

ZEDEK

The official journal of the Social Activist Professors Defense Foundation, the only independent organization defending social activist professors whose basic

constitutional and civil rights have been violated.

Subscription Rates: \$10/yr. USA/Canada; elsewhere \$12.50/yr.

Institutional Rates: \$15/yr. USA/Canada; elsewhere \$20/yr.

ZEDEK

Volume IV, Number 1

(February, 1984)

Page

- 236 Editorials: In Any Language Meese is Mies
Solomon - An Unwise Amendment
Title IX :It Gets Nearer to Midnight
- 240 The Morris J. Starsky Case :Part 2
Starsky as a Plaintiff in the Socialist Workers Party
v. Attorney General of the U.S.
- 245 Cases of Academic Repression Reviewed in ZEDEK (Nov., 1980-
Feb., 1984)
- 246 Recent Books by SAPDF Members
Noam Chomsky - THE FATEFUL TRIANGLE
Bertell Ollman - CLASS STRUGGLE IS THE NAME OF THE GAME
- 247 Nuss Struggle Continues Despite Setbacks by Helen R. Samberg
- 249 New Assaults on the BILL OF RIGHTS
- 250 If We Don't Use It, We'll Lose It by Merle Woo
- 252 SAPDF Seeking New Supporters
- 252 Persons Endorsing SAPDF Aims
- 252 SAPDF Registration Form
- 252 SAPDF Endorser Statement

In this issue of ZEDEK,
the Morris J. Starsky Case,
Part 2 is presented.

See pages 240-245 →

It will be a great day when our
colleges and universities and all
our schools get every dollar they
need to function effectively and
the Pentagon has to hold a bake
sale to buy weapons.



MORRIS J. STARKY

ZEDEK, the official journal of the Social Activist Professors Defense Foundation is published at 19329 Monte Vista, Detroit, Michigan 48221 U.S.A.

Editor: R. M. Frumkin . Associate Editors: Helen R. Samberg, F. Joseph Smith.

All news items, articles, reviews, letters, contributions, and other correspondence should be sent to the above address. Materials expected to be returned should be accompanied by self-addressed stamped envelopes.

Editorials

IN ANY LANGUAGE MEESE ISMIES*

In the 1981 volume of CURRENT BIOGRAPHY, with reference to Edwin Meese III, it states that "knowledgeable observers of the White House call Edwin Meese 3d the man 'in charge of the man who's in charge!' " Because he shared the same pro-capital punishment views as Ronald Reagan in the 1960s, when Reagan won the gubernatorial election in November, 1966, he named Meese as his secretary of clemency and extradition. He has been viewed as Reagan's alter ego ever since that appointment. Reagan, from the time of that initial appointment, has felt that Meese was the one man on whom he could rely in a crisis. As Counselor to the President, he holds Cabinet rank and has been in charge of policy issues. Some see Meese as a "surrogate president" or "prime minister."

When William French Smith resigned his position as Attorney General of the United States in January, 1984, he did not do so without having accomplished what he set out to do. In a few short years he managed to reverse civil rights, antitrust and criminal enforcement policies which had survived four previous administrations.

It was no surprise, under these circumstances, that, in this new crisis, Reagan would suggest Meese as Smith's successor. Meese, after all, had the reputation of a "law-and-order man" back in law school days. His record as a California attorney, particularly his work as the deputy district attorney of Alameda County and as Governor Reagan's man on the scene during the late 1960s violence at San Francisco State College and the University of California, Berkeley, led to Meese's appointment as Reagan's executive assistant and chief of staff during his second term as governor.

According to a forthcoming editorial in the NATION, Meese's three most dangerously repressive policies during Reagan's second term as governor were the following:

" 'Project: Safer California' proposed a vast array of metaconstitutional devices for managing social and political protest: suspension of due process, mass arrests, mass trials and preventive



* In German mies means wretched, bad, seedy, etc. In Yiddish miesse is ugly or unfortunate.

Editorials (continued)Meese (continued)

detention. Fortunately, Jerry Brown succeeded Reagan and abolished the office that was supposed to implement the \$ 3.8 million project.

'Project Search' was the master plan Meese pushed for public control: a memory bank of arrest (not conviction) records, hooked into a state - and later national - advanced telecommunications network. The F.B.I. adopted the plan after the California trial run.

'Cable Splicer' was a series of workshops Meese promoted to develop a joint military/police command to counter civil disturbances. Reagan addressed a session of 500 military men, police officers and corporate executives, and reportedly 'joked' that his critics now had proof he 'was planning a military takeover.'

As Attorney General, Meese would oversee the F.B.I., the criminal justice establishment and the national surveillance system. He is in line for a Reagan appointment to the Supreme Court. But a look at his California record inspires the worst fears that individual liberties will be sacrificed to military and police practices."

Morality is a most sensitive and highly charged principle which, these days is like Shakespeare's "quality of mercy" --- it is twice blessed (or, for us, twice judged) by him who gives and him who takes. There is a trap when morality is raised as an issue in this Reaganist reign. Perhaps that explains the seeming total absence of concern expressed by Congress over the morality relative to Edwin Meese's proposed appointment to Attorney General. The Democrats in Congress oppose the appointment - but why? The press and other media cluck their tongues - about what ? Only because Meese has some shady deals involving monies and favors to those who provided means of keeping him afloat - all around dollars ! Is this what the American view of morality adds up to?

Truly, it is discouraging when so many of our elected representatives condone such odious behavior indirectly thereby supporting Reagan. It certainly is a poor definition of moral standards because there is no acknowledgement of the real moral issues regarding Meese.

This is how we see it: Morality is decent, just consideration and non-abuse for all. It is not to deny nor repress our individual (supposedly) guaranteed right to free speech, exchange of ideas, and teaching out of good conscience. It is around these concepts that Meese must be evaluated as Smith's possible successor to the position of Attorney General of the United States of America.

On Right and Wrong Questions

"Far better an appropriate answer to the right question, which is often vague, than an exact answer to the wrong question, which can always be made precise."

Statement from J.W. Tukey, "The Future of Data Analysis,"
ANNALS OF MATHEMATICAL STATISTICS, 1963, 33, 13-14.

(editorials continued on next page)

Editorials(continued)SOLOMON - AN UNWISE AMENDMENT

Promoters of the Solomon Amendment, at this writing, are attempting to enforce its third phase while across the country faculty and students oppose it as phases one and two. This amendment is actually Section 1113 of the Department of Defense Authorization Act of 1983. Beyond even the moral issues, faculty and schools oppose it because it puts the responsibility of enforcing draft registration laws on the colleges and universities. Many students are not complying because they view this military draft compliance tied to school financial aid as highly discriminatory. Originally, only those students applying for assistance had to declare their compliance in order to attend school. Cunningly, the government now demands that females and students of all ages must declare their status so that the government may circumvent the age and sex discrimination charges, although, of course, we know they will not be affected. (Some view this as a two-fold means of gaining control of the whereabouts of greater numbers of young people in the event of a national political protest or mass social action.)

Many students, therefore, see the Solomon Amendment as a very real and present danger to their lives with the ever increasing possibility of covert action fast phasing into the overt military action in places such as Central America.

Some schools have taken positive steps against the Solomon Amendment. Wayne State University in Detroit is one of those schools. At that University a coalition consisting of students, faculty, and community groups has been established around this Amendment. Funds like the Emanuel Graff Memorial Fund, for example, offer assistance to students not complying.

This Act and its Amendment was first appealed by the University of Minnesota and in July, 1983, a Lower Court ruled that the Solomon Amendment was unconstitutional. Shortly following this action, the U.S. Supreme Court put a stay on this Lower Court decision and has promised, at several specified dates, to make a decisive ruling but, as yet, has not done so.

During this interim period, audaciously phase two has been put into demanded participation by schools where any person applying for a job training program must comply and produce verification of compliance.

Solomon, phase three, is also in the hopper in the House. This has very broad implications and must be viewed for its great suppressive potential. Phase three asks that all colleges and universities whose personnel engaged in any research funded by the federal government do not comply in any one department where grants exist shall forfeit all funding for that school.

A bill, HR 1250, to repeal the Solomon Amendment was defeated in the Senate. It now has 50 sponsors in the House but will need a lot more sponsors to help repeal the Amendment.

Joining the University of Minnesota with amicus briefs to appeal the Amendment are Earlham College (Indiana), Haverford College (Pennsylvania), Macalester College (Minnesota), University of Michigan, Pacific School of Religion, and the Wayne State University. As it stands now, the Amendment opposes the concept in higher education that all U.S. citizens have a right to such education, regardless of economic or other status, if they have the intellectual capacity to benefit by that education.

Is your school active on this issue?

#####

Editorials (continued)

Title IX : IT GETS NEARER TO MIDNIGHT

Academia should be alarmed to the point of united, vociferous action at the overt cutting down of its effectiveness on so many fronts. However, union busting attempts, as serious as they are, are not as chilling as the February 28th Supreme Court ruling which has assaulted Title IX by a vote of 6 to 3.

Under Title IX affirmative action was assumed in our educational institutions. It stated that where sexual discrimination occurred in any one department (even the cafeteria) of a school recipient of federal funding, all such funding would be withdrawn.

The significance of the Supreme Court ruling is even graver when we recognize that Title IX was the outgrowth of Title VI which related to funding and racial discrimination practice.

The new interpretation says that funding is to be judged department by department. This can only encourage diminishing girl/woman programs, likewise even a larger hiring decline of women faculty. At present an 8 percent decline is occurring and on the increase. It is a reflection of the beginning of a return to pre-Title IX days.

Judy Goldsmith of the National Organization for Women sees this as a widening of the gender gap and only further proving that since the CONSTITUTION does not state "there shall be no discrimination based on sex," passage of ERA would mitigate against watering down a Title IX code.

What we must all address is the continued whittling down of rights so hard won over the past 30 years. We must read Bertram Gross' FRIENDLY FASCISM, recognize the growing danger, and then act before the clock strikes twelve.

#####

Writing as morality

...complaints about writing have been less practical than moral in tone. Bad writing, we are to understand, is bad not only as writing but because bad writing is itself bad, a form of wrong-doing, a perversion related to other and more lurid ethical wastelands such as corporate and white-collar crime, lying in government, and even overt acts of social violence.

Reprinted by permission from Berel Lang, "Strunk and White and Grammar as Morality," *Soundings: An Interdisciplinary Journal*, vol. 65 (Spring 1982), p. 24.

Two Feminists:

"Mother" Jones
and
Cheryl Johnson,
Director of African
Studies, Northwestern
University

MOTHER
JONES



"SIT DOWN AND READ. EDUCATE YOURSELF FOR THE COMING CONFLICTS."—Mary Harris "Mother" Jones (1830?-1930), orator, union organizer and hell-raiser.



Cheryl Johnson

THE MORRIS J. STARSKY CASE: Part 2Starsky as a Plaintiff in the Social Workers Party v. Attorney
General of the United States, 73 Civ. 3160 (TPG) #Claim of Plaintiff Morris Starsky

1. Facts

Like Evelyn Sell,^{*} Morris Starsky was singled out and targeted for counterintelligence activity by the FBI because of his active support for the SWP. The FBI's Cointelpro actions against him were intended to and did humiliate and embarrass him and created much disruption and emotional turmoil in his life.

Starsky was an active supporter of the SWP at least since 1968, the year he served as a presidential elector on the SWP ticket. He joined the party in 1970. (Starsky, Tr. 2240, 2242.)

Starsky was a well-qualified university professor. He holds a B.A. degree from the University of Rochester, an M.A. and Ph.D. from the University of Michigan. (Tr. 2239) From 1960-62 he was a predoctoral instructor at the University of Michigan, and from 1962-64 he was an instructor in philosophy at the University of Washington. (Tr. 2240-41.) In 1964 he was hired by Arizona State University (ASU) to be an instructor and then served as an assistant professor until 1970. (Tr. 2244.) In 1968 he achieved "stability of contract" at ASU.** (Tr. 2243-44.)

While employed at ASU, Starsky was an active participant in the anti-Vietnam war movement, in the student and civil rights movements; and he was an active supporter of the labor movement. (Tr. 2242.) Because of his political activities, he came under active investigation by the FBI. In addition, the FBI decided to use counterintelligence techniques against him. On May 31, 1968, the Phoenix FBI informed the Director of the FBI as follows: "On the basis of developments to date, it is apparent that New

Left organizations and activities in the Phoenix metropolitan area have received their inspiration and leadership almost exclusively from the members of the faculty in the Department of Philosophy at ASU, chiefly Asst. Prof. Morris J. Starsky. The most logical targets for potential counterintelligence action locally are therefore pretty obvious..." (Ex. 251 at 24.)

A month later, the Phoenix FBI office decided to foster an attempt to get Starsky dismissed from the teaching faculty at ASU. A memo dated July 1, 1968, from the Phoenix FBI to the Director, states: "It was mentioned in

Phoenix letter of 5/31/68 that Starsky, as a public employee, is understood to be of interest and concern to (deleted). There are now indications that as a result of this interest... the Board of Regents... may soon find cause to separate Prof. Starsky from the public payroll. It is considered that he may have falsified attendance records or something of that nature. Starsky's dismissal from the ASU faculty could be expected to disrupt New Left organizations at ASU and in the Phoenix area generally. In any event, Phoenix will explore means of assuring that (deleted) is cognizant of the role which Starsky and others in the ASU Philosophy Department play in keeping the New Left alive (deleted)." (Ex. 251 at 25).

These excerpts on the Starsky case are reprinted, with editorial shortening, from the Political Rights Defense Fund's SECRET POLICE ON TRIAL (New York: 1981). It sells for \$10 and is well worth the price.

* Evelyn Sell was another plaintiff in the SWP case against the Attorney General of the U.S. Sell, a graduate of Wayne State University, taught in the public schools of Michigan and Texas before coming under FBI harassment. Her story can be found in SECRET POLICE ON TRIAL, ibid., pp. 420-441. The uncut Starsky story can be found on pp. 442-457.

** "'Stability of contract' ... is generally accepted by faculty and administrators as ASU's form of tenure." Starsky v. Williams, 353 F. Supp. 900, 908 (D. Ariz. 1972).

The Starsky Case: Part 2 (continued)

Thus, according to this July 1, 1968 memo, the FBI launched its effort to get Starsky fired from ASU "to disrupt New Left organizations" in Phoenix. (Ibid.)

On October 1, 1968, Phoenix FBI again wrote to the Director about a possible Cointelpro activity against Starsky. Under the heading "Potential Counterintelligence Action," the memo states, "Starsky, by his actions, has continued to spotlight himself as a target for counterintelligence action." (Ex. 251 at 26.) The "actions" were described as follows: "He and his wife were both named presidential electors by and for the SWP when the SWP in August, 1968, gained a place on the ballot in Arizona. In addition, they have signed themselves as treasurer and secretary respectively of the Arizona SWP." (Ibid.) The memo concludes, "A recommendation for counterintelligence action as to Starsky will be submitted by separate letter." (Ibid.) This subsequent letter was never found.*

Despite the lack of full documentation, the memoranda produced clearly show the FBI's interest in spurring efforts to get Starsky fired from his job at ASU beginning in 1968.

In January, 1970, the Board of Regents requested the President of ASU to take disciplinary action against Starsky. The President set up an ad hoc committee to investigate the charges made by the Regents. This ad hoc committee met in secret as a grand jury and prepared a report which advised against filing charges. The President accepted this recommendation and transmitted it to the Regents. (Starsky, Tr. 2245-46; Starsky v. Williams, 353 F. Supp. 900, 905 (D. Ariz. 1972).) The Regents did not accept this recommendation, however, and insisted that charges be filed. (Starsky, Tr. 2247.) A hearing on the charges was held before a Committee on Academic Freedom and Tenure (hereinafter Committee) made up of ASU professors.

While the Committee was holding hearings, the FBI was also busy. On March 31, 1970, the Phoenix FBI Office advised the Director of the charges against Starsky. (Ex. 251 at 27-28.) On April 7, 1970, it proposed a new "counterintelligence action" against him: sending an anonymous letter to the members of the Committee which accused Starsky of "invading" someone's home at 2 A.M. and threatening to beat him up if he not return some literature. The proposed letter equated Starsky's purported actions to the conduct of Himmler or Beria, and urged that Starsky be punished. (Ex. 251 at 29, 34.) On April 24, 1970, authority to send the letter was granted by the Director. (Ex. 251 at 33.) The FBI's anonymous letter was mailed to the Committee on May 6, 1970. (Ex. 251 at 35.) The letter ... was based on information the FBI received from an informer that one David Murphy, an acquaintance of Starsky, had recently attempted suicide, and also on information obtained from Temple police records that showed a complaint filed by Murphy against Starsky. (Ex. 251 at 29-30.) According to the FBI's version of the police records, Murphy had complained that Starsky and three others came to his apartment to retrieve YSA literature which he had taken from the YSA headquarters and threatened to hurt him if the literature was not returned. Apparently, Murphy claimed he was holding the literature until he was paid money owed him for a YSA telephone bill. (Ibid.) Starsky denies threatening Murphy in any way. (Tr. 2255-56, 2287-89.) The FBI memo of April 7, 1970, which recounts Murphy's complaint, omits several salient facts, the most important of which is that Murphy withdrew the complaint the same day it was made. Second, his allegation that one of the other people involved in the incident was "on probation" was checked out by police and found to be false. Finally, the police report also contains a statement by Murphy that sheds some light on his motivation for making the complaint. Murphy stated: "Maybe it's in the best interest of everyone in Arizona if Dr. Starsky is not allowed to teach." (Ex. DA.) Murphy's hostile attitude towards Starsky,

*The next Cointelpro memo, dated Mar. 31, 1970, reports Starsky "has been charged with unprofessional conduct" by the ASU administration-- the possible result of FBI counterintelligence tactics. (Ex. 251 at 27-28).

The Starsky Case: Part 2 (continued)

coupled with the fact that he was agitated and had recently attempted suicide, strongly suggests that his account of the visit was exaggerated. In the light of the fact that he withdrew the complaint the same day, one might well conclude the entire story was false. Nevertheless, the FBI sought a pretext for a "counterintelligence action" against Starsky, and the specious complaint provided one.

The faculty Committee recommended that Starsky not be dismissed. The President of ASU accepted this decision, but once again the Regents overruled him, and dismissed Starsky on June 10, 1970. (Starsky, Tr. 2247-49.) As part of his termination, Starsky received a one-year sabbatical to which he was then entitled. (Tr. 2260-61.)*

The Phoenix FBI reported the status of their Cointelpro action to the Director on June 30, 1970, and under the heading "Tangible Results" stated that the anonymous letter had been mailed to Committee members and that Starsky was dismissed on June 10, 1970. The memo concluded with approval: "(deleted) advised that the various charges against Starsky brought out during this hearing and other anonymous charges received by the faculty committee members greatly tarnished Starsky's reputation and standing in the academic community." (Ex. 251 at 36-37.) Thus, the FBI concluded that its Cointelpro operation had been a success.

After leaving ASU, Starsky sought and found further employment as a visiting lecturer at San Diego State College. (Tr. 2261-62.) However, this job lasted only one year because the administration advised him that no funds would be available for hiring anyone for the Philosophy department the following year. (Tr. 2262.) Just prior to their action, an article appeared in the Dec. 1, 1970 SAN DIEGO UNION, which noted that Starsky had spoken at a banquet "extolling the 42nd anniversary of 'The Militant' -- the Socialist Workers Party newspaper"; that he had been fired from ASU for "his active advocacy of far left causes"; and concluded, "Mr. Starsky, now a philosophy professor at San Diego State College, evidently has not changed his stripes. We suggest to San Diego State officials that they consider him a prime candidate for the Arizona treatment." (Ex. 252; Starsky, Tr. 2262-64.) This article is similar in tone and disruptive effect to the FBI's anonymous letters, and articles appearing at other times as a result of information furnished to newspapers by the FBI. (See pp. 108-134, supra.) It is well to remember that as early as May 31, 1968, the FBI thought it could stifle Starsky's political activities through "counterintelligence" activity and the use of "reliable and cooperative contacts in the news media." (Ex. 251 at 1.)

After leaving San Diego State, Starsky obtained a teaching position at California State Dominguez Hills. Starsky never began this job, however, because a dispute arose about the manner in which he completed his employment application concerning the reason he left ASU. (Tr. 2264-65, 2294-98.) Starsky, trying to explain his termination in a favorable light so that he could obtain new employment, had said: "the political climate forced me out." (Tr. 2295, 2299) When California State would not let him teach, Starsky brought suit, which was settled for \$20,000. (Tr. 2265.) Since September, 1971, Starsky has applied for more than 200 teaching positions, but has been unable to obtain further employment as a teacher. (Tr. 2265-67.)

*Starsky challenged the Regents' decision in federal court, where it was held that his constitutional rights were violated by the termination. See Starsky v. Williams, 353 F. Supp. 900 (D. Ariz. 1972), aff'd in part, rev'd in part, 512 F. 2d 109 (9th Cir. 1975). On remand, a Special Master found that the sabbatical operated as an accord and satisfaction barring reinstatement and money damages against ASU. (Starsky, Tr. 2260.) The FBI was not a defendant in that action since its involvement was not known at that time. (Starsky, Tr. 2261.)

The Starsky Case: Part 2 (continued)

2. Intentional infliction of emotional stress

As is set forth above, New York recognizes a cause of action for intentional infliction of emotional distress, Ferrara v. Galluchio, 5 N.Y. 2d 16 (1958), Halio v. Lurie, 15 A.D. 2d 6d (2d Dept. 1961), Galella v. Onassis, 353 F. Supp. 196 (S.D. N.Y. 1972), aff'd in part, rev'd in part, 487 F. 2d 986 (2d Cir. 1973), and allows recovery for emotional injury which is reasonably foreseeable from defendant's action. Galella v. Onassis, supra.

A similar result would be reached under Arizona law. Arizona recognizes the tort of intentional infliction of emotional distress and "allows recovery for such conduct even in the absence of resulting physical harm." Savage v. Boies, 272 P. 2d 349 (Ariz. 1954). As set forth in the Restatement (Second) of Torts 46 (1965): "One who by extreme and outrageous conduct intentionally

or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm."

Davis v. First Nat'l Bank of Arizona, 605 P. 2d 37 (Ariz. App. 1979); Cluff v. Farmers Insurance Exchange, 460 P. 2d 666 (Ariz. App. 1969); Linsenmeyer v. Hancock, 533 P. 2d 1181 (Ariz. App. 1975).

The activity of the FBI as set forth above meets this test. The invasion of privacy by use of informers, the misuse of Selective Service records, the recording of information about Starsky's political activities, the scheme to disrupt his employment at ASU and San Diego State, and the gleeful conclusion that the scandalous "anonymous letter" sent to the Academic Committee at ASU had helped to tarnish his reputation, can only be characterized as extreme and outrageous conduct.

By misusing its ability to obtain information about Starsky through its network of informers and access to government files the FBI carried out a malicious operation to "tarnish his reputation and standing in the academic community" in order to get him fired from his job and stifle his political influence. This activity fits within the definitions of the Restatement (Second) of Torts 46, Comment (1965), which states: "The extreme and out-

rageous character of the conduct may arise from an abuse by the actor of a position, or a relation with the other, which gives him actual or apparent authority over the other, or power to affect his interests."

The FBI certainly had the power to affect Starsky's interests, which it used eagerly.

Starsky described the emotional and financial effect of the dismissal on him: "I was angry and I think the best word to describe it is that it was a shattering emotional experience because I had tenure. The expectation with having tenure conferred upon you at a university is stability of employment and it was just a real blow to have tenure pulled out from under me by a unilateral act of the Regents overruling the faculty and the administration and, you know, depriving me of my livelihood."

Q: "Do you still suffer from these emotional effects?"

A: "Well, I've been living with it for 11 years now, in and out of the courts, and the only way to describe it is that there is something like academic life that's like being in the merchant marine or like being in the printing trades. I've known people in both. To be pulled out of the academe is like having a ship ripped out from under you, liking having printer's ink taken out of your blood, and I don't like it. I am not on a campus and I can't stand it." (emphasis added)

Q: "Would you describe to the Court the result upon you financially of your dismissal from Arizona State?"

A: "Well, it is hard.... I think I got about \$12,000 at San Diego State that year.... and an offer of about \$13,000 at Cal State, Dominguez Hills.... in any year (thereafter) I never made more than \$8,000, and so it's been a real financial blow." (Tr. 2268-69.)

The Starsky Case: Part 2 (continued)

Thus, the FBI is liable to Starsky for its intentional infliction of emotional distress.

3. Invasion of privacy

As is set forth more fully above, New York recognizes a cause of action for invasion of privacy by intrusion and allows recovery for the resulting emotional distress. Birnbaum v. U.S., 436 F. Supp 967 (E.D.N.Y., 1977) aff'd in part, rev'd in part, 588 F 2d 319 (2d Cir. 1978). Having adopted the modern common law theory of invasion of privacy, New York courts would undoubtedly recognize the false light branch of the tort as well. See generally, Birnbaum v. U.S., supra.

Arizona courts also recognize a cause of action for invasion of privacy by intrusion and by placing someone in a false light. As set forth above, the FBI collected information by various intrusive means about Starsky and his constitutionally protected activities, which included the use of informers and misuse of government records.* Information received about his personal contacts was then used to successfully develop a Cointelpro plan which injured his employment status, causing him great embarrassment, humiliation and economic hardship to this day. The FBI activity was an invasion of Starsky's right of privacy. The right of privacy was first recognized in Arizona in Reed v. Real Detective Pub.Co., 162 P. 2d 133, 139 (Ariz. 1945):

"The gravamen of the action here charged is the injury to the feelings of the plaintiff, the mental anguish and distress caused by the publication. In an action of this character, special damages need not be charged or proven, and if the proof discloses a wrongful invasion of the right of privacy, substantial damages for mental anguish alone may be recovered. Since, under the law, recovery may be had for an invasion of the right of privacy for injured feelings alone, the wrongs redressed must be considered as a direct rather than an indirect injury and one that is wholly personal in character, not depending on any effect which the publication may have on the standing of the individual in the community. It seems to us that the mind of an individual, his feelings and mental processes, are as much a part of his person as his observable physical members. An injury, therefore, which affects the sensibilities is equally an injury to the person as an injury to the body would be. In that respect a cause of action for the violation of the right of privacy, causing mental suffering to the plaintiff, is an injury to the person.

Accord, Pegler v. Sullivan, 432 P.2d 593 (Ariz. App. 1967).

The four separate categories of actions for invasion of privacy as delineated by Professor W. Prosser are utilized in Arizona. He divides the tort of invasion of privacy into four actionable wrongs: 1. Intrusion upon the plaintiff's seclusion or solitude, or into his private affairs. 2. Public disclosure of embarrassing private facts about the plaintiff. 3. Publicity which places the plaintiff in a false light in the public eye. 4. Appropriation, for the defendant's advantage, of the plaintiff's name or likeness. (W. Prosser, "Privacy," CAL. LAW REV., 48 (1960), 383, 389). In Cluff v. Farmers Insurance Exchange, 460 P. 2d 666 (Ariz. App. 1969), it is seen that the claims of Starsky are actionable under both "intrusion" and "false light" theories.

Cluff, supra, held that claims under invasion of privacy, by intrusion, must also meet the criteria necessary to prove a claim for intentional infliction of emotional distress. Accord, Davis v. First National Bank of Ariz. supra. Starsky's claim for intentional infliction of emotional distress is established above.

* The use of informers to collect personal information is itself an invasion of privacy. The claim of invasion of privacy is the right to define one's circle of intimacy -- to choose who shall see beneath the quotidian mask. Briscoe v. Readers Digest Assoc., 93 Cal. Rptr. 866.

The Starsky Case: Part 2 (continued)

The activities of the FBI also placed plaintiff Starsky "in a false light" in the eyes of the academic Committee and the larger academic community. The FBI's accusations of heavy-handed and threatening conduct by Starsky, equating him to Himmler and Beria, tarnished his reputation and standing in the academic community.

The Arizona courts have also offered relief to plaintiffs whose claims do not fit neatly in Professor Prosser's categories. In Fernandez v. United Acceptance Corporation, 610 P. 2d 461 (Ariz. App. 1980), the plaintiffs recovered for invasion of privacy by undue harassment in collecting a debt and misrepresentation. The Court followed the reasoning in Reed v. Real Detective Pub. Co., *supra*, stating: "In Arizona the gravamen of an action for invasion of the right of privacy is the injury to the feelings of the plaintiff, and the mental anguish and distress caused thereby." 610 P. 2d at 464 (citations omitted).

Thus, under both New York and Arizona law Starsky is clearly entitled to recover for the emotional strain caused by the FBI's unwarranted intrusive surveillance of his personal and political life, and its active disruption of his employment, in the amount demanded from the FBI in the Second Amended Complaint.

#####

CASES OF ACADEMIC REPRESSION REVIEWED IN ZEDEK (Nov., 1980-Feb., 1984)

<u>Professors</u>	<u>Issues</u>	<u>Professors</u>	<u>Issues</u>
1. Ron Aronson	May, 1982	17. F. Joseph Smith	Nov., 1980 & May-Aug., 1981
2. John Beecher	Feb., 1982	18. Morris J. Starsky	Nov., 1983 & Feb., 1984
3. Barrows Dunham	May-Aug., 1981	19. Charles Stastny	May & Aug., 1981
4. Robert Dyal	Nov., 1980	20. Katherine van Wormer	Feb. & May, 1983
5. Maija Blaubergs	Feb., 1981	21. Merle Woo	Aug. & Nov., 1983, Feb., 1984.
6. Alex Efthim	Nov., 1982		
7. Pat Endress	Feb., 1981		
8. R.M. Frumkin	Feb., 1982		
9. Hans Küng	Feb., 1981		
10. John Mecartney	Nov., 1982		
11. Scott Nearing	Feb., 1981 & Aug., 1983		
12. Shirley Nuss	Feb. & May, 1983 and Feb., 1984		
13. Bertell Ollman	May & Aug., 1981		
14. Melvin Rader	May & Aug., 1981		
15. Bertrand Russell	Aug., 1982		
16. Morris Schappes	Feb., 1982		

FRIENDLY FASCISM
The New Face of Power in America
Bertram Gross

Now that 1984 is upon us, these predictions of a totalitarian future for the US seem more accurate than ever, and the author's strategies to counteract it even more urgent than when first published.

...Friendly Fascism is a powerful tool—better yet, a weapon—that can help us avert a distinctly unfriendly future.

Alvin Toffler

410 pp. \$9.00

FRIENDLY FASCISM is published by the South End Press
 302 Columbus Ave.
 Boston, Mass. 02116

Recent Books by SAPDF Members

Noam Chomsky, THE FATEFUL TRIANGLE: Israel, the United States, and the Palestinians (Published by the South End Press, 302 Columbus Ave., Boston, Mass. 02116) 450 pp. \$10.00

Bertell Ollman, CLASS STRUGGLE IS THE NAME OF THE GAME: True Confessions of a Marxist Businessman (Published by Wm. Morrow, 105 Madison Ave., N.Y., N.Y. 10016) \$12.95.

CLASS STRUGGLE IS THE NAME OF THE GAME: TRUE CONFESSIONS OF A MARXIST BUSINESSMAN*

by Bertell Ollman

"perhaps the most riotous business venture in recent history. The ironies of mixing Marxism with Christianity are nothing compared to the ironies of mixing Marxism and capitalism... CLASS STRUGGLE... attains Biblical proportions".

—BALTIMORE SUN

"delightful book... often quite *hilarious*. . . [Ollman's] madcap adventure humanizes the left. Here is a revolutionary tract that will make you smile".

—NEWSDAY

"a *delightfully well written* book that reveals a darker side of the entrepreneurial reaches for success... it's good to read a non-academic business book that questions most of the capitalist assumptions we hold so dear". (Reviewer is Business Editor of the Daily News)

—NEW YORK DAILY NEWS

"Ollman, who emerges here as thoroughly likable, funny, dignified and scholarly, has so engagingly profiled himself and so affectingly related the psychic ravages of the small business entrepreneur that the *NYU professor's memoir could well take off*".

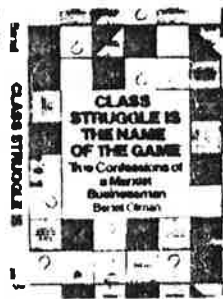
—PUBLISHERS WEEKLY

"a fun book... sometimes horrifying... sometimes *hilarious*. . . a mad merry-go-round... that gets wilder and crazier as the story unfolds".

—NEW YORK VILLAGER

*Book also contains a biting account of the author's academic freedom struggle with the University of Maryland.

At bookstores or send check or money order for \$12.95 to William Morrow Pub., 105 Madison Ave., N.Y., N.Y., 10016.



MIDEAST

THE FATEFUL TRIANGLE:
Israel, the United States,
and the Palestinians

Noam Chomsky

In his first full length political study, Noam Chomsky explores the character and evolution of the special relationship between Israel and the US, as well as the relationship of both countries to the Palestinians. Chomsky documents the history of peace offers by all sides, showing, as in many of his other works, how the US media obscure and distort history, keeping most Americans ignorant of their government's policies.

450pp.

\$10.00

NUSS STRUGGLE CONTINUES DESPITE SETBACKSby Helen R. Samberg

SAPDF has supported the struggle of Professor Shirley Nuss of Wayne State University (Detroit, Michigan) since she was denied tenure in 1981. This case is a very important one because of what has been the stated rationale for the denial of Nuss' tenure, in spite of her record as a productive scholar and competent teacher and wide recognition among peers, both nationally and internationally. There are underlying and unstated reasons which no doubt are behind the negative decisions of her chairperson and tenured departmental colleagues in the Sociology Department in which she worked. Her colleagues, it is clear, want her out. Increasingly, the evidence seems to point to sharp ideological differences rather than professional competence as the real reason for the biased efforts against her.



The importance of this case, beyond its unfairness and painfulness to her personally, points up the growing trend in the academic arena to not granting tenure (and its "security") to "uppity" women. (ZEDEK's last three issues have dealt with this) Shirley Nuss is one of those "uppity" women who is an outspoken political/social activist who teaches feminist and black/minority studies. She has been active in the AAUP and the peace and feminist movements. Thus, beyond the gender issue is also the bias against her right to political/social boatrocking. An example of this is the fact that in her personnel file is an allusion to her supporting faculty and J.P. Stevens picket lines but no mention of her work around women and education (an invitational assignment) with the United Nations - a one-year leave which did result in inferred negative reception upon her return to her job as assistant professor of sociology at Wayne State University. That negative reception was from some of her sociology department colleagues with whom she had been known to have significant ideological differences.

Nuss was an assistant professor of sociology at Wayne State from 1975 to 1983. Her tenure application was voted against twice, that is, her department voted against her being granted tenure in 1981 and 1983. However, the Tenure and Promotions Committee of the College of Liberal Arts (the college in which the Sociology Department is located at Wayne State) reviewed her tenure application and overruled the Sociology Department's recommendations against granting her tenure. This is an unusual step for this Committee and points up how personal bias might be involved in the Department's claim that Nuss is deficient in scholarly achievement. Those of her departmental colleagues against her view her chief work (as primary author), THE HANDBOOK OF INTERNATIONAL DATA ON WOMEN, co-authored with Elise Boulding, as a "collection of statistical data" rather than a scholarly work. On the other hand, the internationally respected sociologist and recognized scholar, Dr. Jessie Bernard, views it as "an essential contribution" to the professional literature on the status of women. Other reputable scholars share her view.

In October, 1983, Wayne State's Chief Academic Officer, Provost Harold Hansen, told the AAUP that he would begin reviewing the Nuss

(continued on next page)

Nuss Struggle (continued)

case and make a determination on it by April, 1984.

However, Hansen, in January, 1984, quite suddenly and unexpectedly, informed the University that he had planned to resign in early March, 1984, but assured all parties that he would rule on the Nuss appeal prior to his leaving.

From this point forth, Nuss and her supporters were side-stepped by Hansen and much irregularity in his approach to her case became evident. Thus, it was accidentally learned that Hansen had met with the group of Nuss' sociology department colleagues who had opposed granting her tenure. These persons presented the Provost with allegedly new information supporting their position. This course of action is in direct violation of the principles of academic due process, that is, the right of persons to hear and respond to the alleged evidence against them, to fully defend themselves against their accusers.

Provost Hansen had also telephoned three sociologists " he happened to know" in order to learn whether or not Nuss' alleged national reputation was familiar to them. Since all three of these persons were in areas unrelated to Nuss' specialties, they knew little about her and her work. One of these three persons contacted about Nuss wrote a letter to Provost Hansen objecting to his unorthodox procedure. He stated that his area of concentration and expertise was Brazilian society and culture and that he felt he could not do a telephone evaluation on the work of a specialist on women. Interestingly enough, this same professor has since written a letter supporting Nuss' tenure. Provost Hansen has dismissed the prestigious list of Nuss' 175 supporters (including Jessie Bernard and Elise Boulding) with the rather unfair and demeaning statement which went something like the following: "Obviously she has many friends and well-wishers."

On February 22, 1984, Shirley Nuss received a four-sentence letter from Provost Hansen. In it he stated that there was no evidence presented to cause him to reverse his initial decision in which tenure was denied. For him the Nuss case was closed.

The conclusion by the Committee to Support Professor Shirley Nuss, headed by three professors, one of whom is Maryann Mahaffey (also a Detroit City Council Member), is that Nuss has been denied due process and equal protection. A critical part of that denial of due process includes the fact that Nuss has not been given full access to all materials used in the decision-making process which affected her tenure denial.

The next step is to seek a decision by University President David Adamany who, hopefully, will see the evidence in its complete state and, therefore, put him in a position to make a just decision. The whole issue of who judges and by what subjective/objective criteria and knowledge scholarship is evaluated certainly deserves some special consideration in this case. One cannot ^{without} wondering how much prejudicial judgment went into the determination by Provost Hansen who considered it acceptable to test Nuss' qualifications and reputation by contacting three sociologists totally unfamiliar with Nuss' work and then putting down the opinions of experts who were qualified to comment on her work. Such a bankrupt viewing should be overruled in the name of democratic and decent human practice.

(continued on the next page)

Nuss Struggle(continued)

Shirley Nuss is now unemployed but strongly determined to continue her struggle through to its just resolution. Unfortunately, her unemployment insurance has run out. She has been appreciative of those ZEDEK readers who have responded to previous appeals for financial and other kinds of support. The present burden grows more serious with each passing day. Please send contributions payable to: The Committee to Support Professor Shirley Nuss, P.O. Box 9914, Troy, Michigan 48099.

#####

Between February 2nd and 9th, 1984, the U.S. Senate assaulted the BILL OF RIGHTS in approving bills which constitute the Reagan Administration's "crime package" - political descendants of the infamous Nixon/Mitchell Senate Bill 1. (See details below)

98TH CONGRESS
1ST SESSION

S. 1765

To establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

98TH CONGRESS
1ST SESSION

S. 1764

To amend title 18 to limit the application of the exclusionary rule.

98TH CONGRESS
1ST SESSION

S. 1763

ES

98TH CONGRESS
1ST SESSION

S. 1762

Entitled the "Comprehensive Crime Control Act of 1983".

ICI, and Mr.
and referred

IN THE SENATE OF THE UNITED STATES

Mr. THURMOND (for himself, Mr. BIDEN, Mr. LAXALT, Mr. KENNEDY, Mr. HATCH, Mr. DECONCINI, Mr. EAST, Mr. D'AMATO, Mr. CHILES, Mr. DOMENICI, Mr. ZORINSKY, and Mr. COCHRAN), introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

Entitled the "Comprehensive Crime Control Act of 1983".

- 1 Be it enacted by the Senate and House of Representatives
- 2 of the United States of America in Congress assembled,
- 3 That this Act may be cited as the "Comprehensive Crime
- 4 Control Act of 1983".

nary

enta-

bled,

imi-

These bills are:

S. 1762* — A 387-page "Comprehensive Crime Control" bill Passed 91 to 1, with Sen. Charles McC. Mathias (R-MD) casting the sole opposition vote.

S. 1763 — cutting back drastically habeas corpus rights Passed 67 to 9.

S. 1764 — limiting the exclusionary rule Passed 63 to 24

S. 1765 — reestablishing the federal death penalty Passed 63 to 32, after a vote to cut off debate passed 65 to 26.

***WARNING:** After passing this comprehensive bill, the Senate then passed two sections of S. 1762 as separate bills: S. 215 — Preventive Detention ("Bail Reform Act") and S. 668 — Sentencing. Should the House Judiciary Committee oppose S. 1762, the Senate could amend these separate bills on to other House-approved legislation.

COURTESY of
NCARL

Editor's Note: On February 16, 1984 the University of California Regents approved a settlement returning Merlee Woo to work with a two year contract in the University of California, Berkeley's Department of Education and a cash sum of \$48,584 and \$25,000 in attorney's fees. In this issue of ZEDEK, Woo comments on what that victory means to her and other victims of suppression.

IF WE DON'T USE IT, WE'LL LOSE IT: What My Free Speech Victory Means to Me

by Merle Woo

When I was forced to "pack my bags" and leave Asian American Studies (AAS), University of California, Berkeley, in June, 1982, I tacked a big note over my desk which read, "I shall return." I had been fired for criticizing undemocratic management policies in AAS and for speaking out as an Asian American socialist feminist lesbian and trade unionist. UC terminated me to censor me, and I fought back.

I am jubilant to announce that after nearly two years of waging a free speech battle, we have emerged victorious. We filed suits in both federal and state courts charging violation of First Amendment rights -- free speech and association -- and discrimination based on race, sex, sexuality and political ideology. As we approached our federal trial set for early March, UC offered a settlement to which I have agreed.

I am returning to teach at UC Berkeley. The terms include a two-year, full-time contract as a Visiting Lecturer; \$48,584 as a settlement sum, and \$25,000 in attorney's fees.

I was fired because UC, no longer the liberal bastion of free speech, has been accelerating its right-wing activities. The Reaganizing of UC is marked by attacks on Ethnic Studies, Women's Studies, Gay Studies, affirmative action, student democracy, union-organizing, and of course, academic freedom.

My defense committee and I won because we were UC's most organized and committed opposition, representing the majority of people on campus: people of color, women, lesbians and gays, staff and low-paid teachers.

We were ready for trial with strong witnesses and unshakable evidence. By this time we were receiving national and international media coverage.

UC, erecting legal roadblocks at every turn, tried to conceal the political issues and drain our resources. UC had three attorneys assigned to the case and huge financial resources. We had one attorney, a volunteer staff and community contributions. But we covered every legal avenue: we pursued the case in court and, with the American Federation of Teachers (AFT), through the Public Employment Relations Board (PERB) and an internal grievance procedure.

My reinstatement, combined with a settlement sum and attorney's fees, is precedent-setting. UC has been extremely resistant to reinstating faculty after they have been dismissed.

This victory is a tremendous vindication for all of us who have worked so hard on the case. We showed that management must be governed by constitutional principles and that free speech for teachers, staff and students does not stop at the "schoolhouse gate."

Free Speech Victory- Merle Woo (continued)

Because I am a socialist feminist and member of Radical Women and the Freedom Socialist Party, I was discriminated against. But I am returning to campus as an open revolutionary Marxist who believes in building a socialist society dedicated to human liberation and who has a right to say it.

Personally, I am overjoyed to be teaching again. I have taught for 13 years focusing on people of color and women's issues. I'm sorry not to be returning to AAS, and a two-year contract is no substitute for UC's original promises to me of permanent employment. If we had gone to court, I'm sure we could have gotten more; however, litigation is prohibitively expensive and I have been out of teaching for too ^{long} ~~al-~~ ready. I just hope my classes in the Department of Education are as rewarding as those in AAS.

I owe my return to work primarily to the Merle Woo Defense Committee (MWDC) and its national coordinator, Karen Brodine. The Committee is a broad-based student and community group who believed my case affected them and the communities they represent. Mary C. Dunlap, our attorney, worked steadily with us, because she believed that ours was a crucial "civil rights case of the Eighties." I also want to thank Radical Women, the Freedom Socialist Party and the hundreds of supporters of various political backgrounds.

My victory comes in a wave of workers organizing against UC's union-busting tactics. The American Federation of State, County and Municipal Employees (AFSCME) and AFT, among other unions, have won representation. Employees recently won a sexual orientation non-discrimination clause in hiring, and PERB ruled that the four-year limitation on lecturers' teaching time is unfair labor practice.

Examples of free speech battles on campus and at work multiply: Nancy Shaw, denied tenure, UC Santa Cruz; Mitsue Takahashi, fired 8th grade teacher, Merced; Katherine Van Wormer, fired from Kent State; the women at Cal State Long Beach and Medgar Evers College, New York, fighting to retain Women Studies and Black Studies; Henry Noble, socialist feminist labor organizer, fighting against retaliatory harassment at the Hutchinson Cancer Research Center, Seattle.

As a unionist at UC, I see our connections to the Greyhound and Oil, Chemical and Atomic Workers strikes. The killing of the Amalgamated Transit Union and OCAW picketers is the most extreme form of censorship. But we can stop all attempts to silence us.

I am proud to be part of the explosive resistance movement of workers of the Eighties. One of the many teachers, student-workers and staff who are banding together against the Reaganizing of UC. One of the many workers mobilizing against cutbacks, forced concessions, discriminatory firings.

Clara Fraser, a veteran socialist feminist, who won a 7-year free speech battle against Seattle City Light advises: "If you think you have a just cause, keep fighting. Don't let reversals crush your morale. Even the lowest paid workers have rights. Don't let the bullies kick you around"

I hope all U.S. workers will be heartened by our accelerating momentum and continue to fight for themselves and the entire working class.

The freedom to speak your mind is not a luxury, but a constitutional right, and if we con't use it, we'll lose it.*

* Emphāsīs is added to highlight particular points - The Editors.

#####

SAPDF NOW SEEKING NEW SUPPORTERS TO HELP FINANCE ITS STATED AIMS

SAPDF, a non-profit foundation established in 1980 to defend social activist professors whose constitutional and civil rights have been violated, is now seeking more funds through its program of annual memberships. There are four basic memberships: Individual, Supporting, Sponsor, and Patron. There is also a special membership for Students, Seniors, and Additional Members of a Household. All four basic members receive the official journal ZEDEK plus all special publications (reports, monographs, etc.) as they appear. The special members receive ZEDEK only. The stated aims of SAPDF can be found on pages 1 and 2 of the November, 1980 issue of ZEDEK. Since individual and institutional subscriptions do not fully pay for the current production and distribution costs of ZEDEK we have been reluctantly forced to raise subscription rates. To fulfill its many significant aims, SAPDF needs the wide support of interested and concerned members. If you are not already a member of SAPDF please seriously consider becoming one. Our survival depends on your fullest support.

SOME OF THE MEN AND WOMEN WHO HAVE ENDORSED THE AIMS OF SAPDF

Scott Nearing ... Noam Chomsky ... Benjamin Spock ... Herbert Aptheker ... Sara Cooper ... Zolton Ferency ... Roy Larson ... Shirley Cereseto ... Father Victor Weissler ... Sarah Silver ... Bertell Ollman ... Thomas Lough ... Laura Boss ... John Snider ... Rick Kunnes ... Kurt H. Wolff... Maryann Mahaffey ... Ron Aronson ... Alex Efthim ... Gerald Coles ... Murray Jackson ... Richard Weiss ... Betty Lanham ... Morris Schappes... Kathleen Calahan... Jim Messerschmidt... Shirley Nuss ... Milton Tambor... Steven Shank ... Gordon Fellman and many others.

Registration Form

Name: _____

Address: _____

Zip: _____

Membership . _____ \$10 (Student, Senior, Additional Member of Household)
_____ \$20 (Individual) _____ \$150 (Sponsor)
_____ \$50 (Supporter) _____ \$200 or more (Patron)

Make all contributions payable to the Social Activist Professors Defense Foundation or S.A.P.D.F. and return to: 19329 Monte Vista, Detroit, Michigan 48221 U.S.A.

Endorser Statement

I, _____, wish to become an endorser of
. (Print Name)
the Social Activist Professors Defense Foundation.

Signed: _____ Date: _____
(complete signature)

Names & Addresses of Other Potential Members and/or Endorsers

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

Thank you for your recommendations.