

# Almanac

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Pullout: December at Penn

Tuesday, November 27, 1990

Published by the University of Pennsylvania

Volume 37, Number 13

## OF RECORD

### Tax Law/Cosmetic Surgery

Faculty and staff are advised that a recent tax law change affects the taxable status of cosmetic health care procedures. This particularly affects the use of health care pre-tax expense accounts. Specifically, expenses for cosmetic surgery or other similar procedures are no longer deductible medical expenses nor can these expenses be reimbursed through the health care pre-tax expense account, unless these procedures are necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"Cosmetic surgery" is defined as any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease. Examples of procedures for which expenses generally would not be deductible under the new law include: face lift operations, liposuction, hair transplants, and hair removal electrolysis.

We are advised that orthodontia normally is not considered to be cosmetic surgery.

The change in the tax law is effective for expenses incurred on and after January 1, 1991. *Accordingly, the University cannot reimburse individuals from their health care pre-tax expense accounts for expenses incurred after December 31, 1990 for cosmetic surgery or other similar procedures.* Faculty and staff who may have been planning to undergo such procedures and be reimbursed from their health care pre-tax expense accounts are thus advised to schedule the procedures before the end of the calendar year.

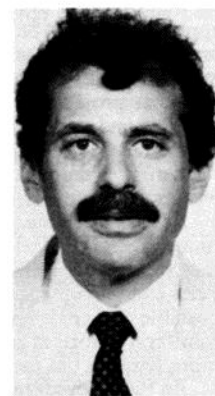
Please call Diane Long at Ext. 8-7281 if you have any questions about this notice.

— Human Resources/Benefits

### Zellerbach Family Chair: Dr. Furstenberg

Dr. Frank F. Furstenberg, the noted scholar of the changing American family who has been the Max N. and Heidi L. Barry Term Professor of Sociology, is now the Zellerbach Family Professor of Sociology. He is the first holder of a new SAS chair made possible by gifts from the Harold and Doris Zellerbach Fund, from alumnus and longtime trustee William J. Zellerbach, and from other members of the Zellerbach family. "Frank Furstenberg is a most creative thinker and he has been particularly successful in sharing his learning with students," said Dean Hugo Sonnenschein. "The Zellerbach Family Professorship recognizes and supports his important work."

Dr. Furstenberg is the author of eight books—the latest of them, *Divided Families*, forthcoming from Harvard—and over 80 papers, many of them reprinted in collections. He has won Guggenheim and Woodrow Wilson Fellowships, the Irving Gellman Award, and many others. A 1961 Haverford alumnus who took his Ph.D. from Columbia in 1967, Dr. Furstenberg joined Penn that year as assistant professor of sociology. He rose to full professor in 1980, when he also became adjunct professor of sociology and psychiatry in the School of Medicine and research associate of the Population Studies Center.



Dr. Furstenberg

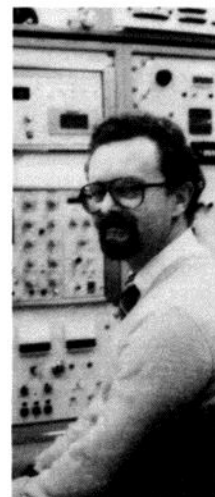
### Director of LRS: Dr. Ward Plummer

The William Smith Term Professor of Physics, Dr. Ward Plummer, has been named director of Penn's prestigious Laboratory for Research on the Structure of Matter (LRS) following a nationwide search.

He succeeds Dr. Gregory Farrington, who became dean of the School of Engineering and Applied Science in July.

Dr. Plummer, a *summa cum laude* graduate of Lewis and Clark College with a Ph.D. from Cornell, joined the University in 1973 after a career at the National Bureau of Standards. Winner of a Guggenheim Fellowship in 1986 and the 1987 Humboldt Senior Scientist Award, Dr. Plummer is consulting editor of *Chemical Physics* and serves on the editorial board of *Physical Review B*. His research centers on electron and photon spectroscopies, specifically applied to the study of surfaces but also including studies of the bulk and gas phase molecular phenomena.

"The 1990's promise to be a stimulating and challenging period for materials physics, engineering, and chemistry," said Vice Provost Barry Cooperman. "I am confident that Ward Plummer's commitment to excellence, his vision, and his scientific leadership will allow LRS to maintain and even enhance the high quality of its research programs."



Dr. Plummer

### Leaving the Arboretum

Morris Arboretum's director, Dr. William Klein, and his wife, the botanical artist Janet Klein, will take up new posts in Miami (see page 3), after 13 years. "Under Bill's direction the Morris Arboretum has developed into one of the premier arboreta in the nation," said President Sheldon Hackney, citing the securing of a designation as official arboretum of the Commonwealth, the building of continuing education and neighborhood partnerships, increased research on environmental problems and the introduction of diverse species for urban planting. Noting also the internship program that attracts students worldwide, credit courses in landscape architecture and biology, and outreach to public and private schools in the region, Provost Michael Aiken called the Klein years "a hard act to follow."



### MAC Machine # 15

Another automated teller machine opens today for the Penn community—on the first floor of the Penn Tower Hotel at 33rd and Civic Center Boulevard. It is open 24 hours a day, seven days a week. Those updating Captain John Richardson's list of 13 ATM locations he rated for safety (*Almanac* October 30, page 1) may add this one to the "recommended" list (along with the new one at Graduate Towers, announced in the November 13 issue).

### Forum on Racial Harassment Policies: December 3

The University Council, Office of the President, GAPSA and UA are jointly sponsoring a public forum for comment and discussion of the formulation of a new Racial Harassment Policy here, an issue recently discussed by the University Council. (See pages 6-11 of this issue for background information.) All members of the University community are invited and encouraged to participate Monday, December 3, from 3 to 5 p.m. in 200 College Hall.

## Some Observations on Faculty Salary Policies

Projections for the rest of the 1990s and the University's announced Five-Year Academic Plan raise some disturbing questions about policies governing faculty policies.

A high fraction of the present faculty at Penn and elsewhere will retire or vacate their positions for other reasons during the next decade. Replacements will have to be found. In addition, new appointments will be necessary in areas for which expansions are planned. If Penn is to retain and improve its stature as a top-rate educational institution, it will have to attract the very best scholars available, bidding against other institutions that will want to hire the same people.

Other projections show that there will be a decrease in the number of persons available for teaching and research appointments in many fields. The number of persons ranked at the top of their respective fields will be small, in any case. The high levels of demand and low levels of supply will raise market-determined salaries—particularly of those who, at a relatively young age, attain international stature in their disciplines. Penn will have to pay the going rate to get such people here.

At the same time, and despite the present billion-dollar campaign, the University will be facing financial strains. Getting appreciable increases in operating funds from tuition and other student fees will not be possible. There are so many good colleges and universities with lower tuition that Penn cannot significantly increase tuition and remain the type of institution it wishes to be. It is possible that governments will increase their funding, although most forecasts are to the contrary. Similarly, efforts at getting more through gifts and grants from the private sector may become much more fruitful, but most observers see this development as being unlikely, also.

As these forecasts become realities, serious problems concerning faculty salary policies will emerge. It is generally recognized that wide differences in salaries necessarily exist among the schools and departments of the University. Now, however, concerns are being expressed about a "two-tiered" salary system within schools and departments. New appointees—particularly chaired appointees—are in some instances being paid literally multiples of the salaries of existing members of the same departments at the same rank. In other cases, new assistant and associate professors in a department receive more as starting salaries than do full professors who have been in the department for some years. Understandably, resentments are beginning to be expressed. Complaints about the lack of "fairness," the lack of "equity" in such differences in pay are not uncommon.

No one should expect that market-based salaries will be "fair" and "equitable." Indeed, while it is easy to understand the criteria used in setting market-based salaries, it is less obvious what criteria ought to be used in setting salaries that are "fair" and "equitable." Still, it would be a grave error for the administration to ignore at this point the increasing discontent among the faculty about these salary patterns.

The immediate concern is not that the faculty will rise against the administration as has happened at other institutions. Rather, the concern should be that salaries based primarily on market tests will thwart the achievement of the very goals the University has set for itself.

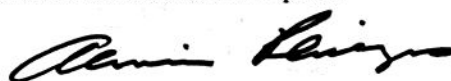
Provost Aiken has observed that Penn will be unable to sustain its relatively high tuition charges in the absence of high-quality teaching. He asks for the cooperation of the faculty in finding means to improve teaching quality. In other contexts, it has been observed that service by faculty members to a variety of University activities—Faculty Senate and University Council committees among them—go unrewarded. Worse, in some cases such service is negatively rewarded.

It is in the areas of teaching quality and University service that salaries based on market evaluations fail to promote the objectives of the Five-Year Academic Plan. For the most part, market-based salaries do not accurately reflect the quality of a person's teaching ability or the willingness of the person to render services to the University. If the administration relies primarily on market evaluations for setting salaries, those who may be making major contributions to the University in precisely the areas the Provost seeks to improve will be left inadequately compensated. Incentives to teach well and incentives to serve the University will be lacking.

To be sure, the success of the University does depend on its paying market-based salaries for outstanding scholars—those now here as well as those we seek to attract. The market will dictate this part of salary policy. It is just as true, however, that the success of the University hinges on the quality of instruction, as the Provost asserts. The market will not dictate this aspect of salary policy. A salary policy that rewards good teaching needs to be developed. One of the tasks of the recently reactivated Lindback Society will be to suggest means for measuring teaching quality for this purpose.

These observations suggest as well that the administration should pay attention to the concerns of the faculty about the "two-tiered" salary system that seems already to be a fact of life. "Fairness" and "equity" may not be operational concepts; nonetheless, the possibility that a major portion of the faculty will become alienated and unwilling fully to contribute to the achievement of the University's goals is a real concern.

The Faculty Senate will discuss these and other aspects of University policies governing faculty salaries in the coming months. The Senate Executive Committee and the Senate Committee on the Economic Status of the Faculty stand ready to cooperate with the administration in developing new policies that will provide appropriate incentives for the faculty, are consistent with the Five-Year Academic Plan, and recognize the realities of the academic marketplace.



**Dr. Charles Curtis**, assistant professor of epidemiology in the School of Veterinary Medicine, died October 4 at the age of 29.

Dr. Curtis received his B.S. from Cornell in 1983 and his Ph.D. in Veterinary Medicine there in 1986, winning a number of national graduate fellowships. He joined the clinical studies department at New Bolton Center in 1989 after serving as an assistant professor at Colorado State University.

Dr. Curtis is survived by his mother, Mrs. Margaret Curtis. Donations may be made to any cancer research organization.

**Douglas Dickson**, the former chair of the 25-Year Club who in one role or another had been at Penn for nearly 50 years when he retired in 1988, died November 14 at the age of 68.

Mr. Dickson arrived as a freshman and earned two degrees in English here—the B.A. in 1943 and M.A. in 1947. He then became an assistant instructor in the English department.

From 1968-1972, Mr. Dickson was director of Student Financial Aid and director of Student Affairs. Later he held the positions of Registrar and director of Personnel Planning before he took his last Penn position, manager of Records, in 1985.

He is survived by his sister, Francis D. Campbell, and a nephew, Douglas Reid Kaufman. *A Memorial Gathering will be held Monday, December 10, at 4 p.m. in the Faculty Club.*

**Dr. Philip Kimbel**, clinical professor of medicine at the School of Medicine and chairman of medicine at Graduate Hospital, died October 27 at the age of 65.

A 1953 graduate of Temple's School of Medicine, Dr. Kimbel joined Penn ten years ago after many years as head of the pulmonary disease section of Einstein Medical Center. He is known by colleagues for his success in upgrading the department he has chaired.

Dr. Kimbel is survived by his wife, Bobby Ellen Roomberg Kimbel, his daughter Kate, and his brother Robert.

**Dr. Joan A. O'Brien**, a leading veterinarian and emeritus professor in the School of Veterinary Medicine, died November 11 at 62.

An alumna of Chestnut Hill College who took her VMD here, Dr. O'Brien became an intern in 1963 and remained as a member of the clinical services faculty until she retired in 1989. She was named Woman Veterinarian of the Year in 1975, and in 1976 won the Gaines Award for Small Animal Clinician of the Year.

Dr. O'Brien is survived by her husband, Robert O'Brien Sr., her son, Robert O'Brien, Jr., her daughters, Dierdre and Robin, and seven grandchildren. Donations may be made to Comparative Respiratory Society, C/O Veterinary Medical Teaching Hospital, 1008 West Hazelwood Drive, Urbana, IL 61801.

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## Dr. Klein's Resignation

*Dear Colleagues and Friends,*

After a great deal of thinking and soul searching about the future of the Morris Arboretum and the future of my professional career, I have made the decision to accept the position that has been offered to me, and, I should add, to my wife and partner Janet, to become the next director of the Fairchild Tropical Garden in Miami, Florida.

As many of you know, my botanical career has taken me from the windswept plains of the west, the harsh deserts of the southwest, the frozen tundra of an island archipelago and brought me to the heartland of the eastern hardwood forest. As plant persons and garden lovers, you will appreciate the great void in this experience—no significant amount of time spent in the most diverse and threatened of this earth's floristic zones, the tropics!

In Florida I will be stepping onto a new learning curve, becoming acquainted on a first-hand basis with the families of plants that I've only given passing reference to in the courses I've taught for more than ten years in the biology department at Penn. The 150-acre public gardens and experimental plantings of the Fairchild Tropical Garden present an unparalleled opportunity for me to guide the development of one of the world's most distinguished tropical gardens. It is an institution that is addressing some of the most critical educational and environmental issues of our time. Janet and I look forward with great enthusiasm to meeting this new challenge.

But you should know too that we will be leaving with a sense of sadness and loss. The Morris Arboretum will always be for me the people who give meaning to this wonderful landscape....

I leave behind me a very talented, deeply dedicated and loyal staff. But I leave too with the reassurance that the administration, deans, faculty, and staff of this great University have a new and deeper appreciation of what the Morris Arboretum means to the undergraduates, graduates and community, region, state, and nation. We have an outstanding Advisory Board of Managers, magnificently led by F. Otto Haas for seventeen years, and now under the strong and caring leadership of Dr. Robert E. Naylor. There is every reason to believe that together they will press ahead with the implementation of our shared vision of what an academic garden could and should mean to this region. You should know that I'm optimistic about what the future holds for this treasured place and will be looking forward to the reports of your progress.

My greatest hope and I dare say, expectation is that the Morris Arboretum will not simply meet but exceed the challenges that face all of our institutions at this time. The months ahead will bring the challenge of embracing the vision that has brought the Arboretum to where it is today. The task before the staff, board, and University administration will be to recruit the new leadership that will be needed over this next decade. I will work to make this transition a time of celebration of what has been accomplished while sharpening the focus on things to come. There is a bright new future that stretches out before you and this wonderful place. The spirit and teamwork of the staff and volunteers that has become the hallmark of the Morris Arboretum will make the vision a reality.

— Bill Klein, Director, Morris Arboretum

## OF RECORD

We continue to be deeply concerned about the many allegations and confirmed incidents of sexual and racial harassment that have occurred within the Penn community. Such behavior is unacceptable in a community that depends on trust and civility, and in those cases that were substantiated, strong action has been taken.

We find it worrisome that a substantial number of complainants did not wish their allegations investigated or any action taken at this time. While there may have been good reasons for such a decision, we hope in the future that those individuals who have experienced harassment will agree to an investigation. We cannot effectively discourage improper behavior unless we can take action against it.

University Policies on racial and sexual harassment, published in the December 6, 1988 issue of *Almanac*, define what is meant by harassment. Although the policy on racial harassment is currently being reviewed (see pages 6 through 11), the policy on sexual harassment is unchanged. The term "sexual harassment" refers to any unwanted sexual attention that:

1. Involves a stated or implicit threat to the victim's academic or employment status;
2. Has the purpose or effect of interfering with an individual's academic or work performance; and/or
3. Creates an intimidating or offensive academic, living, or working environment.

Of necessity, the above definition is very general. In order to illustrate more effectively what is considered unacceptable behavior, it is important to have a clearer sense of the kind of harassment being experienced by members of the community. To that end, we are asking the Ombudsman to prepare a report that could be shared with the University community that would characterize the incidents that have been reported. While names and other obvious identifying factors would be omitted, examples of a range of behavior would be described, and the subsequent resolutions noted. In this way, we hope to discourage such behavior and to impress upon the Penn community our determination to create a campus in which the personal dignity of each person is recognized.

*Sheldon Hackney, President*

*Michael Aiken, Provost*

### From the University Ombudsman

#### Summary Report of Allegations of Violations of Harassment Policies, 1989-1990

The Racial and Sexual Harassment Policies provide for central reporting of alleged harassment incidents to the Office of the Ombudsman. To implement this, President Sheldon Hackney, Provost Michael Aiken, and Senior Vice President Marna Whittington, requested Deans, Academic Officers, and Resource Center Directors, in May of 1990, to transmit reports of complainants' allegations of violation of harassment policies to the Ombudsman Office. To facilitate the uniform collection of data, the staff of Resource Offices designed a common reporting form to be used in the process.

This report summarizes the 83 forms which have been received by the Ombudsman Office and the 20 incidents which complainants brought to the Ombudsman Office directly for the period July 1, 1989 to June 30, 1990. The total of 103 included, in some cases, multiple reports of the same incident (when more than one Resource Center spoke with a complainant). When these were netted out, 87 separate allegations of harassment could be identified.

The Harassment Policies Central Reporting Form requests information by type of harassment in four categories. The 87 allegations of violations of harassment policies are distributed among these categories as follows:<sup>1</sup>

Racial	45
Ethnic	3
Sexual (gender)	42
Sexual (orientation)	4

Information is provided on status of complainants and respondents in five categories as follows:

Complainants		Respondents	
Faculty <sup>2</sup>	1	Faculty	22
Staff	60	Staff	59
Student	24	Student	6
Visitor	0	Visitor	0
Other	0	Other	0

The form also requests information on disposition of complaints. Of the 87, 26 complainants did not wish allegations investigated or any action taken at this time. Of the 61 who wished to pursue the complaint, 12 investigations are ongoing and 49 have been completed. Of the latter, 23 allegations were determined to be unfounded, 25 were resolved and 1 went to a formal grievance procedure. The most serious cases involved sexual harassment by members of the teaching staff of undergraduates who were their students at the time of the incidents. Sanctions in these cases included zero salary increases, letters of reprimand, and departure from the University.

— Susan M. Wachter, University Ombudsman 1987-90

<sup>1</sup> These sum to 94 rather than 87 because some incidents involved allegations of more than one type of harassment. In addition, there was one incident of alleged age-related harassment.

<sup>2</sup> Those completing the forms seem to use the term faculty to include all teaching staff.

## Executive Summary of the Report on the Library

Over the past sixty years, the Library of the University of Pennsylvania has been allowed to decline from what was clearly a library of a quality befitting a top rank university, to what is now, good as it is, a library of the second or possibly third rank. We view this with alarm, as we cannot hope to maintain and improve our position among the great research institutions of the world should this trend not be dramatically reversed, nor can the University of Pennsylvania continue to fulfill its obligations to the future.

The cause of this decline is easily identified: relative to the rate of growth of information, and its costs of acquisition and dissemination,

and, also, with respect to the efforts of the leading research universities, the Library of the University of Pennsylvania has been, and is, substantially underfunded. We thus recommend that....

Over the next five years internal University budgeting processes must be developed to insure growth of the overall Library budget from 2.5 to 4.0% of the general and educational operating budget over a 15-year period beginning in 1991; and, that the Library, the Trustees and the Development Office work together to lay the groundwork to place the Library system as a central element of the University fundraising efforts for the next century, with the goal of bringing the Penn Library back into the ranks of the top ten university libraries in North America.

## The Future of the Library: A Turning Point

Report of the Council Committee on Libraries, 1989-90

*"The true University," Carlyle said, "is a collection of books." The University of Pennsylvania, in its seal, recognizes the importance of books to an institution of higher learning. Our Library, founded in 1749, and nurtured in its early days by Franklin, the founder of the University and of the first public library in America, is today one of the ten largest university libraries in the United States.*

So spoke University President Thomas S. Gates on the occasion of the founding of the Friends of the Library in April 1933. Mr. Gates spoke with justifiable pride, but on an occasion well suited to remind us that, as with liberty, libraries deserve and require our eternal vigilance.

The creation and dissemination of knowledge and the education of our youth are the mission of the University. The availability of knowledge and information is at the heart of the educational process and forms the base for scholarly creativity. The Library, as the repository of knowledge, and the major broker of information, is the very heart of the University.

The Library is a center in another sense: it provides a home and focus for study and learning for students of all ages, some of whom are our faculty. Each day over one third of the Penn population makes use of Library facilities as indicated by the simple act of physical presence; many more access Library information via PennNET or other information services using computers in offices and homes.

The role of the Library in graduate education at the University of Pennsylvania is special. The needs of graduate students for libraries with rich resources is immense and growing: Penn has one of the larger graduate student populations among American universities, and one of the largest number of programs for graduate study.

The business of the faculty is education, research and scholarship. In all of these areas the ready availability of first-rate library and information resources is a *sine qua non*. Without superb Library facilities and collections the best scholars will not come to the University to do their work, or if they are here will find their work impeded, and will leave. If the University is to flourish, the quality of the Library must match the excellence of the faculty.

Finally, a great university library is a symbol of the importance of knowledge and reasoned thought for society and a repository of knowledge and information for future generations.

At the same 1933 inauguration of the Friends of the Library at which Mr. Gates spoke, Provost Josiah H. Penniman made remarks which well summarize these thoughts:

*The size of a university library and the use that is made of it by faculty and students are indicative of the intellectual vigor and vitality of the university itself. The library contains in the form of books and documents records of the accumulated knowledge and wisdom of mankind. It is, therefore, a treasury of the world's most valuable possessions. It is in a true sense the center of the university. No university worthy of the name can exist without a great library.*

### What of the Penn Library Today?

If knowledge and information are the foundation and context for the education of future generations of citizens and scholars, and for the creation of new knowledge, there must be a parity of resources in support of a great Library and those for support of an excellent faculty and student body and for the facilities which support both. Further, as it is clearly the goal of the University of Pennsylvania to not only maintain but improve its position among the very best research universities in the United States and, indeed, the world, plans must be formulated and implemented to insure that the Library moves forward toward the same level of excel-

lence and reputation. Should the Library lag behind, and as development of collections is an ongoing and cumulative effort, it is unlikely that the University will, over the long run, even maintain its current status, much less continue to grow in stature.

What is the current status of the nurturing of our Library? Members of the Committee take note and take heart from the Provost's most recent discussions of the 1991 budget where the following increases in Library allocations are noted:

FY 1986	9.4%	FY 1989	7.3%
FY 1987	6.8%	FY 1990*	13.6%
FY 1988	6.5%	FY 1991*	6.5%

These increases are above inflation, and above the overall University budget increases, and thus indicate serious commitment to the Library. Assuming that these figures represent overall increments to the ongoing budget base of the Library at Penn, this is indeed a commendable trend.

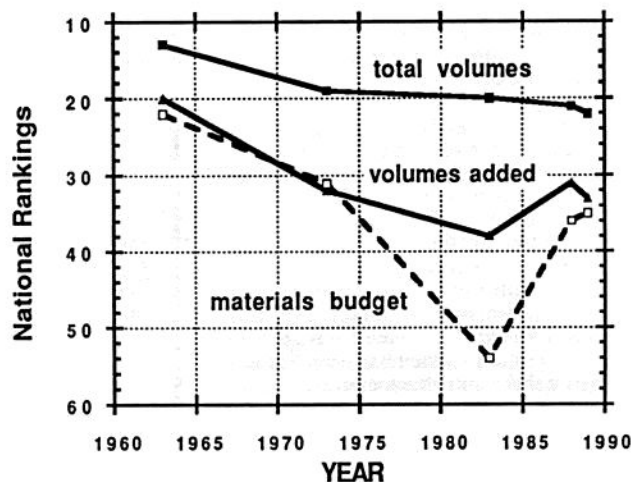
However, when put in a larger context, and more dramatically in the context of the relationship of the Penn Library to that of other major research universities, we are reluctantly forced to conclude that the Library of the University of Pennsylvania has been allowed to decline from what was clearly a Library of a quality befitting a top rank university, to what is now, good as it is, a Library of the second or possibly third rank. We view this with alarm, as we cannot hope to maintain and improve our position among the great research institutions of the world should this trend not be dramatically reversed.

What is the record, and what evidence can we muster to justify such a desperate conclusion? Unfortunately, the record is all too clear.

### The "Standing" of the Penn Library in North America

The Association of Research Libraries (ARL) has surveyed its member Libraries annually since 1962, keeping track of budgets, volumes in the members' libraries, new values added, serial subscriptions, and many comparative measures of the health and nurturing of a library. Figure 1 shows the ranking of the University of Pennsylvania Library

Fig. 1. ARL Rankings of the Library



\* Additional funds for Air Conditioning and Compact Shelving not included.



in three important categories—Total Volumes held; Materials Budget; Volumes Added—for the years 1962-63 (when the ARL began these surveys) through the most recent available for the year 1988-89. These rankings are with respect to a group of 107 of the major university libraries in North America. We note serious slippage with an inevitable end: should the Materials Budget remain 35th, that will be the ultimate ranking of the Library.

We recognize that size alone does not make a great library, and that in spite of the above, one might attempt to argue that the library is actually quite good (and it is!) and thus that there is little real impact of decline. This would only lead to a false sense of security, postponing the realization that the present course cannot continue.

This is seen in specific "verification" studies which have been carried out by the Research Libraries Group. Text collections and serials in areas such as agricultural economics, chemistry, ensemble music, genetics, mathematics, renaissance and baroque art, Russian history, Zola; and neurology are in the bottom 1/3 of collections surveyed, in terms of "scholarly utility" which measures both size and quality. Areas where Penn has traditional strength, English and French literatures for example, are at the 50th percentile when compared to peer collections.

Such "verification" confirms what many faculty and department chairs already know: new appointments have been difficult to make or have fallen through where the quality of the library has been a central determinant. Members of our faculty have remarked that they must go elsewhere to write review articles. While travel to special or unique collections elsewhere is to be expected, our faculty is in distress if routine items are not available at their home institution.

More importantly, far more importantly for the future of Penn, the results of decline are cumulative and do and will continue to compound. Materials available today will be unavailable tomorrow, or, if available, only at much higher cost. Collections must be nurtured and allowed to grow systematically over the years.

## How Has This Come About?

The Senate Executive Committee, on February 21, 1990, in recognition of present alarming situation passed the following resolution:

*Whereas the libraries are the one research and educational resource that serves all faculty and students, and whereas the libraries at Penn have been declining on any of several measures for three decades, and whereas the current faculty and administration have the obligation to pass on to future generations a world-class research collection, the Senate Executive Committee resolves that the share of the libraries in the current billion-dollar campaign should be raised to no less than 2.5% of the total and that, for the same reasons, the annual budgetary allocations increased significantly.*

The thought here was that a major fund-raising campaign should at least attempt to raise, in percent terms, an amount roughly equivalent to the percentage of the University budget currently allocated for support of our Library. However, here we come to what is the heart of the matter:

*It is quite likely that an expenditure of 2.5% of operating budget is far too low for the University of Pennsylvania to devote to such a central resource as our Library.*

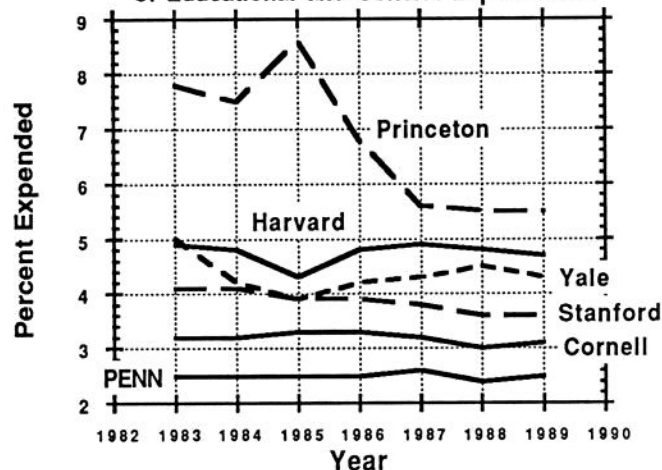
This is seen by inspection of the comparative rankings of library budgets as a fraction of university expenditures, all data being collected in a uniform manner following the Federal "Integrated Postsecondary Education Data System" or IPEDS format. At Penn, for example, this means exclusion of the HUP and Clinical Associates programs. Figure 2 shows comparative data for Penn and a number of our peer institutions.

We cannot help but conclude that the University of Pennsylvania Library system is underfunded by 60 to 100% relative to those of our peer institutions. Taking a larger view we rank 78th of the ARL group in terms of percentage of IPEDS budget spent on the library. Newer data, based on funds spent on libraries per instructional faculty member per year, place Penn in the bottom third of peer institutions. By all available quantifiable measures of financial support, the Committee sees a consistent picture of underfunding of the Penn Library system.

These data indicate an implicit decision which, unless reversed, will inevitably lead to permanent second rank status of our Library, and in the long run of the University itself.

The Council Committee on Libraries thus recommends that the University of Pennsylvania undertake a 15-year program with the goal of raising the Library's fraction of the IPEDS budget from 2.5% to 4.0%. This amounts to a budget shift of 0.1% per year in favor of the Library. If the figure of 4.0% had been in effect in 1986-87 the Penn Library budget would have been \$19.4 million, giving a ranking of 8th (rather than 35th) in terms of the ARL overall budget rankings. This is a figure consistent with our view of the stature of the University of Pennsylvania.

Fig. 2. Library Expenditures as Percentage of Educational and General Expenditures



Should this process be set in motion on the 250th anniversary of our University, we believe our Founder would be pleased.

## The Return to Greatness

The committee views with satisfaction that a 30-year decline in the standing of the Library has been stayed. At the same time, a University poised to move from a position of excellence to one of true distinction must find ways to go beyond merely the prevention of further decline, and to begin a systematic program of building and invigoration. The current funding level of 35th in North America is inconsistent with our University's goals, and with the needs of an ever more vigorous community of students and scholars.

Improved support for the Library can come from two primary sources. The first is continuation of the present trend in increasing the rate of growth in support of the library from current allocations. The second is assuring the Library a significant priority in the fund-raising efforts of the University. The current Campaign for the 1990s was formulated during the mid to late 1980s, and is now well underway. It emphasizes, in a dramatic fashion, the developmental needs of the Schools, with special focus on Arts and Sciences, and on our students and faculties. However, the Library, which serves all schools, all faculty, and all students, represents less than 1.2% of the total overall current campaign goal. The recent Faculty Senate resolution recommends 2.5% as being consistent with the current percentage of budget. We believe that 4.0% would be appropriate for the quality of Library system worthy of our institution! Having noted this, it must be said that it is difficult to meddle with an ongoing process as large and complex as the current campaign for the 90s. We therefore urge that every effort be made to over-realize the current goal of 1.2%, and to then place the Library at the center of University developments in the post-campaign period and in the next major campaign.

The Council Committee of Libraries thus recommends:

*To achieve the recommended shift in budget priorities over the next 15-year period:*

*The facts regarding the current status and trends relating to funding and status of the University of Pennsylvania Library system be systematically brought to the attention of the Deans, Provost, President and Trustees, and, over the next five years internal budgeting process be developed to insure the recommended growth from 2.5 to 4.0% of operating budget over the projected 15 year period; and, that the Library, the Trustees and the Development Office work together to make the Library system a central element of the University fund-raising efforts for the next century, with the goal of returning the Penn Library to its former position in the ranks of the top ten university libraries in North America.*

William P. Reinhardt (Chemistry), Chair, for the Committee:

Adel Allouche (Oriental Studies)	Karen McGowan (Pediatrics)
Malcolm Campbell (History of Art)	Loretta Miller (Military Science)
Joseph Farrell (Classical Studies)	Joseph Porcelli (Wharton '91)
Gary Hatfield (Philosophy)	Thomas Max Safley (History)
Thomas Kinsella (GAS-English)	Jai Singh (SEAS '91)
Rose Mauro (GAS-Music)	Joseph Turow (Communications)
Paul Mosher (Vice Provost and Director of Libraries, ex officio)	

The following background materials on Racial Harassment Policies at Penn and elsewhere have been prepared by the Office of the President to facilitate and inform discussion at the Public Forum on Racial Harassment Policies, Monday, December 3, from 3 p.m. to 5 p.m. in 200 College Hall. All members of the University community are invited to participate.

## Background for a Forum on Racial Harassment Policies

### Origin of the Current Reconsideration of Penn's Racial Harassment Policy

The University's current policy on Racial Harassment, a portion of which is excerpted below (see Document #1), was promulgated by President Hackney in December 1988, in tandem with a policy on Sexual Harassment (*Almanac* 12/6/88). The President indicated at the time that "the intent of the two policies is to emphasize the University's commitment to deal with racial and sexual harassment in the firmest terms possible, and to make students, faculty and staff aware of the means that exist to address reports of harassment."

In September 1989, a U. S. District Judge in Michigan held unconstitutional a similar harassment policy at the University of Michigan because its excessive breadth and vagueness violated the constitutional rights of free speech and due process. The decision in the Michigan case cited the Supreme Court's 1942 ruling (see Document #2) in *Chaplinsky v. New Hampshire* which enunciated the so-called "fighting words" doctrine in defining the limits of free speech under the First Amendment:

There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.

In a subsequent amendment to the Michigan decision, the judge also cited a recent article (see Document #3) by Professor Mari J. Matsuda of the University of Hawaii in which the author emphasized the effects of racist speech on its victims and urged the criminalization of a narrowly defined category of such speech which causes "real harm, to real people," and should therefore be treated as behavior, not protected speech. It should be kept in mind that there are important differences between the University of Michigan and the University of Pennsylvania. In particular, Penn is a private institution and therefore not subject to the same federal constitutional constraints on regulating free speech as a public university. Also, as Professor Baker indicates (see his third point in Document #5), the current legal status of the "fighting words" doctrine is a matter of debate. Finally, as a community of scholars, the University of Pennsylvania is deeply committed to freedom of thought, inquiry, criticism, discourse, speech, and the dissemination of ideas, which are essential to its scholarly and educational purposes.

In the spring of 1990, concern over the possible implications of the Michigan decision, the perception of possible conflict between the University's Open Expression Guidelines and its Racial Harassment Policy, and a statement in *Almanac* 10/17/89 (see Document #4) by the then-chair of the Faculty Senate, Robert E. Davies, on the "fighting words" doctrine, led to discussion in University Council, on March 21 and April 11, 1990, regarding the possible need to reconsider or revise the University's Racial Harassment Policy. At the request of the Council's Steering Committee, C. Edwin Baker, the Nicholas F. Gallicchio Professor of Law, prepared a "content neutral" presentation outlining the legal and constitutional issues involved in the regulation of harassing speech on campus (reprinted below from *Almanac* 3/27/90 as Document #5). At its April 1990 meeting, Council voted in favor of a reevaluation of the University's Racial Harassment Policy, and it asked President Hackney to prepare a draft of an alternative policy to provide a basis for further discussion by the Council. After receiving substantial advice and comment from members of the University community, the President's Office prepared such an alternative policy (see Document #6) which was published in *Almanac* on October 2, 1990 and discussed at Council on October 10.

Discussion of the draft alternative racial harassment policy at University Council highlighted various problems, including its interpretation of the fighting words doctrine, its internal complexity, and the potential

difficulty of determining what expressions would fall under its definition of racial harassment. Discussion in Council and its Steering Committee also reflected the view that the origin and context of the current reconsideration had been lost over the summer months and that wider discussion was needed before the President should undertake the task of drafting and formally adopting a new Racial Harassment Policy for the University. The materials published below, the Public Forum on December 3, and further discussion by Council on December 12 are aimed at acquainting the University community with the issues under discussion and allowing ample opportunity for comment and discussion. It is anticipated that a new Racial Harassment Policy will be formulated, published "For Comment" in *Almanac*, and discussed at University Council during the winter.

### Why a Racial Harassment Policy?

Racial harassment policies are a particular case of a larger principle which is sometimes forgotten in discussing the various formulations of such a policy: No member of a university community should be subjected to harassment for any reason—race, gender, sexual or affectional preference, religion, national or ethnic origin, handicap or disability. It should be kept in mind that the University's policies on Nondiscrimination, Affirmative Action, Sexual Harassment, Code of Conduct, and Open Expression Guidelines all give expression to this larger principle.\* Unfortunately, it happens that at this particular time, members of certain racial groups are particularly vulnerable to harassment, and it is therefore appropriate to make special efforts to protect them.

### Differing Definitions of Racial Harassment

Central to the policy debate at Penn and elsewhere is the difficulty of framing a definition of racial harassment. This task is commonly presented as a problem of *balancing* the competing commitments of a university to open expression and civility, both of which are taken to be essential to the creation and transmission of knowledge and the free exchange of ideas. Such an exchange requires that all members of a university community be free to participate effectively in the work of the community without fear, coercion or intimidation. Racial harassment policies try to ensure that members of historically victimized groups will have full and complete access to the educational resources and intellectual discourse offered by a university and that they will be able to participate fully in the life of the institution. The need to maximize the protection of open expression, while also ensuring the participation of all members of a university community in the resulting dialogue, has led to definitions of harassment which seek to take advantage of the constitutionally recognized distinction between protected speech which furthers the exchange of ideas, and other verbal behaviors which have more in common with physical assault, e.g., defamation, libel, "fighting words" which inflict direct injury or incite to violence, terroristic threats, etc. The classic example of such unprotected speech is, of course, shouting "Fire!" in a crowded theater.

Efforts to frame racial harassment definitions in the light of these distinctions have appealed variously to the "fighting words" doctrine, to the well-established commitment of universities and society to non-discrimination, and to the infliction of "real harm," often in the form of severe emotional distress or deprivation of access to an education. The excerpts below (see Documents #7, 8, 9, and 10) are from racial

\* The full texts of these policies, as well as the University's current Racial Harassment Policy, are printed in the publication *University Policies and Procedures, 1989-91*, available from the Office of the Vice Provost for University Life (200 Houston Hall, 898-6081). Most of them also appear in the *Handbook for Faculty and Academic Administrators* (Revised 1990), available from the Office of the Secretary, currently located at 4200 Pine (898-7005).



harassment policies at Michigan (as revised after the 1989 Federal court ruling), Stanford, California, and Texas (as reprinted in *Regulating Racial Harassment on Campus: A Legal Compendium*, edited by Thomas P. Hustoles and Walter P. Connolly, Jr. Washington, D.C.: National Association of College and University Attorneys, 1990). They reflect the wide variation in current efforts to resolve this dilemma on university campuses across the country and may be useful background for discussions of Penn's own efforts to frame a new racial harassment policy.

Also reflected in these different policies are two differing—though not necessarily unrelated—visions of the mission and purpose of a university. One view sees the recognition and enhancement of “the dignity and worth of each person” as essential to a university’s mission. The other focuses on the “freedom of thought, discourse, speech and the dissemination of ideas” as essential to the creation of an open and unfettered marketplace of ideas. Racial harassment policies articulate the prioritization and relationship between these two objectives in different ways. The task before us is to integrate these two visions of the University of Pennsylvania.

## Document #1: Excerpt from Penn’s Current Racial Harassment Policy (Policies and Procedures 1989-1991)

### I. Conduct

Our community depends on trust and civility. A willingness to recognize the dignity and worth of each person at the University is essential to our mission.

It is the responsibility of each person on campus to respect the personal dignity of others. We expect members of our University community to demonstrate a basic generosity of spirit that precludes expressions of bigotry.

Penn properly celebrates the diversity of its community. We come to Penn from many different backgrounds and include different races, religions, sexual orientations, and ethnic ancestries. Learning to understand the differences among us, as well as the similarities, is an important dimension of education, one that continues for a lifetime. Tolerance alone, however, is not enough. Respect and understanding also are needed. We should delight in our differences, and should seek to appreciate the richness and personal growth which our diversity provides to us as members of this community.

The University is committed to freedom of thought, discourse and speech, and the attainment of the highest quality of academic and educational pursuits and daily work. Policies and regulations implementing this commitment include the Statement on Academic Freedom and Responsibility, the Guidelines on Open Expression, and the Code of Academic Integrity.

The University also has established policies on behaviors that interfere with these freedoms. Foremost among these policies is the University’s Statement on Non-Discrimination, which prohibits discrimination on the basis of race, color, sex, sexual preference, religion, national or ethnic origin, handicap or disability.

The University also has adopted the following policy concerning racial harassment. The terms “racial harassment” and “harassment” as used throughout are defined as a matter of University policy, and are not necessarily identical or limited to the uses of that term in external sources, including governmental guidelines or regulations.

## II. Purpose and Definitions

### A. Purpose

For many years the University has stressed that racial harassment is not tolerated at Penn—not only because it is reprehensible and discriminatory, but because it constitutes a form of unprofessional conduct that seriously undermines the atmosphere of trust and mutual respect that is essential to academic pursuit.

### B. Definition

For the purposes of University policy, the term “racial harassment” refers to any behavior, verbal or physical, that stigmatizes or victimizes individuals on the basis of race, ethnic or national origin, and that:

1. Involves a stated or implicit threat to the victim’s academic or employment status;
2. Has the purpose or effect of interfering with an individual’s academic or work performance; and/or,
3. Creates an intimidating or offensive academic, living, or work environment.

The University regards such behavior as a violation of the standards

of conduct required of all persons associated with the institution. The prohibition against racial harassment applies to all interactions occurring on campus, in University facilities, or within the context of University-related activities. It also applies to acts of retaliation against members of the community who have filed complaints under this policy.

As noted in the *Handbook for Faculty and Academic Administrators*, *Policies and Procedures*, the *Academic Bulletin*, and other University publications, persons engaged in such harassment within the University setting are subject to the full range of internal institutional disciplinary actions, including separation from the institution.

Not every act that might be offensive to an individual or a group necessarily will be considered as harassment and/or a violation of the University’s standard of conduct. In determining whether an act constitutes harassment, the totality of the circumstances that pertain to any given incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom and advocacy. . . .

## Document #2: Excerpt from the U.S. Supreme Court Decision (1942) in *Chaplinsky v. New Hampshire*

Allowing the broadest scope to the language and purpose of the Fourteenth Amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or “fighting” words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. “Resort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution, and its punishment as a criminal act would raise no question under that instrument.” *Cantwell*.

The state statute here challenged comes to us authoritatively construed by the highest court of New Hampshire . . . .

On the authority of its earlier decisions, the state court declared that the statute’s purpose was to preserve the public peace, no words being “forbidden except such as have a direct tendency to cause acts of violence by the persons to whom, individually, the remark is addressed.” It was further said:

The word “offensive” is not to be defined in terms of what a particular addressee thinks . . . . The test is what men of common intelligence would understand would be words likely to cause an average addressee to fight . . . . The English language has a number of words and expressions which by general consent are “fighting words” when said without a disarming smile . . . . Such words, as ordinary men know, are likely to cause a fight. So are threatening, profane or obscene revilings. Derisive and annoying words can be taken as coming within the purview of the statute as heretofore interpreted only when they have this characteristic of plainly tending to excite the addressee to a breach of the peace . . . . The statute, as construed, does no more than prohibit the face-to-face words plainly likely to cause a breach of the peace by the addressee, words whose speaking constitute a breach of the peace by the speaker—including “classical fighting words,” words in current use less “classical” but equally likely to cause violence, and other disorderly words, including profanity, obscenity and threats.

We are unable to say that the limited scope of the statute as thus construed contravenes the Constitutional right of free expression. It is a statute narrowly drawn and limited to define and punish specific conduct lying within the domain of state power, the use in a public place of words likely to cause a breach of the peace. . . .

## Document #3: Excerpt from “Public Response to Racist Speech: Considering the Victim’s Story” by Mari J. Matsuda (Michigan Law Review 87:2380-2381, August 1989)

....At private institutions, the principle of free speech is often evoked as a matter of ethics, regardless of whether the Constitution applies directly. The university case raises special concerns. Universities are special places, charged with pedagogy, and duty-bound to a constituency with special vulnerabilities. Many of the new adults who come to live and study at the major universities are away from home for the first time, and at a vulnerable stage of psychological development. Students are par-

ticularly dependent on the university for community, for intellectual development, and for self-defense. Official tolerance of racist speech in this setting is more harmful than generalized tolerance in the community-at-large. It is harmful to student perpetrators in that it is a lesson in getting-away-with-it that will have lifelong repercussions. It is harmful to targets, who perceive the university as taking sides through inaction, and who are left to their own resources in coping with the damage wrought. Finally it is a harm to the goals of inclusion, education, development of knowledge, and ethics that universities exist and stand for. Lessons of cynicism and hate replace lessons in critical thought and inquiry.

... When racist propaganda appears on campus, target-group students experience debilitated access to the full university experience. This is so even when hate propaganda is directed at groups rather than individuals.

Students are analogous to the captive audience that is afforded special first amendment consideration in other contexts. . . .

The failure to hear the victim's story results in an inability to give weight to competing values of constitutional dimension. . . .

The effect of racist propaganda is to devalue the individual and to treat masses of people in a degraded way with no measure of individual merit. . . .

The victim's experience reminds us that the harm of racist hate messages is a real harm, to real people. When the legal system offers no redress for that real harm, it perpetuates racism.

This Article...suggests criminalization of a narrow, explicitly defined class of racist hate speech, to provide public redress for the most serious harm, while leaving many forms of racist speech to private remedies. Some may feel this proposal does not go far enough, leaving much hurtful speech to the uneven control of the marketplace of ideas. Others will cringe at what they perceive as a call for censorship. This is not an easy legal or moral puzzle, but it is precisely in these places where we feel conflicting tugs at heart and mind that we have the most work to do and the most knowledge to gain.

... However we choose to respond to racist speech, let us present a competing ideology, one that has existed in tension with racism since the birth of our nation: there is inherent worth in each human being, and each is entitled to a life of dignity.

#### Document #4:

**"Fighting Words"** by Robert E. Davies  
(*Almanac*, 10/17/89)

The University of Michigan at Ann Arbor has a policy on harassment that is very similar to ours. Avern Cohn, a United States District Judge has recently decided that the policy was overbroad, impermissibly vague and hence unconstitutional (No. 89-71683, Eastern District of Michigan, Southern Division.). He wrote, "It is hereby ordered that The University of Michigan is permanently enjoined from enforcing its Policy on Discrimination and Discriminatory Harassment by Students in the University Environment (Policy) which was adopted April 15, 1988, as to verbal behavior or verbal conduct, but may enforce its Policy as to physical behavior or physical conduct."

Michigan is, of course, a state-chartered institution. Although Judge Cohn noted that a private institution like Yale (and presumably Penn) is not subject to the strictures of the First Amendment, we should be concerned about his conclusions on vagueness, etc. For example, he quoted that "No one may be required at the peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids."

He also wrote that

...certain categories (of so-called pure speech) can be generally described as unprotected by the First Amendment. It is clear that so-called "fighting-words" are not entitled to First Amendment protection. These would include "the lewd and obscene, the profane, the libelous, and the insulting or 'fighting words'—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace." Under certain circumstances racial and ethnic epithets, slurs, and insults might fall within this description and could constitutionally be prohibited by the University. In addition such speech may also be sufficient to state a claim for common law intentional infliction of emotional distress...Civil damages are available for speech which creates a hostile or abusive working environment on the basis of race or sex...

He later wrote an addendum after he had read an article by Mari J. Matsuda, associate professor of law at the University of Hawaii, and quoted her with approval as follows:

This Article attempts to begin a conversation about the first amendment

that acknowledges both the civil libertarian's fear of tyranny and the victims' experience of loss of liberty in a society that tolerates racist speech. It suggests criminalization of a narrow, explicitly defined class of racist hate speech, to provide public redress for the most serious harm, while leaving many forms of racist speech to private remedies...This is not an easy legal or moral puzzle, but it is precisely in these places where we feel conflicting tugs at the heart and mind that we have the most work to do and the most knowledge to gain.

I strongly recommend her article "Public Response to Racist Speech: Considering the Victim's Story" in the *Michigan Law Review*, (August 1989, vol. 87, p. 2320-2381) to all who wish to learn more about this difficult problem. It is full of interesting information and should certainly be taken into account by those who will be involved in the forthcoming review of our University Policies and Procedures and in the planning and operation of any future Diversity Education Programs.

#### Document #5:

##### **"The First Amendment and Harassment by Speech"**

by C. Edwin Baker  
(*Almanac*, 3/27/90)

I should open with two caveats. First, the proper constitutional treatment of speech that harasses on a racial basis is very much debated in the legal academic community at present, and there is no widespread consensus about most of the legal issues that I'll be describing. Still, I'll try to give you a sort of black-letter-law description. Second, I'm going to talk about the law as if the University of Pennsylvania were under the First Amendment, as if it were a state university. Whether or not the Constitutional provision applies to the University of Pennsylvania the same way it would apply to a public school is a separate legal issue. I will assume for purposes of discussion that people want the University to live up to the standards that would be constitutionally imposed on a state university.

There are a variety of categories of speech which can be prohibited consistent with the First Amendment as currently interpreted by the Supreme Court. I will begin by considering whether racially harassing speech fits into any of these categories.

— Some *individual libel* is unprotected. But not very much racial harassment can be put in the category of individual libel. Individual libel pretty much has to be both about a specific individual—and most racial harassment speech takes a more general form. Moreover, to be libelous, the speech must assert, in a very objective sense, a false statement of fact—and most racist speech is more opinion. The attempt to put it in the fact category cannot be easily done. Of course, one could argue that everything is opinion, there is no such thing as objective fact. Put that aside—we do have to draw the distinctions and for the most part what would be considered racist speech would be considered opinion—and thus, not unprotected as libel.

— Secondly, there is a category of speech that can generally be described as *group libel*. Roughly forty years ago the Supreme Court upheld a prosecution for group libel or racist speech. And if we accept that opinion as law, racist speech, appropriately defined, wouldn't be protected by the First Amendment. Nevertheless, at least for the last 25 years the vast majority of the legal commentators have concluded that that decision is not the law. Both the academic world and all the court cases that I've seen have treated that old decision as if it is no longer valid. The general conception, certainly in the courts and among a majority of legal scholars, is that group libel is not a category of speech which can be prohibited.

— Third, Professor Davies\* has noted a third category of speech, which can be called *fighting words*, that the Court has treated as not protected by the First Amendment. How one interprets the category of fighting words is a matter of some dispute; and even whether it is still a valid category of excluded speech, speech not protected by the First Amendment, is debated among legal scholars. Still, the Supreme Court seems to recognize the category of fighting words as not protected by the First Amendment. It views fighting words as more like throwing the first punch than like other verbal behaviors. But it is also quite clear that the courts construe the category of fighting words extremely narrowly. The court must conclude that the person who said the words should expect that the person to whom they were said would throw the next punch. So, for instance, fighting words must be something said in the context of face-to-face interaction. Even there, the general trend in court decisions is to view fighting words very narrowly. For example, a New York court recently considered a prosecution under a harassment statute of a person calling a neighbor a "bitch," her son a "dog," and stating that she would

\* *Almanac* October 17, 1989 [given here as Document #4]



"beat the crap out of [the complainant]" some day. The court found the speech protected and the statute unconstitutional.

— Finally, sometimes *verbal threats* can be prohibited. However, legal academics and case law indicate that some threats of doing bad things are protected under the Constitution while some forms of threats are not. That subject is complicated. There are certainly some versions of racist speech that is coupled with serious threats of physical injury that, under the Constitution, would be prohibited.

That's it for sort of the general reach of the First Amendment. Next I should note that there are some restricted places where permissible prohibitions on speech can be broader than in the world as a whole. There may be portions of the University, maybe in the classrooms, where you could apply more stringent rules. Still, you should be very cautious about drafting rules that prohibit certain types of speech within the classroom.

I should also note that there are clearly a variety of actions that are not protected merely because the actions involve expression or communication. If you deface property, the fact that you're using words to deface the property does not mean that the prohibition on the defacement of someone else's property doesn't apply to you. Various racist practices that have recently occurred on university campuses violated general regulations having nothing to do with racial harassment and not expressly directed at speech. Usually those rules are enforceable even though the violations involve speech as well as the prohibited conduct.

Beyond this outline of the law, I want to make several further observations. First, you should evaluate possible rules not merely in terms of what the Supreme Court holds the First Amendment to require. You should consider what makes sense to you. In particular, you should follow your own judgment if, like me, you think that the Court doesn't give adequate protection to free speech.

Second, despite the range of protected speech, there are some situations where people's First Amendment rights are limited or partially given up. Government employees commonly are restricted in their expression in ways related to their properly performing their jobs. It seems quite clear that an analogy would be that University faculty and administrators may be subjected to restrictions on their expression if the restriction embodies a requirement related to the proper performance of their instructional duties. I would argue, and this is complicated, that the justification of those limitations on faculty and administration probably does not apply to regulation of students—at least, student speech outside the classroom. Arguably, it may be permissible to regulate the racist speech of faculty and administrators more than that of students.

Third, if one does regulate expression, it is important that you know more than that there is some expression that can be and that you want to be regulated. There is a Constitutional mandate that regulation must be clear. The regulation must precisely identify what is prohibited. Otherwise the regulation will be unconstitutionally vague. Moreover, the regulation must not be overbroad. It must narrowly restrict only expression that is not constitutionally protected.

Finally, I have observed that in most recent discussions of racist speech, a whole host of examples of very offensive, injurious expression is usually presented to suggest the serious nature of the problem. The discussant, if sensitive to legal standards, will usually defend some limited regulation that she believes is Constitutional or appropriate. In most such discussions, as well as in articles I read on this subject, what the person thinks can be regulated frequently would not have reached many of these examples. Moreover, many of the examples of offensive, racist speech are already prohibited by existing, noncontroversial rules like those prohibiting defacement of property. Most of the other examples are not reached by the narrowly crafted restrictions on racist speech. If these observations are correct, if proposed restrictions accomplish little, one should think carefully about what one is accomplishing in designing regulations to restrict speech that one thought was subject to prohibition. Does regulation of speech accomplish the objective of limiting the injuries caused by racism on campus, or is an entirely different strategy more likely to have some impact or success?

**Document #6:**  
**Excerpt from the**  
**Draft Alternative Penn Racial Harassment Policy**  
(*Almanac*, 10/2/90)

**I. Preface**

Penn celebrates the plural character of its community. We come to Penn from many different backgrounds and include different colors, races, religions, sexual orientations, disabilities, and ethnic origins. Learning to understand the differences among us, as well as the similarities, is an important dimension of education, one that continues for a

lifetime. We should delight in our differences, and we should seek to appreciate the opportunities for enriched intellectual inquiry and personal growth that our diversity provides.

Each person on campus is to respect the personal dignity of others. We expect members of our University community to demonstrate a basic generosity of spirit that precludes expressions of bigotry while expecting and exhibiting tolerance for constitutional rights of free expression.

Penn is committed to freedom of thought, discourse, speech, and the dissemination of ideas. Policies and regulations implementing this commitment include the Statement on Academic Freedom and Responsibility, the Guidelines on Open Expression, and the Code of Academic Integrity.

Penn also has established policies regarding behaviors that interfere with these freedoms on the premise that our institution has an obligation to maintain an environment which promotes teaching, research, service, and other scholarly activities. Penn believes that this obligation is not met in an environment in which some members of the community are inhibited from fully benefiting from the resources of the University for reasons unrelated to their capacity to participate. Therefore, policies including the University's Statement on Non-Discrimination, which prohibits discrimination on the basis of race, color, sex, sexual orientation, religion, national or ethnic origin, veteran status, or disability and this institutional racial harassment policy have been established.

Following is the University racial harassment policy. The term "racial harassment" as used throughout is defined as a matter of University policy, and is not necessarily identical or limited to the uses of that term in external sources, including governmental guidelines or regulations. Racial harassment, as defined in this policy, is prohibited on the campus of the University of Pennsylvania and this prohibition shall apply to all members of the University community.

**II. Purposes and Definitions**

**A. Purpose**

The University of Pennsylvania is committed to the principles of free inquiry and free expression. Members of the community have the right to hold, vigorously defend, and promote their opinions. Respect for this right requires that the University tolerate expressions of opinion with which it may disagree or find abhorrent. Intimidation or attempts at intimidation by violence or threat of violence, when directed against some members of the University community by other members, is abnegation of this right and will not be tolerated at Penn—not only because it is reprehensible and discriminatory, but also because it constitutes a form of unprofessional conduct that seriously undermines the atmosphere of trust and mutual respect essential to our academic pursuits and working relationships.

**B. Definition**

For the purposes of University policy, the term "racial harassment" refers to any behavior that vilifies and intimidates an individual (or an identifiable group of individuals) on the basis of their race, national or ethnic origin, or color and employs vilification and intimidation through acts of violence or threats of violence against this individual or group. Speech or other behavior constitutes racial harassment by personal vilification and intimidation if it:

- is intended to demean, insult or stigmatize an individual (or an identifiable group of individuals) on the basis of their race, color, or national and ethnic origin; and
- is addressed to the individual or individuals whom it demeans, insults or stigmatizes;
- makes use of "fighting words" or their non-verbal equivalents.

Such behavior is regarded as a violation of the standards of conduct required of all persons associated with the institution. Violence, including direct threats of violence, and property damage, including defacement, are prohibited in all situations.

The prohibition against racial harassment applies to all activities occurring in the context of University-related activities. It also applies to acts of retaliation against members of the community who have filed complaints under this policy.

Not every act that might be offensive to an individual or a group will necessarily be considered harassment and/or a violation of the University's standards of conduct. In determining whether an act constitutes racial harassment, the circumstances that pertain to any given incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom, and advocacy. . . .

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## Document #7:

### Excerpt from "The University of Michigan Interim Policy on Discrimination and Discriminatory Conduct By Students in the University Environment"

#### Preamble

Discrimination...is unacceptable on the University of Michigan campus. Such behavior threatens to destroy the environment of tolerance and mutual respect which must prevail if a university is to fulfill its purpose.

Of equal importance on The University of Michigan campus is a strong commitment to the principle of freedom of speech guaranteed by the First Amendment to the United States Constitution. . . . The University is dedicated to allowing students vigorous and open academic discourse and intellectual inquiry, including speech that espouses controversial or even offensive ideas.

In the University context, a commitment to not interfere with free speech may lead to sheltering speech by students that is repugnant or morally offensive. Because of our respect for individual freedom and dignity, the sheltering of such speech is allowed in order to arrive at truth, to promote clearer reasoning by necessitating argument against opposing views, and in recognition of the fallibility of any one individual or institution in discerning the one, correct idea. Perhaps most important is that it reinforces our society's commitment to tolerance as a value.

It is clear, however, that under existing free speech jurisprudence all speech is not protected. The United States Supreme Court in *Cohen v. California* (1971) recognized that the First Amendment would not protect speech when "substantial privacy interests are ... invaded in an essentially intolerable manner." In the secondary school context, the Court said speech can be prohibited that "would materially and substantially interfere with the requirement of appropriate discipline in the operation of the school." *Tinker v. Des Moines Community School District*, (1969) "Fighting words" also do not enjoy First Amendment protection. *Chaplinsky v. New Hampshire*, 315 US 568, (1942) The language of these decisions shows that the Supreme Court is struggling to articulate the boundaries of protected speech.

After a thorough review of the issue, The University of Michigan has determined that it needs to intervene in speech when a student intentionally uses racial, ethnocentric or sexual invectives, epithets, slurs or utterances directly to attack or injure another individual rather than express or discuss an idea, ideology or philosophy. Such attacks go beyond the boundaries of protected free speech. In those instances, the University must protect the educational environment of the University.

Because there is tension between freedom of speech, the right of individuals to be free from injury caused by discrimination, and the University's duty to protect the educational process, the enforcement procedures assume that it is necessary to have varying standards depending upon the locus of the regulated conduct. Thus a distinction is drawn among public forums, educational and academic centers, and housing units.

#### Prohibited Discrimination and Discriminatory Conduct

##### A. Discrimination and discriminatory conduct in public forums.

Places such as the Diag, Regents' Plaza, the Fishbowl and the areas around Burton Tower are dedicated public forums which lend themselves to facilitating the free exchange of ideas within the University community. In many respects they resemble the public park or street corner. Similarly, the *Michigan Review*, the *Michigan Daily*, and other mass media enhance the discussion and debate of important ideas and issues. The broadest range of speech and expression will be tolerated in these areas and by these publications. Nevertheless, malicious and intentional verbal threats of physical violence and destruction of property in public forums which is the result of discriminatory behavior as defined in paragraph B below are misconduct and subject to discipline.

##### B. Discrimination and discriminatory conduct and harassment in educational and academic centers.

Educational and academic centers, such as classroom buildings, libraries, research laboratories, recreation and study centers, etc. are the locus of the University's educational mission. Accordingly the University has a compelling interest in assuring an environment in which learning may thrive. Such an environment requires free and unfettered discussion of the widest possible nature, encouraging expression of all points of view. The University acknowledges that the frank and open discussion of social, cultural, artistic, religious, scientific and political issues may be disturbing and even hurtful for some individuals. In such

instances, the principle of free exchange and inquiry takes precedence as it is so fundamental to the educational enterprise.

Discrimination and discriminatory harassment have no place in this educational enterprise. Physical acts or threats or verbal slurs, invectives or epithets referring to an individual's race, ethnicity, religion, sex, sexual orientation, creed, national origin, ancestry, age or handicap made with the purpose of injuring the person to whom the words or actions are directed and that are not made as a part of a discussion or exchange of an idea, ideology or philosophy are prohibited.

In order to illustrate the types of conduct which this subsection is designed to cover the following examples are set forth. These examples do not illustrate the only situations or types of conduct intended to be covered.

(1)—A student states in a physiology class the theory that the average size of the craniums of each race is related to the average intelligence of that race. A student in the class finds the remarks personally demeaning and files a complaint. There is no violation of the Policy because, although the remarks refer to race, they were not slurs, invectives, epithets or utterances directed with intent to injure any individual student and were made as part of a classroom discussion.

(2)—In a classroom before an exam a white student uses a racial epithet to a Black student and tells her to go home and stop using a white person's space. The Black student files a complaint. There is a violation of the Policy because the remark is a slur referring to race made with the purpose of affecting a particular student's performance on the exam and is not part of an exchange or discussion of ideas.

(3)—A student during a political science class discussion of the Holocaust states that it was a good thing because it destroyed members of an inferior religion. A Jewish student in the class files a complaint. Even though the remark may have been intended to upset Jewish members of the classes, it is protected under the Policy because it was made during a discussion of ideas.

(4)—A student tells a joke during class which slurs members of an ethnic group. The joke is extraneous to the class discussion at that time. A member of the ethnic group files a complaint. There is no violation of the Policy. Although the joke is not part of an exchange or discussion of ideas, it is not directed toward any individual with the purpose of injuring that person.

Students may not use race, ethnicity, religion, sex, sexual orientation, creed, national origin, ancestry, age, marital status, handicap or Vietnam-era veteran status to affect the terms, conditions, privileges, or benefits of an individual's education, employment, housing, or participation in a University activity.

Students also may not use threats, whether explicit or implicit, concerning the terms or conditions of an individual's education, employment, housing, or participation in a University activity as a way to gain sex and sexual favors. Unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature that interfere with an individual's academic efforts, employment or participation in University-sponsored activities also are prohibited.

##### C. Discrimination and discriminatory conduct and harassment in University Housing.

All members of the University community who live in or visit University housing are expected to abide by the same behavioral obligations that residents assume in executing their leases. Residents who violate their contractual obligations are subject to the full range of penalties provided under their leases including, but not limited to, termination of the lease, as well as sanctions described in this policy and in the housing division policy and procedures on discrimination and discriminatory harassment. Non-resident students who violate the standards of appropriate behavior in University housing are subject to discipline under this interim policy. . . .

##### D. False Accusations.

A student who knowingly and intentionally files a false complaint under this policy is subject to discipline.

#### Identifying Discriminatory Behavior

Not every act that might be offensive to an individual or a group necessarily will be considered a violation of this policy. Whether a specific act violates the policy will be determined with proper regard for all of the circumstances. Due consideration must be given to the protection of freedom of speech, including offensive speech, and also to individual rights, religious and moral convictions, academic freedom and advocacy. The Office of the General Consul will review all complaints filed under the policy to guarantee that First Amendment protections are observed. . . .

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## **Document #8: Excerpt from the Stanford University Policy**

The Fundamental Standard reads:

Students at Stanford are expected to show both within and without the University such respect for order, morality, personal honor and the rights of others as is demanded of good citizens. Failure to do this will be sufficient cause for removal from the University.

This statement remains unchanged and the new legislation will follow as it appears below:

### **Preamble**

The Fundamental Standard requires that students act with "such respect for ... the rights of others as is demanded of good citizens." Some incidents in recent years on campus have revealed doubt and disagreement about what this requirement means for students in the sensitive area where the right of free expression can conflict with the right to be free of invidious discrimination. This interpretation of the Fundamental Standard is offered by the Student Conduct Legislative Council to provide students and administrators with guidance in this area.

### **Fundamental Standard Interpretation:**

#### **Free Expression and Discriminatory Harassment**

1. Stanford is committed to the principles of free inquiry and free expression. Students have the right to hold and vigorously defend and promote their opinions, thus entering them into the life of the University, there to flourish or wither according to their merits. Respect for this right requires that students tolerate even expression of opinions which they find abhorrent. Intimidation of students by other students in their exercise of this right, by violence or threat of violence, is therefore considered to be a violation of the Fundamental Standard.

2. Stanford is also committed to principles of equal opportunity and non-discrimination. Each student has the right of equal access to a Stanford education without discrimination on the basis of sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin. Harassment of students on the basis of any of these characteristics contributes to a hostile environment that makes access to education for those subjected to it less than equal. Such discriminatory harassment is therefore considered to be a violation of the Fundamental Standard.

3. This interpretation of the Fundamental Standard is intended to clarify the point at which protected free expression ends and prohibited discriminatory harassment begins. Prohibited harassment includes discriminatory intimidation by threats of violence, and also includes personal vilification of students on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin.

4. Speech or other expression constitutes harassment by personal vilification if it:

- a) is intended to insult or stigmatize an individual or a small number of individuals on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin; and
- b) is addressed directly to the individuals whom it insults or stigmatizes; and
- c) makes use of insulting or "fighting" words or non-verbal symbols.

In the context of discriminatory harassment by personal vilification, insulting or "fighting" words or non-verbal symbols are those "which by their very utterance inflict injury or tend to incite to an immediate breach of the peace," and which are commonly understood to convey direct and visceral hatred or contempt for human beings on the basis of their sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin. . . .

## **Document #9: The University of California Policy**

### **Universitywide Student Conduct: Harassment Policy**

#### **Student Conduct**

Chancellors may impose discipline for violations of University policies or campus regulations. Such violations include the following types of misconduct:

The use of "fighting words" by students to harass any person(s) on University property, on other property to which these policies apply as

defined in campus implementing regulations, or in connection with official University functions or University-sponsored programs.

"Fighting words" are those personally abusive epithets which, when directly addressed to any ordinary person are, in the context used and as a matter of common knowledge, inherently likely to provoke a violent reaction whether or not they actually do so. Such words include, but are not limited to, those terms widely recognized to be derogatory references to race, ethnicity, religion, sex, sexual orientation, disability, and other personal characteristics.

"Fighting words" constitute "harassment" when the circumstances of their utterance create a hostile and intimidating environment which the student uttering them should reasonably know will interfere with the victim's ability to pursue effectively his or her education or otherwise to participate fully in University programs and activities.

## **Document #10: Excerpt from The University of Texas Policy**

### **Prohibition of Racial Harassment of Students**

#### **I. Statement of Principles**

In order to educate undergraduate and graduate students of diverse social, economic, racial, and ethnic backgrounds, it is essential that the University of Texas at Austin provide equal educational opportunities for all students. The University also should foster understanding of cultural diversity and cultivate the ethical and moral values that are the basis of a humane social order. To fulfill these aspirations, The University must maintain an environment free of racial intimidation, humiliation, and harassment.

Racist attitudes and beliefs may be revealed in threats and other communications or acts of violence, hatred, abuse of authority, or ill-will that assault the person or the sense of self-worth of the victims. Such communications and acts vilify, ridicule, and humiliate the victim and also can cause serious emotional distress, impede the learning process, and, in the form of "fighting words," may provoke a violent response. Racist behavior also brings dishonor to the perpetrator, demoralizes and disrupts the academic community as a whole, and diminishes the stature of The University. For all of these reasons, The University unequivocally condemns racist behavior in all of its forms.

The University also is committed to the principles of free inquiry and expression. Members of the university community have the right to hold, vigorously defend, and express their ideas and opinions, to flourish or wither according to their merits. Respect for this right requires that students tolerate expression of views that they find abhorrent. But whatever the legal boundaries of free speech, the members of an educational community should voluntarily adopt standards of civility and good taste that reflect mutual respect, understanding, and sensitivity among its diverse racial, ethnic, and cultural groups. In particular, members of the faculty represent The University and have a special role and position of authority with respect to students. They should treat students with respect and should be sensitive to the impact of their words and opinions on them.

#### **II. Disciplinary Rules and Definition of Racial Harassment**

It is the policy of The University of Texas at Austin to maintain an educational environment free from racial harassment, humiliation, and intimidation of students. Racial harassment, as defined herein, is expressly prohibited, and student, faculty, and non-faculty employee offenders are subject to disciplinary action for violation of the prohibition. . . .

"Racial harassment" is defined as extreme or outrageous acts or communications that are intended to harass, intimidate, or humiliate a student or students on account of race, color, or national origin and that reasonably cause them to suffer severe emotional distress. . . . It is unlawful for any student, faculty member, or non-faculty employee to engage in racial harassment of any student, whether the harassment takes place on or off of the campus.

If a violation of a Regents' rule or any other properly promulgated and published institutional rule or policy, other than those defining and punishing racial harassment, is committed because of the race, color, or national origin of a student or students directly harmed by the violation, such a discriminatory purpose shall be treated as an aggravating factor for the purpose of determining the appropriate discipline or penalty. . . .

**Public Forum on Racial Harassment Policies: Monday, December 3, from 3 to 5 p.m., 200 College Hall**

## University of Pennsylvania Police Department

This report contains tallies of part 1 crimes, a listing of part 1 crimes against persons, and summaries of part 1 crime in the five busiest sectors on campus where two or more incidents were reported between November 12, 1990, and November 25, 1990

**Totals:** Crimes Against Persons—0, Thefts—32, Burglaries—2, Thefts of Auto—3, Attempted Thefts of Auto—0

Date	Time	Location	Incident
<b>34th to 38th; Civic Center to Hamilton Walk</b>			
11/15/90	3:15 PM	Johnson Pavilion	Unattended wallet and contents taken
11/16/90	11:15 AM	Medical School	Unattended coat taken
11/19/90	1:23 PM	Johnson Pavilion	Unattended backpack taken
11/20/90	12:29 PM	Clinical Research Bldg	Camera taken from unsecured room
11/21/90	2:15 PM	Blockley Hall	Unattended pocketbook taken
11/25/90	8:27 PM	Richards Bldg	CD player and headphones taken
<b>36th to 37th; Locust to Walnut</b>			
11/14/90	2:14 AM	Christian Ass'n	Disorderly males/2 arrests
11/15/90	7:37 PM	Christian Ass'n	Bike taken
11/19/90	2:13 PM	Hillel Foundation	Unsecured bike taken
11/21/90	2:39 AM	Christian Ass'n	Money taken from unattended knapsack
<b>38th to 40th; Baltimore to Spruce</b>			
11/12/90	3:00 PM	Sigma Alpha Epsilon	Unattended jacket and keys taken
11/12/90	11:03 PM	Pi Lambda Phi	Male attempt to take VCR/fled area
11/21/90	11:22 AM	Pi Kappa Alpha	Unattended jacket and keys taken
11/21/90	5:07 PM	Sigma Alpha Epsilon	License plate taken from auto
<b>34th to 36th; Spruce to Walnut</b>			
11/13/90	3:05 PM	Houston Hall	Unattended purse taken
11/16/90	1:26 PM	Houston Hall	Unattended coat taken
11/16/90	3:30 PM	Houston Hall	Unattended backpack with credit cards taken
<b>32nd to 33rd; South to Walnut</b>			
11/17/90	8:12 PM	Franklin Field	Secured bike taken from rack
11/17/90	8:29 PM	White Training House	Secured bike taken from rack
11/21/90	7:16 PM	Weightman Hall	Burglar in building/male arrested

**Safety Tip:** Vulnerability is the key. A criminal looks for and exploits perceived weaknesses. The less vulnerable appearing the person, residence, or vehicle the less chance of loss, theft, robbery or assault

## 18th District Crimes Against Persons

Schuylkill River to 49th Street, Market Street to Woodland Ave.  
12:01 AM November 5, 1990 to 11:59 PM November 18, 1990

**Totals:** Incidents—28, Arrests—8

Date	Time	Location	Incident/Weapon	Arrest
11/05/90	9:51 PM	4400 Locust	Robbery/knife	No
11/05/90	11:43 PM	4100 Locust	Robbery/gun	Yes
11/05/90	9:13 PM	4400 Market	Robbery/gun	No
11/06/90	2:35 AM	101 S. 39th	Robbery/knife	No
11/06/90	6:48 AM	3700 Walnut	Robbery/knife	Yes
11/06/90	6:51 AM	3300 Market	Robbery/knife	Yes
11/07/90	12:16 AM	4616 Woodland	Robbery/strong-arm	No
11/07/90	8:03 PM	4400 Walnut	Aggravated Assault/gun	No
11/08/90	3:53 AM	4000 Spruce	Robbery/gun	No
11/09/90	11:25 PM	4500 Locust	Robbery/pipe	No
11/10/90	2:01 AM	122 S. 41st	Robbery/gun	No
11/10/90	3:45 AM	3833 Ludlow	Robbery/gun	No
11/10/90	3:15 PM	3300 Chestnut	Robbery/strong-arm	No
11/10/90	8:02 PM	4723 Kingsessing	Aggravated Assault/gun	Yes
11/12/90	5:00 PM	227 S. 45th	Robbery/gun	No
11/12/90	11:20 PM	3400 Civic Center	Aggravated Assault/fists	Yes
11/13/90	7:10 PM	4226 Spruce	Robbery/strong-arm	Yes
11/14/90	1:35 AM	229 S. Buckingham	Aggravated Assault/stick	Yes
11/14/90	5:20 PM	3400 Walnut	Robbery/strong-arm	Yes
11/15/90	3:14 PM	1408 S. Hanson	Aggravated Assault/board	No
11/16/90	12:40 AM	4833 Woodland	Aggravated Assault/gun	No
11/17/90	5:51 PM	4800 Grays Ferry	Robbery/strong-arm	No
11/17/90	7:40 AM	122 S. 43rd	Robbery/knife	No
11/17/90	4:10 PM	3800 Sansom	Robbery/strong-arm	No
11/17/90	11:05 PM	4700 Spruce	Robbery/gun	No
11/17/90	11:08 PM	3925 Walnut	Robbery/gun	No
11/18/90	11:45 PM	3400 Market	Robbery/strong-arm	No
11/18/90	5:29 AM	3925 Walnut	Robbery/strong-arm	No

# Update

NOVEMBER AT PENN

## CHANGES

**Teachers and Students;** the November 27 recital by baritone Stephen Kalm, will be held at 8:30 p.m., Auditorium, Christian Association Building (Music Department).

The date of the talk to be given by Donald Hilgemann at the Physiology Library, has been changed to November 28.

## EXHIBITS

**28 The Philadelphia Project;** live performances and taped excerpts from sixteen Philadelphia artists who were commissioned to create new works for a regional perspective of the national series *New American Radio*, which will be aired on WXPB-FM Friday evenings; 7:30 p.m., International House. Tickets: \$5, \$4 for students, members and senior citizens (Neighborhood Film/Video Projects International House).

## SPECIAL EVENTS

**27 University Museum Sale;** faculty members and staff with a PennCard receive a 10% discount on all purchases at the University Museum Shop and the Pyramid Shop. Tuesday-Saturday 10 a.m.-4:15 p.m.; Sunday 1-4:45 p.m. (University Museum). *Through December 2.*

**29 Debate: The Death Penalty;** featuring Richard K. Willard, Esq., Steptoe and Johnson, Washington, D.C. and David Rudovsky, Penn Law; 4:15 p.m., Penn Law School. Information: 222-4115 (Penn Law Chapter of The Federalist Society).

## TALKS

**28 Fungal Diagnosis;** Donald Armstrong, medicine, Memorial Sloan Kettering; 11 a.m., Medical Alumni Hall, 1 Maloney, HUP (Section of General Internal Medicine).

**29 Ectopic Pregnancy;** 8:15 a.m., E.R. Conference Room, Gr. Silverstein, HUP (Section of General Internal Medicine).

**New Initiatives in Screening for Occupationally Related Bladder Cancers;** Thomas J. Mason, director, epidemiologic research, Fox Chase Cancer Center; 9 a.m., Room 313, Nursing Education Building (Section of General Internal Medicine).

**An Elderly Woman with Headache and Elevated ESR;** Mark Siegel and Peter Callagari; noon, General Medicine Conference Room, 3 Silverstein, HUP (Section of General Internal Medicine).

**Effects of Alternative Liability Rules for Medical Malpractice;** Patricia Danzon, health care systems and insurance; 12:15 p.m., Room 2054, Steinberg-Dietrich Hall (Health Services Research and Policy Seminars).

**Parental Imprinting of the Insulin-like Growth Factor II Gene in ES Cell-Derived Mice;** Thomas M. DeChiara, genetics and development, Columbia University; 4 p.m., Wistar Auditorium (The Wistar Institute).

**Early and Recent Work;** Andres Serrano, artist; 6:30 p.m., Room B-3, Meyerson Hall (GSFA Student Lecture Series and ICA).

**Deadline:** January at Penn; December 4.