem to fit into the mobbing mold described by Westhues, except that "the incident" derives specifically from the research ethics industry (if not directly from an REB).

Sergent. Westhues (2004, p. 25) briefly describes the case of Justine Sergent, a young neuropsychologist at McGill University's Montreal Neurological Institute. As background, she was described as a young high-achiever, and her research was held in high esteem internationally. She advanced rapidly through the academic ranks at McGill, and was on the threshold of promotion to full professor when the incident occurred. What we know about this is publicly recorded in various articles that appeared in the Montreal *Gazette* from 1994 to 1997, and we have to take that public record at face value because there is no other.

Sergent's research involved hemispheric differences in brain function, and she used brain scanning (PET) to study cognitive processing. Sergent did get approval from the ethics committee for such research, using faces as the stimuli to induce cognitive activity in the brain. She then decided to extend the research to different stimuli (music), merely a replication with the same design, and apparently she did not seek approval for this extension. There was no

issue of public safety in switching to music, which is the larger concern; a "covenant" of approval would cover such variation.

Looked at in one way, the issue was a judgment call about territory, that is, the range of coverage the REB has, a matter of no consequence, surely correctable with minimal negotiation. Such an assumption as Sergent made would not have been at all unusual ten years ago, but this heightened legalism is typical of changes in the research ethics industry since that time. From another perspective, the complaint is a perfect example of how a minor technicality can be trumpeted into a major shortcoming, thus becoming the "incident" for mobbing. Given her extensive good service to the university, a reasonable person would think the administration could have coached a valued scholar without the fuss of a formal reprimand, but that is not what happened. Bureaucratic managers do not define success as solving problems; rather their goal is to avoid being blamed for a problem, and thus many of these ethics regulations are in place to protect the regulators and managers, not because they affect the participant's experience (*Nature* 2001). Ironically, Sergent noted later that the REB did not have the mandatory content expert on board, that is, someone knowledgeable about PET scans. This seems not to have bothered the authorities, details being binding only for the researcher.

This tragedy began with a complaint in July of 1992, by a party unknown, about her assumption that re-review wasn't necessary, and this led to an official reprimand in January of 1993. Sergent appealed the reprimand that summer and the matter went to campus arbitration. Along the way, an anonymous letter was sent to the university, the press, and several grant agencies and major journals, alleging various fraudulent activities in Sergent's research. A news story on April 9, 1994, indicated that Sergent was continuing her work, and that no discipline had been administered other than the reprimand, and that was still the subject of arbitration. Four days later, on April 13, 1994, the news reported that she and her husband had committed suicide, some 20 months after the reprimand. She was 42 years old.

Nothing was ever reported to corroborate any wrong-doing, even though the university honored Sergent's request for a scientific audit to try to clear her name. Her position was difficult; she had formerly been a student at McGill, she was a woman in a male-dominated field, and she was a Ph.D. (Psychology) in a medical school setting, and she acknowledged that interpersonal interactions with some colleagues had been occasionally problematic. She believed that the action was a personal vendetta, rather than being about scientific

conduct. Finally, Montreal had recently been treated to a scandal in which a medical researcher actually had falsified patient records, and Sergent felt she was being pressed into the same category. Indeed the anonymous writer was exploiting such an inference, and, in spite of subsequent tap dancing, the newspaper's initial coverage implicitly linked her to the other case – guilt by accusation. She was bitterly disappointed that she had had to hire a lawyer to interact with a university which she had served so well, but that is part of the pattern of mobbing. Friends suggested that she take a leave but she continued to try to work instead. When the matter became public in the news of April 9, 1994, that apparently was too much.

Words fail me every time I think about this case. Did anything of any value come of it? An inquiry into McGill's internal handling of the matter was suspended January 15, 1997. The university spokesman (Shapiro 1997) concluded thus: "It would be nice to have some sort of satisfactory sense of closure, but that's not how human beings live with each other sometimes. ... I felt that this was an unreasonable drain on the University's resources – we were spending a great deal of time and money on this matter without any prospect that it would clarify itself in any reasonable period of time. I didn't feel it was in the best interests of the University to continue." No covenant there, just the bottom-line manager, without a clue that it shouldn't have taken years to resolve in the first place. Another spokesman (Murphy, 1997) responded: "Some in the scientific world have asked questions about Dr. Sergent's time at McGill, but, no, those questions haven't caused MNI any difficulties in its efforts to continue to recruit world-class researchers." I was worried about that. Yes, it's a covenant, we're all in this together; whisk, wink, under the rug. Just weeks later, the audit into Sergent's records was suspended March 21, 1997, almost five years after the initial inquiry. There never had been, and there still was, no evidence of fraud in any official communication.

Is there more to this than meets the eye? There is no way to know, but on the public record, this is just reprehensible. Did anyone lose their job, or even get a reprimand as she did? What did federal regulators do to prevent this happening again? What did the federal regulators do to the university? However, we've preserved the careers of some bureaucrats, and that is the point of the one-sided contract. No, the REB did not hook up the exhaust pipe of the car, nor did the federal regulators, nor the university administrators. But that's why our criminal justice system acknowledges other levels of

responsibility, such as “accomplice” and “aiding and abetting.” As far as I am concerned, in this case the difference in responsibility here is “a matter of no fundamental importance.”

Pagliaro. In March of 2000, Louis Pagliaro, an educational psychologist at the University of Alberta, described drug use in Edmonton schools (Gillis 2000). He based his statements on interviews with children, teachers, police, and drug counselors. He had made controversial claims in the past; like those, this assertion provoked renewed controversy. Following complaints by the police and school boards, the university ordered him to stop talking to the media about the alleged “drug epidemic.” As seems to often occur in mobbing cases, the messenger is attacked rather than the message. The university told Pagliaro that he was under investigation for allegedly performing his interviews on unsuspecting participants, without approval by the university’s mandatory ethics review process.

Pagliaro ignored the gag order and continued to make his case publicly. An independent investigator recommended the university drop the case against Pagliaro. However, the university requested that the investigator continue, trying to find a breach of some detail that would permit discipline or dismissal. That is, as in many mobbing cases, the investigation continued in spite of a lack of evidence, seeking some legalism whereby dismissal could proceed. In this case, it was not the REB directly harassing, but the many technicalities of the research ethics industry were being mined by others for that purpose.

Pagliaro (personal communication, Sept. 13, 2003) reports that “after a full year of active investigation, the provost decided that I had done nothing wrong and sent me a 2-line letter ‘dismissing’ the complaint .... I never received: an explanation ... (nor) ... an apology for the unnecessary stress that I suffered; nor any assistance from the (university) academic staff association ....” Given Pagliaro’s many years of service, this seems sad for a matter that should have been squelched early on, but that lack of contrition seems typical of harassment exercises, the sentiment being more like, “We’ll get you next time.” Other aspects of this case can be found at the website (http://www.safs.ca/albertamain.html) of the Society for Academic Freedom and Scholarship (SAFS).

Loftus. Tavris (2002) reports a third instance where the research ethics climate was used to harass researchers, in this case Elizabeth Loftus, University of Washington, and Melvin Guyer, University of Michigan. This case is interesting, among other reasons, because it

shows how academics are now far more restricted in terms of opportunity for inquiry than are investigative journalists. Loftus and Guyer decided to reexamine the evidence in a published study of an adult Jane Doe's alleged recovery of memory of childhood sexual abuse, an area in which Loftus had earned international recognition. Examining material in the public domain, Loftus and Guyer concluded that there likely had been no childhood abuse, and they published reports to that effect.

According to Tavris (2002), Guyer checked with the Michigan review committee, stating that he felt that he did not need their approval because he was not doing "research" but rather "intellectual criticism, commentary on a forensic issue, and an historical/journalistic endeavor," and the IRB committee chair agreed. However, a month later, Guyer received another letter, advising him that the research was not exempt, and that it was disapproved, and that a reprimand was to be recommended. Almost a year later, a new IRB chair advised Guyer that there was to be no reprimand and that the project was indeed exempt. Isn't it curious, it's exempt but you still have to apply for a decision, another technicality, and the decision is never binding? Then this exempt decision makes it possible for critics to disingenuously proclaim that, "Oh my, this project wasn't approved by an IRB." True enough, but because it didn't have to be! Further, collaboration across multiple institutions invariably creates another potential trap whereby approval elsewhere is not good enough; the prevailing local attitude is always "We are more ethical than they are" – truly ethical imperialism.

Across the continent, the University of Washington received an email from Jane Doe (allegedly) arguing that her privacy had been violated. The author of the original report, her therapist, had been showing a video of her in public presentations, whereas Loftus and Guyer had never referred to her by her actual name, so this seems a baseless concern. Nonetheless, this started a 21-month ordeal. With just minutes notice, the University Officer of Scholarly Integrity and her department head invaded Loftus' office and seized her files. How easy it was for the university to ignore any privacy concerns, not to mention any presumption of innocence. This intrusion speaks volumes to the one-sidedness of the contract. Just try to get access to IRB files! There was no reciprocity whatsoever, and the raid on her office shames any notions of transparency and accountability in the research ethics industry. But there is perhaps a take-home lesson to be learned here, namely that now there is another reason for a home

office besides tax deductions: *keep your important professional data and computer at home,* where at least a legal process is required to get to it. A word to the wise is sufficient: do it, now.

As Loftus tried to determine the charges against her, it was five weeks later that she finally learned that the invasion was not about the alleged privacy complaint as such, but something more nebulous and far-reaching: "possible violations of human subjects research." Lawyers tried to subpoena her personnel file; because they were from out of state, the request had no legal authority and the university could have and should have rejected it, but Loftus had to hire her own lawyer to resist. As Tavris notes: "This was the modus operandi at both universities: keep the charges secret, keep changing the charges, keep the meetings secret, keep the accused in the dark." This is common in mobbing cases, not to mention chillingly reminiscent of the machinations of governmental regimes historically not in favor in North America. As in other cases, the University of Washington violated its own rules, which required a committee to be formed within 30 days and a conclusion reached within 90 days, not 21 months. Ignoring the inconvenience of the contract is acceptable for one party, whereas even following the rules may not be enough for the other party.

Over a year later, the University of Washington committee concluded that Loftus was not guilty of scholarly misconduct, but nonetheless recommended to the Dean that she be banned from publishing and required to take remedial education in ethics. You're innocent, but a little indoctrination can't hurt, and shut up! Several weeks later, July 3, 2001, the Dean wrote a letter exonerating her of all charges and waiving the remedial ethics requirement, noting that this work did not "constitute research involving human subjects." But he still advised her not to contact Jane Doe's mother again nor interview anyone else about the case without prior approval! Consider how asinine this is, expecting Loftus and Guyer to get Jane Doe's permission to contact Jane's mother, who is not only an adult but Jane's "adversary." Freedom of association indeed, how paternalistic can one be!

Loftus and Guyer knew there were adversaries in the outside world, those whose living depended on promoting the validity of the repressed memories notion, but "colleagues" as the enemy within, along with the vigor of their actions, is a surprise. Once again, years of productive careers are ignored, innocent people have to hire lawyers, and one's institution turns out to be more a part of the

problem than a solution. Credible evidence is not required to start an inquiry, just an accusation, and the accused must prove innocence, justice à la the the burning of witches at Salem. It makes one wonder about the curriculum in the institution's Law School, is it accredited?

Loftus has since moved to the University of California, Irvine, but litigation continues against Loftus, Tavris, and others. The experience of a student working with Loftus at one time further illustrates the guilt-by-association mobbing strategy (Coan 1997). As Westhues notes, to merely risk association with a pariah is to become part of the mobbing. This is clearly a vendetta to silence, not a quest for truth. As such it is a problem in legal ethics and administrative ethics, and perhaps journalistic ethics, rather than research ethics.

Others. There are other such cases. For example, there was the 1994 effort by the Simon Fraser University administration to force a graduate student, Russel Ogden, to disclose confidential research information at the request of a third party, the Vancouver coroner (Lowman and Palys 1998; Palys and Lowman 2000). After the prolonged legal battle, Ogden received an apology and a Master's degree from Simon Fraser. However, Ogden later sued for and won damages from Exeter University in England as well, because the university failed to honor its commitment to support him as he explored a network of people conducting assisted suicides for his Ph.D. (Todd 2003). Both institutions failed to follow their own agreements and policies with regard to confidentiality and anonymity, until forced to do so by external legal adjudication. Kors and Silverglate (1998) have shown that speech codes do not survive external challenges, nor apparently do some of the games of the research ethics industry. But why is inquiry more free off-campus in the real world than within a university?

There is also the case of whistle-blower Nancy Oliveri (*cf*., for example, Jimenez 2000), who did what most in the real world consider to be the ethical thing, and then became a target herself. She went public about the apparently harmful effects of a drug after her supervisors did nothing. The letter of the law here may actually have been somewhat against her (see Furedy 1999, 2000), in that she had signed some secret contracts re nondisclosure, but the complexity of such a situation made things ripe for abuse and controversy, as well as honest confusion. These secret contracts seem ill-advised at a university in general, and while she may in a legal sense have breached that contract, from the perspective of public safety I am still

inclined to consider her to have done the ethical thing in a larger context, without much institutional support.

It is necessary to rely on public evidence in these cases because the actual proceedings are "confidential" – to protect the authorities, not the researchers. The whole story in these cases thus remains buried in secrecy, but the main public points in these cases converge. Minor, at most, issues of research ethics were escalated to try to eliminate a "difficult" professor, in spite of years of good service. Institutional safeguards were ignored and harassment continued in spite of the lack of evidence. Censorship, silencing a faculty member, was clearly the issue, *not* public safety. Good intentions seem a pathetic defense from the research ethics industry, as censors always claim to be doing it for the good of the rest of us. These problems are especially acute in the social sciences, but no doubt research ethics harassment occurs in medical research as well, again with the researcher left as the scapegoat by the institution when problems arise. However, I have restricted my discussion here in part because there are true safety issues in medical research, whereas in the social sciences and humanities the process is clearly about ideological control rather than safety.

The Meek Will Inherit the University

These cases should be enough to make the point that "ethics" regulations of unproven value make handy tools for harassment. You aren't paranoid if they really are out to get you. Given the lack of evidence on effectiveness of these ethics boards, researchers understandably have been inclined to opt out of the process – rather than volunteer for REBs, for example. However, the fact is that there are very few mechanisms for meaningful input from researchers even if or when they want to participate. Communications and ethics review mechanisms now operate on the presumption that researchers are unethical and must prove their innocence. Any number of discussion formats exist on how to manage the researchers, how to keep them from sneaking something by the reviewers, what new rules can be imposed, and how important it is to identify unforeseen risks (chew on that for awhile). But there is no forum to consider whether the rules accomplish really anything for public safety. Not only do researchers not feel interested; the sentiment that their involvement is not wanted, and even that the researcher is the problem, is quite clear.

As sad as that is, there is every reason to believe that the relationship will deteriorate even further, and that there will be more ugly incidents where research ethics issues are used to harass researchers, whether these reach the public eye or not. One must realize that the cases noted above were senior scholars who could go public, having at least some protection by tenure. It is certainly reasonable to believe that such incidents involving junior scholars and students are far more numerous but invisible because they are unable to complain publicly. Further, because of their inexperience, junior faculty and students lack a meaningful perspective on what constitutes a reasonable, collegial question as opposed to inappropriate censorship. And, of course, the predilection to "confidentiality" effectively hides instances of such abuse.

In these witch hunts there was considerable loss for the researchers – time, expense, and psychological health – but apparently there were no consequences to the universities for behaving this way. Given the lack of consequences to the institutions for such abusive treatment of researchers, there is no reason to expect such malicious witch hunts to disappear in the future. To the extent that (a) we continue to permit the fuzzy goal state (ethics and social engineering instead of safety), (b) fail to document effectiveness, (c) fail to discipline the REBs and/or institutions, and (d) employ university administrators with no stake in the future of the institution, much less the researchers (*viz*. Max Meyer), it seems likely that in the future there will be more such incidents of researcher harassment rather than fewer.

Adapting to such a campus climate will shape faculty behavior in predictable ways. Specifically, it seems reasonable to see a Darwinian faculty selection process occur as a result of this censorious climate. Some faculty may capitulate and carry on, but it would not be surprising that many, especially senior, faculty move their scholarly efforts to outside consulting activity, books, or other venues that avoid having to confront unwarranted constraints on intellectual inquiry by ethics review boards. Or, just as the tax codes produce an "underground economy," some may just ignore "bad laws." In the case of graduate students, do such experiences encourage students to consider continuing a career in academic research? Not likely, their own experiences with ethics reviews for their Honors projects cause them to rethink plans for an academic research career. Blend in observations of their faculty mentors being treated as Loftus and others were, plus the constraints of speech codes and related manifestations of political correctness in coursework, and it becomes

fairly easy to see a Darwinian selection process at work in defining the nature of future academic researchers. I say this not because I think it desirable, but because I know that humans adapt their behavior to constraints in ways that are describable, and we know this from research that predates the research ethics industry, like it or not (e.g., Thorndike and Skinner)!

Subjectmatter expertise will become less important to campus success, and instead a very critical trait for academic survival will be *deference*. Research activities will be restricted to conventional "safe" and popular questions, using noncontroversial methods that fit within the ideologically proscribed limits of right-thinking "ethicists." Policy bureaucrats and the new class of professional campus administrators will have prevailed, and the meek will inherit the university. Perhaps some future historian will label this upcoming era "The call of the mild." The garrulous, "difficult" professors, the characters dedicated to rigorous inquiry, like Max Meyer, will disappear. Then the executives of the university will be able to put their feet up on the desk, relax, and "manage," but will students and parents still value such a totalitarian university experience?

Why does academic inquiry need to be so constrained to no apparent benefit, when the constraints in fact produce demonstrable harms in the form of faculty harassment? Until there is true evidence of benefits to public safety, not ideology, the only clear purpose of the research ethics enterprise is censorship. How long it will be before campus researchers will be required to submit their data back to the ethics committee, *before* publication, so undesirable *outcomes* can be kept from the public eye? Why have we let this go on for over 30 years? How much longer will we let it go on? The basic problem will not be solved by more paper, royal commissions, tweaking the process, or the like. The sorriest aspect of the research ethics climate is the unwillingness to accept that the possibility that the entire bureaucracy was never necessary nor has it been of any value, at least in the social sciences. Except perhaps from the perspective of those who wish another way to harass colleagues.

We have devoted 30 years to *complying* with regulations, and apparently not a day to the *effectiveness* of regulations. There are no data demonstrating need or effectiveness, whereas the negative "side effects" of the research ethics climate are demonstrable. There is a medical dictum that applies perhaps, "First, do no harm." The savage damage to careers such as that outlined above would seem to justify the equivalent of formatting the hard drive for the research ethics

regulations, or is collateral damage to innocent researchers just the price we pay in the name of ideology? I hope not. The research ethics enterprise is an affront to intellectual integrity, and it deserves to be dismantled entirely until it can be shown to be needed, effective, mutually accountable, and at least in accord with basic principles of civility and legality. The present 30-year long experiment is a failure.

References

Carlson, A. J., *et al.*, 1930. "Academic freedom at the University of Missouri: Report on the dismissal of Professor DeGraff and the suspension of Professor Meyer," *Bulletin of the American Association of University Professors*, 16, pp. 143-176.

Child Development, 2003. Day care issue. 74(4).

Coan, J. A., 1997. "Lost in a shopping mall: An experience with controversial research," *Ethics and Behavior*, 7(3), pp, 271-284.

Columbia Daily Tribune, March 13, 1929: editorial entitled "A filthy questionnaire," and article entitled "Sex secrets asked of M.U. Students."

Esper, E.A., 1966. "Max Meyer: The making of a scientific isolate," *Journal of the History of the Behavioral Sciences*, 2, pp. 341-356.

Esper, E.A., 1967. "Max Meyer in America," *Journal of the History of the Behavioral Sciences*, 3, pp. 107-131.

Fekete, J., 1994. *Moral panic: Biopolitics rising*. Montreal: Robert Davies.

Furedy, J.J., 1997. "Velvet totalitarianism on Canadian campuses: Subverting effects on the teaching of, and research in, the discipline of psychology." *Canadian Psychology*, 38, pp. 204-211.

Furedy, J.J., 1999. "Dr. Olivieri and the public interest," *Varsity* (University of Toronto), November 29, 1999.

Furedy, J. J., 2000. "A price too high?" *University of Toronto Bulletin*, March 27, 11.

Gruber, C. S., 1972. "Academic freedom at Columbia University: The case of James McKeen Cattell," *Bulletin of the American Association of University Professors*, Autumn, pp. 297-305.

Hunt, M, 1999. *The new know-nothings: The political foes of the scientific study of human nature*. New Brunswick, NJ: Transaction.

Jimenez, M., 2000. "Oliveri case referred to regulatory body," *National Post*, April 28, 2000.

Kors, A. C., and H. A. Silverglate, 1998. *The shadow university*. New York: Free Press.

Lilienfeld, S. O., 2002. Special issue. *American Psychologist*, 57(3).

Lowman, J. and T. Palys, 1998. "When research ethics and the law conflict," *CAUT* [Canadian Association Of University Teachers] *Bulletin*, June.

Montreal Gazette, 1994-1997. Articles, editorial and op-eds on Justine Sergent, April 9 to November 24, 1994; articles January 16 and March 21, 1997.

Mueller, J. H., and J. Furedy, 2001a. "Reviewing for risk: What's the evidence it is working?" *Observer*, 14 (September), 1, pp. 26-28.

Mueller, J. H., and J. Furedy, 2001b. "The IRB review system: How do we know it works?" *Observer*, 14 (October), pp. 19-20.

Nature, 2001. Editorial, "Time to cut regulations that protect only regulators," *Nature*, 414, 379.

Palys, T. and J. Lowman, 2000. "Ethical and legal strategies for protecting confidential research information," *Canadian Journal of Law and Society*, 15(1), pp. 39-80. See also www.sfu.ca/~palys/Controversy.htm

Rauch, J., 1993. *Kindly Inquisitors*. Chicago: University of Chicago Press.

Ravitch, D., 2003. *The language police*. New York: A. A. Knopf.

Tavris, C., 2000. "The uproar over sexual abuse research and its findings," *Transaction*, 37(4).

Tavris, C., 2001. *Psychobabble and Biobunk: Using psychology to think critically about issues in the news*. New York: Prentice-Hall.

Tavris, C., 2002. "The high cost of skepticism," *Skeptical Inquirer*, 26, 14(4), pp. 41-44.

Tri-Council Policy Statement, 1998. *Ethical Conduct for Research Involving Humans*. Online at www.nserc.ca/programs/ethics/english/policy.htm

Todd, D., 2003. "Academic wins ruling on assisted suicide research," *Vancouver Sun*, Nov. 1, 2003, B3.

Westhues, K., 1998. *Eliminating professors: A guide to the dismissal process*. Lewiston, NY: Edwin Mellen.

Westhues, K., 2001. The difficult professor: A pernicious concept. CAUT Legal Conference, March 2-3, Ottawa, ON.

Westhues, K., 2004. *Administrative Mobbing at the University of Toronto.* Lewiston, NY: Edwin Mellen.

Zimbardo, P. G., 1999. Stanford Prison Experiment. Online at www.prisonexp.org/