

# “FREE SPEECH IS WHO WE ARE”: THE UNIVERSITY OF CALIFORNIA AND THE STRUGGLE TO PRESERVE BERKELEY’S FREE SPEECH TRADITION IN THE TRUMP ERA

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It is no accident that the most serious free speech crisis at UC Berkeley in more than a half century exploded less than two weeks after the start of the Trump presidency. I am referring, of course, to the disgraceful antifa riot on the night of February 1, 2017 that did more than \$100,000 in property damage to the Berkeley student union building, preventing the bigoted, foul mouthed, far right provocateur Milo Yiannopoulos from speaking there.<sup>1</sup> Leftists, liberals, and conservatives in Berkeley who see eye to eye on little else do agree that this violence wrought by a coordinated force of some 150 club-wielding, masked, black clad antifas, would not have even been imaginable had it not been for the extreme political polarization unleashed by Trump.<sup>2</sup>

Donald Trump’s openly nativist, Islamophobic, white nationalist presidential campaign, his authoritarian political style, and his late January ban on Muslim immigrants emboldened the far right, legitimated the alt right, sending the far Left into a panic. This left antifa acting as if America was in its Germany 1933 moment, on the verge of going fascist. And so “by any means necessary” fascistic speakers like Yiannopoulos (linked to Trump via the white nationalist alt right Breitbart News publication where Yiannopoulos had been a protégé of Steve Bannon, Trump’s campaign manager and strategist), had to be denied a platform from which to spread hatred and bigotry. All the more so since it was rumored that Yiannopoulos intended to out undocumented immigrant students at Berkeley just as he had harassed and mocked from the podium a transgender student at the University of Wisconsin, Milwaukee, whose image he had projected in the lecture hall and on Breitbart’s website.<sup>3</sup> This was a moment when the far left and far right fed off each other in their frenzied politics of hatred and demonization as the bigoted and newly empowered Trump administration set off an almost incredible wave of political tension and turmoil.

Of course campus free speech disputes and violations did not begin with Trump; they have been present throughout the history of American higher education. For much of the 20<sup>th</sup> century these violations were visited primarily upon the Left by anti-radical university and college administrators.<sup>4</sup> It has only been since the closing decades of the 20<sup>th</sup> century that such violations began impacting those on the right, who ran afoul of overly broad (and unconstitutional) campus speech codes, with their hate speech restrictions.<sup>5</sup> But even these violations were almost exclusively non-violent and on individual campuses small scale, compared to the major riot that disrupted Yiannopoulos’ speaking engagement at Berkeley last year at the dawn of the Trump era.<sup>6</sup>

Most commentators on that riot noted the irony that this massive free speech violation occurred at UC Berkeley since Cal was the birthplace of the most famous and victorious student-led struggle for free speech in all of American history, the Berkeley Free Speech Movement of 1964, which established the principle that the university must not restrict the political content of speech or advocacy on campus. Yes, that Berkeley was the site of an anti-free speech riot was indeed ironic. But it is simplistic and inaccurate to read the anti-Yiannopoulos riot – as it was by Trump, Fox News and rightwing critics both in Berkeley and nationally – as evidence that UC Berkeley had committed a free speech violation, abandoning its vaunted free speech tradition.<sup>7</sup> The riotous free speech violation, after all, had been caused by violent and mostly non-student militants who invaded the campus not by the university itself (though the rioters were masked, the campus police and other eyewitnesses noted that most did not know their way around the Berkeley campus and neither looked nor acted like students or members of the campus community. Only 1 or 2 out of the 150 or so rioters have been identified as Cal students).<sup>8</sup> So the Berkeley-bashing response of right wingers to the riot, epitomized by Donald Trump’s demagogic tweet suggesting that, since UC Berkeley did not support free speech and promoted violence against dissenters, its federal funds should be cut off, was a blatant case of blaming (and threatening!) the victim.<sup>9</sup>

In fact, the UC Berkeley administration consistently stood up for free speech, refusing to accede to demands from the Left that Yiannopoulos’ speech be cancelled. Had it not been for the riot, which UC Berkeley’s administration condemned, the speech would have taken place.<sup>10</sup> It was only after the riot erupted and public safety was endangered that UC Berkeley reluctantly cancelled the event. Actually, the administration of UC Berkeley Chancellor Nicholas Dirks (which ended at the close of the 2017 academic year) and his successor Carol Christ (whose chancellorship began at the start of the 2017-18 academic year) would make the preservation of Berkeley’s free speech tradition a top priority, spending millions of dollars for security (despite Cal’s budget crisis and deficit) to ensure that right wing speakers could be heard on campus and that the February riot was not repeated. Indeed, Christ declared that her first year as chancellor would be “Free Speech Year” at Berkeley –complete with forums on campus free speech controversies, and speakers from all parts of the political spectrum -- because free speech was “who we are” at Berkeley.<sup>11</sup> This deep commitment to free speech and willingness to foot astronomical bills for security to protect unpopular speakers made it possible not only for Yiannopoulos to experience a peaceful return to Berkeley in fall 2017, but also

for other controversial rightwing speakers, including Ann Coulter and Ben Shapiro, to be accommodated for campus speaking engagements so long as they agreed to speak at a time and location where campus police could assure that their speaking events could occur safely (which Shapiro did and Coulter did not).<sup>12</sup>

Much as the political polarization of the Trump era makes it a challenge to protect the free speech tradition at Berkeley, it also makes it difficult to reach a consensus across the ideological spectrum on the state of that free speech tradition.

As intimated earlier, if you think about it objectively, the fact that in the first year of the Trump era UC Berkeley administrations spent millions of dollars on security, brought in an army of police, and endured denunciation from the far Left all to enable right wing speakers to hold public events on the Berkeley campus, you'd have to say the university's free speech tradition is alive, well, and upheld vigorously by UC's leadership.<sup>13</sup> Yet this is not the way Trump supporters and others on the right see things. Hostile to the liberal university, which they view as a site of political correctness and leftwing indoctrination, they see UC Berkeley as complicit with those on the far Left who seek to suppress right wing speech on campus.<sup>14</sup>

Perhaps the most striking example of this Berkeley-bashing narrative was the right wing media suggestion in February 2017 that Berkeley officials coddled the anti- Yiannopoulos rioters. The rightwing media popularized the claim that during the riot the Berkeley campus police were issued a "stand down" order, and supposedly cowered in the student union building rather than go out on the plaza to confront and arrest the rioters. This claim, which provoked a flood of irate e-mails to UC Berkeley Campus Police Chief Margo Bennett, was not merely untrue, but ludicrous. There was no stand down order. Outnumbered and taken by surprise by the startling and unprecedented invasion of the campus by a disciplined para-military force, the police's mission was to save lives, defend the building the antifas were besieging and protect those inside of it, including the speaker, Milo Yiannopoulos. Since the antifas had embedded themselves in the crowd of non-violent protesters on the plaza, there was no way for the police to have waded into the crowd to make mass arrests without risking serious injury to innocent students outside since bloody confrontations between club-wielding antifas and the police would have certainly occurred had the police opted to prioritize arrests. The reality, according to Chief Bennett, was that the police acted in a disciplined way to prevent the antifas from entering and destroying the student union building and harming Yiannopoulos, his entourage, and student hosts.<sup>15</sup> But this went unnoticed by right wing media so eager to bash Berkeley's liberalism that it made even the Berkeley campus police out to be coddlers of radicals who supposedly would not stand up to leftwing forces of political disruption and intolerance.

Just how crazily inaccurate was Trump's tweet alleging that UC Berkeley suppressed free speech and fomented violence against dissenters can best be seen via the experience of Chancellor Dirks the night of the riot. Dirks's strong free speech position had

made him such an object of scorn among the antifa rioters (since in their view he had provided a platform of the hateful fascist speaker whose event they would riot to shut down) that campus police – concerned about his safety – advised him not to go to Sproul Plaza, where he could easily have been a target for physical attack. And once the rioters had forced the shutting down of the Yiannopoulos speech, reports came in to the police that they were planning to besiege Chancellor Dirks's residence on campus – leading the police to suggest he be ready to evacuate his residence.

Indeed, after word of that threat from the rioters, police came to Dirks' residence in case the evacuation was necessary. It was only because the rioters (as mostly non-students) were unfamiliar with the campus and so did not know where the chancellor's home --University House – was located that such a siege was avoided, and they diverted to California Hall. There the presence of the Oakland Police, who UC had been called in under mutual aid, finally drove the rioters from the campus.

Having been so demonized and threatened by these violent militants for defending free speech, it was positively surreal for Dirks the next morning to read that tweet of the President of the United States charging the university Dirks led with repressing free speech and instigating violence for such repression. Trump's tweet read: "If U.C. Berkeley does not allow free speech and practices violence on innocent people with a different point of view – NO FEDERAL FUNDS?"<sup>16</sup> For Dirks that absurdly inaccurate and slanderous Trump tweet, as well as the Fox News broadcast's equally misleading condemnation of the university for "repressing conservative thought," constituted "a kind of window on to our current political reality, which is that truth is not relevant... But it was stark, and it was quick, and it was dramatic."<sup>17</sup> Nils Gilman, Dirks's chief of staff, was also appalled at the right wing media's distortion of the events at UC Berkeley, recalling that even though the university administration had championed free speech and only cancelled the talk when the riot put lives at risk, "it was very hard to put that message through because of a huge element of bad faith in much of what gets called reporting on the Right – where the goal is to throw shit at the liberals. And they do that any way they can. And one way to do that was to "conflate" the rioters "with" the "university ... [and its] administration."<sup>18</sup>

Even mainstream TV news reporting failed to explain the dynamics of the riot scene itself, leaving the impression that university authorities, including the campus police, had been passive in the face of a violent mob because police had been unable to stop the riot or make mass arrests at the riot scene. Viewers did not understand how unprecedented and dangerous was this invasion of the campus by a large disciplined force of rioters, armed with clubs and incendiary devices. Nor was it reported that the university had called in the Oakland Police for reinforcements. This "pretty poor media coverage," according to University spokesperson Dan Moguloff, left many people angry at Cal, based on either incomplete or distorted news reports. For many of the people who wrote angry messages to UC officials, Moguloff explains, "it seemed all so simple. 'Arrest those people. What the hell were you doing?' But no one stopped to

consider if we had enough police officers. If what happened was unprecedented and took us by surprise, etc., etc. As covered by the media it all seemed so simple. We had police officers. These bad guys came. They tried to disrupt [the speaking event] and nothing happened [to them, so] they were able to shut the event down. The University must have been somehow complicit or negligent. It was extraordinarily frustrating.”<sup>19</sup>

Chancellor Dirks did not have to wait long to see how the combination of such incomplete, misleading media coverage and Trump’s hostile tweet had hurt the university’s reputation. “When you follow my Twitter feed after the February 1<sup>st</sup> event” you are immediately struck by “the amount of hate. People calling up... with no particular connection to Berkeley, they were screaming at my assistant ‘You’ve suppressed freedom of speech, You’ve suppressed freedom of speech’... The mainstream media... by careless reporting ... reinforced the notion that free speech had been endangered” by the university itself.<sup>20</sup> “We can’t control Breitbart, we can’t control Fox, we can’t control Trump, but The New York Times” should get the story right. Thus Dirks wrote to Times expressing “regret that” its reportage did not make clear that “my administration ... went to extraordinary lengths to facilitate planning and preparation for” the Yiannopoulos event, and cancelled it “only after determining that both the speaker’s and the public’s safety was highly endangered” after the campus “was invaded by more than 100 armed people in masks and dark uniforms who used paramilitary tactics to engage in violent destructive behavior intended to shut down the event.”<sup>21</sup>

While the national media’s poor reportage was a major concern, Dirks was also alarmed by a disturbing trend in the media closer to home. Several students, alumni, and community members published op-eds in UC Berkeley’s student newspaper, the Daily Californian, the week following the riot, defending the antifas’ use of violence to shut down the Yiannopoulos speaking event. Although the authors of these defenses of violence represented only a small Left fringe on campus, Dirks felt strongly that such illiberal expressions and endorsements of left wing vigilanteism had to be challenged – and he did so in an op-ed he published in The Daily Californian. Dirks wrote that he was “horrificed by the call to embrace the use of violence to contest views with which we may disagree. Even if one believes that Yiannopoulos’ speech might potentially have constituted some form of verbal violence, meeting this threat with actual physical violence is antithetical to what we, as a community dedicated to open inquiry, must do and stand for. Physical violence has absolutely no place on our campus.... In our present political moment, we need more than ever to cleave to the laws that protect our fundamental rights. The First Amendment is unequivocal in its almost unfettered protection of speech with which many might disagree.... We cannot support free speech selectively....”<sup>22</sup>

Dirks was, of course, justified in his concerns. It was shocking to see pro-violence opinions being expressed in the student newspaper. The arguments offered in defense of violence centered, as Dirks implied, on a false equivalence between Yiannopoulos’s alleged verbal violence and actual physical violence. The op-eds all cited an unverified rumor that

Yiannopoulos planned to out undocumented students at Berkeley, much as he had cruelly mocked and singled out a transgender student in his appearance at the University of Wisconsin at Milwaukee. This would endanger undocumented students at Cal, so in the words of one of these antifa supporters, “this is violence. If I know that you are planning to attack me, I’ll do all I can to throw the first punch.”<sup>23</sup> Such hate speech should, they argued, be banned from the campus and since the university administration was too timid to do so the community had a right to defend itself. “These were not acts of violence,” explained the only Cal student who admitted to being a one of the rioters, “they were acts of self-defense... No one will protect us? We will protect ourselves.”<sup>24</sup> The idea being that liberals such as Dirks lacked the courage to stand up to fascists, leaving it to the more resilient and clear-headed radical Left to defend the besieged Berkeley community from the fascist threat.

With any reflection at all, such arguments defending political vigilanteism and censorship essentially refute themselves. If expressing views that can potentially lead to violence should be banned, as these op-eds assumed, then of course, these very op-eds ought to have been banned since they actually advocated violence. If Yiannopoulos and his supporters wanted to out undocumented students they could have done so quite efficiently and easily in private by naming and turning them into ICE – there was no need to do so from the podium. Had Yiannopoulos sought to pull such a political stunt in his speech at Berkeley he’d have undoubtedly been heckled or booed off the stage, so there was no need for actual physical violence. And if his far right supporters doxed or physically threatened Cal students of color or transgender students they could be prosecuted. These justifications for violence, then, are – to put it mildly - lacking in logic, but they do attest that the small but vocal far Left at Berkeley could and did welcome violence to stifle the free speech of the far right.

Most Berkeley students, according to Cal Democrats activist David Olin, rejected such arguments and the violence itself. The riot, in Olin’s words, “was the result of a fringe and frankly ridiculous group of people who acted violently.”<sup>25</sup> Berkeley student government president William Morrow agreed, and charged that rioters “with their faces masked and weapons in their hands are not coming to make history – they are coming to create chaos”<sup>26</sup>

There is no question, moreover, that most Berkeley students opposed banning speakers on the basis of their political beliefs. In fact, a survey of incoming students at Cal in fall 2017 found that “three-quarters of them agree that ‘the University has a responsibility to provide equal access to safe and secure venues for guest speakers of all viewpoints – even if the ideas are found offensive by some or conflict with the values held by the UC Berkeley community.’”<sup>27</sup>

This does not mean, however, that many of Berkeley’s 40,000 students thought that the Berkeley College Republicans behaved responsibly in inviting Yiannopoulos to campus. Yiannopoulos seemed to many students barren of serious political ideas, and a troll whose rhetoric was crude and cruel. And that he’d

been invited because the BCR was seeking publicity not for any genuine educational value. There was a huge contradiction between the way students had been educated since grade school not to bully, not to act in a bigoted way, and Yiannopoulos' trolling, in which he used bigoted discourse and bullied vulnerable minorities.<sup>28</sup> "You can," explained Cal spokesperson Dan Mogulof, "understand the students' dismay and confusion when here we are spending millions of dollars to protect and support speakers who engage in [abusive] rhetoric that if students engaged[in] in their residence halls they'd be hauled up on student conduct charges or certainly [would have been punished for using such rhetoric] on their high school playgrounds."<sup>29</sup> Chancellor Dirks agrees: "It's a terrible inconsistency. Real tensions... exist between the [university's] values of inclusion and the values of free speech. I think for kids it is a genuine confusion. The truth is that students by virtue of being... member[s] of a student community are often constrained in ways that outside people are not... They are subject to student [conduct] codes. Students for saying things can be held accountable by the rules of student conduct that actually are not about freedom of speech because they're community values."<sup>30</sup>

What this meant was that many students felt that Yiannopoulos' cruel bullying made him a terrible choice for a campus speaker. And that no good could come of his coming to Cal, especially in light of the disruptions and violence that his abusive speaking engagements had already wrought on his national campus tour. That is why, as Mogulof put it, the "center of gravity" in student opinion "was dismay and disbelief that there wasn't some way to keep" speakers like Yiannopoulos "off campus. Not because they were conservative but because they were so assaultive in their rhetoric." Even when told by the law school dean that the First Amendment left Cal with no choice but to open its campus to Yiannopoulos many students remained dissatisfied -- since the far right speaker's abusive behavior seemed beyond the pale in an educational community.

Such views were only reinforced by the riot and subsequent police invasions of campus to protect far right speakers -- which seemed to convert Cal into a political war zone, leaving students alienated, and, in Mogulof's words, feeling "This is not why we're here," that they'd come to Berkeley for an education not a political circus.<sup>31</sup> This is likely why some students were glad the Yiannopoulos speech was ultimately cancelled, and why an activist minority of students, at the riot scene, though themselves non-violent, welcomed the antifas' disruption of the Yiannopoulos event.

Thus it was Dirks and the university administration not the student body that was completely consistent in its support of the First Amendment and the Berkeley free speech tradition, in insisting that Cal be open to all, even an immensely unpopular far right troll. Nonetheless, along with its president and media arm, the American right wing's richly endowed foundation world embraced the false narrative of UC Berkeley as a university that suppresses conservative speech. The Young America's Foundation (worth \$59 million)<sup>32</sup> is the key actor in this regard; it has filed two law suits (the first of which was thrown out) charging that

the university's major events policy -- adopted in the wake of the February riot -- discriminates against conservative speakers.<sup>33</sup> This policy, for the sake of security and to avoid a repeat of the riot, requires that major campus events that the police determine pose a security risk be held at times and in campus locations in which the police can provide adequate protection. The YAF has been joined in this law suit by Attorney General Jeff Sessions and the Trump administration's Justice department.<sup>34</sup> Of course we leave it to the courts to judge the merits of this suit. But it seems ironic that a university that has spent millions and devoted endless staff time providing right wing speakers access to the campus is nonetheless being depicted as repressive, and dragged into court for allegedly discriminating against right wing speakers.

Hostile to the liberal university, the YAF appears interested not in resolving free speech problems but exaggerating them so as to harass the university, sue it, and place it in the most negative light possible. For example, in July 2017 the Berkeley College Republicans were seeking a venue for the campus appearance of conservative writer Ben Shapiro who they planned to host in mid-September. When the College Republicans were initially notified via e-mail that no venue was available for Shapiro on the date and time they requested, the YAF jumped to the conclusion that UC had cancelled this event, and so issued a press release "Berkeley Blocks Ben Shapiro," with the YAF author of this press release condemning the university for its "disregard of the first amendment rights of its students."<sup>35</sup> But on the day of this press release, UC Berkeley spokesperson Dan Mogulof made it clear that the university had no intention of cancelling Shapiro's talk. Mogulof told the Daily Californian: "We believe there should be no trouble getting an event scheduled on that day... We completely support the BCR." Mogulof added that BCR and campus administrators had yet to meet in person to discuss the event. "We need to meet with them," Mogulof said.<sup>36</sup>

Let's reflect for a moment on the evidence I've just alluded to. It was July 2017, TWO WHOLE MONTHS before the planned date of the Ben Shapiro event. The Berkeley College Republicans had just filed their initial room reservation request and had not even met yet with the administration to discuss the Shapiro event. Yet here we have an outside entity, a right wing foundation, inserting itself into a UC room request matter as if there was some civil liberties emergency, issuing an alarmist press release accusing the university of cancelling an event that it had not actually cancelled, and "disregarding" "the constitutional rights" of conservative students. Actually there are more than 1,100 student organizations at Berkeley, very few large lecture halls available for student group-sponsored speakers (because those halls are usually monopolized by academic classes), and so there is lots of competition for available space, especially in the early fall. It was a space shortage not a university conspiracy against conservative student rights that led to the failed room request. And in fact, it was quite true that none of the rooms usually used for large student-sponsored events were available on the date requested for the Shapiro event. But as UC Berkeley spokesperson Mogulof indicated, the administration would meet with the BCR and work on finding a way to have Shapiro speak despite the room problem. The result was that by taking the extraordinary step of making



Zellerbach Hall, a concert hall not ordinarily used for student-invited speakers, available for the Shapiro talk, covering much of the cost of using the hall, providing added security, including masses of police and the closure of six nearby campus buildings, the university made it possible for the Shapiro event to be held in September.<sup>37</sup>

Indeed, the Berkeley administration was so accommodating to the BCR on its Shapiro event (and subsequent right wing speakers at Cal) that students outside the BCR complained that it was receiving privileged treatment that no other Berkeley student group received. The Daily Californian found it outrageous that Chancellor Christ had decided to “pay the Zellerbach Hall rent for the Shapiro event...to prove campus was open to conservative thought.... BCR had only to whine, and its event was funded. For other student groups, room reservations, and their costs, and PR are their responsibility... Right wing student groups are receiving unprecedented deadline extensions and subsidies.”<sup>38</sup> In light of this favoritism towards the BCR, the Daily Californian thought it extraordinarily dishonest that the “BCR had clung to a victim narrative” of itself as being treated unfairly by Cal.<sup>39</sup>

It is difficult to avoid the conclusion that the YAF was seeking to manufacture a free speech conflict, judging by the way it issued its wildly inaccurate accusation against the university, depicting Berkeley as seeking to cancel Shapiro when UC was in fact about to take extraordinary steps to expedite Shapiro’s appearance on campus. This behavior by YAF in the Shapiro case was by no means unique. It has become very common for the American right wing to provoke, manufacture, and exaggerate campus free speech disputes for the sake of the publicity this elicits. Not just right wing news outlets, but mainstream media is attracted to conservative claims of free speech violations by the liberal university, especially by Berkeley, famed as it is as the birthplace of the Free Speech Movement, since this makes for a dramatic story that feeds in with the popular trope of university political correctness and liberal hypocrisy.

This kind of manufactured free speech dust up can best understood as a free speech hustle – the intentional use of a phony civil liberties issue to harass and discredit the liberal university, while garnering a great wave of publicity to right wingers posing as free speech martyrs. And with regard to Berkeley in the Trump era, the YAF’s alarmist nonsense on the Shapiro events was not its first but its second Trump era hustle. The first came back in April 2017 and occurred in connection with an invitation for Ann Coulter to appear on the Berkeley campus late that month. One might say that the first element of a free speech hustle is finding a speaker to invite to campus whose rhetoric is so assaultive and degrading to students of color or other vulnerable minorities that it sparks outrage and calls for cancellation. Yiannopoulos himself, with his nativism, transphobia, misogyny, and racism, is a prime example of this kind of speaker.<sup>40</sup> Ann Coulter, famed for her crude nativism and demonization of Latinos also qualifies, especially in a campus community like Berkeley, which not only has a sizable Latino presence but undocumented immigrant students feeling especially vulnerable in the wake of Trump’s deportation

offensive.<sup>41</sup> Inviting Coulter to campus in the wake of the Yiannopoulos riot seemed a sure path to political conflict and potential free speech martyrdom, bringing a PR bonanza for the YAF and the campus right wing. The YAF was involved in the Coulter affair at Berkeley from the start, agreeing to cover most of her \$20,000 speaking fee.

With the Coulter affair it was not merely the YAF, but Berkeley College Republican leaders who sought to embrace and enhance the right wing narrative of Cal as a politically intolerant university. These right wing students, without having reserved a room or notified the UCB administration, announced publicly in late March 2017 that they had invited Ann Coulter to speak at Berkeley in late April and that she would be speaking on the issue of immigration. It turned out that no room large enough, or according to UCB police, secure enough, could be found that could accommodate a Coulter event on the date announced by her student hosts. When the UCB administration pointed this out and suggested that Coulter appear on campus in the fall, the BCR condemned the university for “cancelling” the campus appearance of this prominent conservative. This charge was echoed widely in the right wing and mainstream media, though in fact a Coulter speech had never been officially scheduled so it was not accurate to say that it had been cancelled.<sup>42</sup>

Here the campus right, by failing to consult with university officials, and falsely claiming that Coulter was scheduled to appear and then suppressed by UC Berkeley, had manufactured a free speech dispute out of whole cloth. As Nils Gilman, chief of staff to chancellor Dirks explains, “After the anti-Milo riot the BCR and their right wing allies and sponsors wanted to be seen as being shut down” by the liberal university. The Coulter affair was a “total set up.... What Coulter did was ridiculous. She says ‘Oh, I’ve been invited. And I’m coming on’ the date her rightwing student hosts had named. All of a sudden we’re morally obligated to offer her a spot on that day. What? That’s not how it works. We’re perfectly willing to accommodate you coming to campus but, given the jacked up nature of the political environment in the wake of Trump’s election and the riot in February, we’re going to do it in circumstances where we can guarantee the safety of the event. They were refusing to tell us what their plans were so we couldn’t approve them. They said ‘you’re not approving us. Therefore you’re cancelling us.’ I mean the whole thing was bad faith from top to bottom.”<sup>43</sup>

The media neglected the real story of how this phony free speech conflict was engineered, and after buying Coulter’s claims of being shut down, generated a political storm so severe that the UC Berkeley administration scurried to find a closer alternative date, and proposed that Coulter appear only one week after the date targeted by the BCR, during the study week (known as “dead week”) before finals in May.<sup>44</sup> This offer was rejected by Coulter, a publicity hound, basking in her moment of big media play as a supposed free speech martyr barred from Berkeley.<sup>45</sup>

Coulter depicted the changed date for her campus appearance as an attempt to stifle conservative speech. And in support of this bogus claim she tweeted – what to anyone who attended

Cal knew to be utter nonsense – that she was refusing to speak on campus during dead week “BECAUSE THERE ARE NO CLASSES,”<sup>46</sup> suggesting that students were no longer on campus that week. But in fact, the Berkeley campus during dead week is packed with students studying for final exams. And since they are on campus and with no classes, interested students would have more time and opportunity to attend her talk than when classes were in session.<sup>47</sup>

Coulter also mocked university concerns about public safety as just an excuse to put her off because she was a conservative speaker – ignoring the fact that, as chancellor Dirks explained, “we were receiving mounting threats of violence around the [Coulter] event... Anarchists and anti-fascists openly threatened to prevent Ms. Coulter’s talk ‘by any means necessary.’ Right-wing groups threatened to appear on campus armed to ensure the opposite...”<sup>48</sup> Yet Coulter suggested she would simply appear on the appointed day and speak on Sproul Plaza, which of course would be much more difficult than a secure building for the police to protect. In response to her public statements, campus officials said that extra police would be on hand (and they were) to provide security should Coulter make good on her word about speaking on the Plaza.<sup>49</sup> But Coulter failed to appear on Sproul as there was no need for that since she’d already gotten what she wanted from Berkeley: free publicity and an underserved claim to free speech martyrdom. She also lied about why she never showed up, falsely claiming that the university had told her it could not offer her protection if she came to campus.<sup>50</sup>

The YAF’s response to the Coulter affair was to file two law suits against the university. These suits charged that UC’s delaying of her speech under the emerging major events policy represented an unconstitutional attempt to suppress conservative speech. This claim attracted little support on campus. Indeed, out of Cal’s 1,000+ plus student groups precisely ONE, the Berkeley College Republicans joined the YAF in this law suit.<sup>51</sup>

But neither Coulter nor the YAF foundation could match the level of deviousness and publicity hounding that Milo Yiannopoulos displayed in his free speech hustle at Berkeley during fall semester, 2017. As we have seen, back in February Yiannopoulos had been a genuine (though hardly an innocent) victim of a horrific free speech violation when the antifa riot led to the cancellation of his Berkeley campus speech. Yiannopoulos stated in the wake of the riot that he

would return to Berkeley to exercise his free speech rights on behalf of campus conservatives. His determination to return to the political stage at Berkeley was made all the more acute by his fall from grace among conservatives nationally caused by his pedophilia scandal (when he was caught on tape joking about pedophilia and mocking the whole idea of an age of consent for sex between adults and minors), which had cost him his job at Breitbart news, his major book contract, and his opportunity to speak at the American Conservative Union convention.<sup>52</sup> Clearly he hoped to use Berkeley, the scene of his greatest political splash nationally, to restore his political celebrity.

Yiannopoulos conned both his conservative student hosts – this time it was the tiny staff of the Berkeley Patriot, a fledgling right wing on-line student publication – and the university administration – into believing he was going to not merely appear at Berkeley in late September 2017 but preside over what he called “Free Speech Week,” with a range of stars of the American right, including Steve Bannon, Ann Coulter, and Charles Murray. But it turned out that Yiannopoulos was lying. Neither these nor other prominent speakers he’d named had ever agreed to appear with him at Berkeley. Charles Murray explained that the very idea of his speaking at such an event with Yiannopoulos was absurd: “I would never under any circumstances appear at an event that included Milo Yiannopoulos... because he is a despicable asshole.”<sup>53</sup> And even less prominent speakers who Yiannopoulos had contacted, such as right wing editor Lucian Wintrich, dropped out when they realized Yiannopoulos never intended to follow through with Free Speech week. According to Wintrich, Yiannopoulos and his company knew the week before Free Speech Week that “they didn’t intend to actually go through with it. Wintrich learned that it was “a set-up from the get-go.”<sup>54</sup>

This pattern of deception eventually alienated even some of Yiannopoulos’ right wing student hosts on the Berkeley Patriot, who shortly before the Free Speech Week debacle withdrew their speaking invitation from Yiannopoulos.<sup>55</sup> He declared that he would speak at Berkeley anyway, but on the day of his appearance, protected by an army of police, Yiannopoulos spoke for only a few minutes, said a prayer, sung the national anthem and left before much of a crowd could even assemble. University spokesperson Mogulof aptly termed this brief Milo appearance at Berkeley, made possible by the costly (\$800,000) police presence, “the most expensive photo-op” in Cal’s history. Yiannopoulos later claimed that he left in haste because the campus police had told him his safety could not be assured. But that too was a lie. Every moment of his time on Sproul Plaza was videotaped and in that time no police officer spoke with him.<sup>56</sup>

This was one of the rare instances where the free speech hustle backfired on right-wingers. Yiannopoulos apparently expected and hoped that Berkeley militants would disrupt his speech or that UC would bar him so he could play the free speech martyr. Therefore there was no need to follow through on the elaborate and mostly fictitious list of speakers he had misled his student sponsors, the university administration, and the public into believing he would bring to Berkeley. Yiannopoulos’ mindset on the eve of his so called ‘Free Speech Week’ can be gleaned from the interview he gave to Playboy in which he said, “I believe the challenge for us is to create something so attention-grabbing that it produces another UC Berkeley [meaning a repeat of the riot back in February 2017] and I can sell 100,000 copies of the book [he’d recently published].” And referring to his “Free Speech week” at Cal, he added, “Hopefully, God smiles on us and Antifa comes out and fire-bombs the entire university.”<sup>57</sup>

But God did not smile on Yiannopoulos because at his Berkeley appearance, as at Ben Shapiro’s, an army of police kept the peace and there was no riot. This was because Chancellor Christ spared no expense to ensure that even a speaker as widely reviled on

the Berkeley campus as Yiannopoulos must be allowed to speak there. Christ did so because she was determined to preserve UC Berkeley's free speech tradition, undo the damage done to the university's reputation by the riot on campus back in February, and disrupt the false narrative offered by Fox News and the other right wing voices that Berkeley was an intolerant university that shut down conservative speakers. Thanks to Christ, Berkeley's free speech tradition prevailed and Yiannopoulos was given the opportunity and freedom of speech to reveal that behind the image of a free speech martyr was as a deceptive, narcissistic troll with no respect for the university or even his right wing student hosts. Essentially the chancellor had given Yiannopoulos enough rope to hang himself morally and politically, which is what he did.

On free speech grounds, then, chancellor Christ performed brilliantly in her handling of both Yiannopoulos' "free speech" debacle and the Ben Shapiro event. In both cases she had shown that the university was deeply committed to First Amendment principles and that neither far Left rioters or far right trolls were going to be allowed to undermine that commitment. Given the national media obsession with free speech on campus and the pervasive criticism of universities by not only the media but alumni and politicians for failing to stand up for free speech principles, Christ as the chancellor of the university famed for its iconic Free Speech Movement had little choice but to take this strong free speech stand to prove that Berkeley's free speech tradition endured even in the Trump era. Her free speech stance also reflected Christ's personal commitment to liberty as a literary scholar of Victorian England and an ardent admirer of that era's virtual patron saint of freedom of speech John Stuart Mill.<sup>58</sup>

Admirable as Christ's free speech stance and free speech victory were, they were both quite costly. Costly not only with regard to the millions of dollars spent – at a time of tight budgets<sup>59</sup> – to protect these right wing speakers but also with regard to student and faculty alienation. There was considerable student and faculty dissent on the chancellor's decision both to open the campus to these speakers – particularly Yiannopoulos who was widely viewed as a mean spirited bigot and self-promoting troll, who spewed hate speech, and cruelly harassed individual students from the podium – and to spend lavishly on security for them.<sup>60</sup> On a First Amendment basis one can say, that Christ chose what was right rather than what would have been popular with segments of the Berkeley campus Left that did not so highly value free speech. Indeed, in terms of the national conversation on the First Amendment – and the op-eds that pervaded the national media Christ must be seen as a highly effective free speech champion who refused to bow to those who would curtail First Amendment rights on campus under the guise of stifling hate speech -- and that this triumph of liberty was well worth the cost Christ paid in dollars for security and in criticism from the Left for tolerating hate speech.

But there is a whole other realm of problems with Christ's bold free speech stance that has been missed by most of the national news media, whose coverage of the Berkeley free speech crisis centered so much on the First Amendment –and the hate speech vs free speech conflict -- that it largely ignored the university's

educational mission. Christ was under so much pressure from the media, politicians, alumni, university counsel, the president of the University of California system, and her own free speech principles to maintain Berkeley's free speech tradition that she had little opportunity initially to focus upon the educational implications of her actions. Similarly, there has been such a media obsession with protecting First Amendment freedoms on campus that one almost never hears anyone pointing out that when those freedoms are exercised on campuses they must be done in ways that do not interfere with the university's educational mission. Though right wingers seeking to weaponize the First Amendment to attack the liberal university have cited the Free Speech Movement in justifying the notion that the university must accommodate vastly unpopular speakers any time and place conservatives chose for them, they forget that the free speech victory that Berkeley's Free Speech Movement won melded political liberty with order. The Berkeley Academic Senate's historic December 8, 1964 resolutions that codified that victory barred the university from restricting the content of political speech or advocacy, but also reserved to the university the authority to regulate the time, place, and manner of such speech "to prevent interference with the normal functions of the university."<sup>61</sup>

This power to regulate time, place, and manner was crucial because the faculty whose resolutions settled the Berkeley free speech crisis in 1964 understood that the university was an educational institution and so its free political forum must not disrupt the university's educational work. This meant that you could hold whatever political rally you want out on Sproul Plaza but not march into classrooms while classes are in progress. It meant you could use amplified sound at your rallies on the Plaza but not right outside classrooms where it might drown out student and faculty communication in their classes. It meant you could not interfere with either academic sessions or the functioning of university business in campus offices.

Yet if you look at what UC Berkeley did to accommodate and protect these unpopular right wing speakers it is evident that Christ administration went so far out on a limb to defend free speech in the political sphere that it neglected its responsibility to prevent the disruption of the university's educational work. In effect, the Christ administration inadvertently violated the university's own time, place, and manner regulations. It did so most extensively in connection with the Ben Shapiro speaking engagement in September 2017 when for the sake of security it had the UC police in the late afternoon close down six campus buildings. These buildings housed offices that provide essential student and academic services, and both staff and students were angered by their closure.<sup>62</sup>

Student groups who shared offices in the closed buildings of the student union complex were especially indignant that scores of student organizations were being required to leave their campus spaces for the sake of a speaker invited by one small student group. Student disgust with this situation ran so deep that some activists staged a sit-in on the pass through balcony breezeway between the student union and Eshelman Hall protesting the

building closure.<sup>63</sup>

It is true that some of the objections to the disruption of their academic environment caused by these right-wing speaking events were linked to the disdain that a liberal and left-leaning student body and campus community felt towards far right speakers themselves. This was the case, for example, with the Berkeley student government, whose senate initially considered a resolution criticizing the University for subsidizing the Ben Shapiro speaking event, but then modified it so as to focus on the building closures and safety issues caused by the Shapiro event. Nonetheless, this unanimous student senate resolution criticizing the university administration for its “misguided decision to overlook student safety and well-being to accommodate” the Shapiro event, and its point that “we need to stop prioritizing speakers over students” resonated far beyond the student government itself.<sup>64</sup> University spokesperson Dan Mogulof found this out as he walked across the campus, and had a student – a sociology major “holding ice coffee and a Rice Krispies Treat wrapper” – shout to him: “Students have a right to go to their classes and feel safe in their classrooms, and you’re ready to compromise that for, like, the First Amendment that you’re trying to uplift?”<sup>65</sup> The same kind of complaint came from the chair of Berkeley’s anthropology department, who expressed outrage that her department’s most important annual academic lecture had to be postponed – upon the advice of campus police -- because of the “high risks associated with any campus events held during” the dates of the campus events supposedly planned by Yiannopoulos.<sup>66</sup>

In the Shapiro event and for Yiannopoulos’ chimerical Free Speech Week the university ordered in an army of police and a network of police barricades that made Berkeley’s southern entrance look like it was under military siege. Such precautions were taken both to avoid a repeat of the anti- Yiannopoulos riot and with the Charlottesville tragedy – where a homicidal white supremacist plowed his car into a crowd of anti-racist activists, killing one of these protesters – in mind.<sup>67</sup> This militarization, however, led many students to avoid the whole Sproul area, and some to decide that given the campus chaos it was best to skip classes altogether. This problem was further exacerbated because, in the wake of the Charlottesville mayhem, more than 130 Berkeley faculty had urged the cancellation of Yiannopoulos’ Free Speech week, cancelled their own classes, and urged a boycott of classes.<sup>68</sup> They viewed these Yiannopoulos events as potentially dangerous to their students, especially students of color, as those events seemed certain to attract white supremacists to the Berkeley campus – just as the first anti-Yiannopoulos riot made the city of Berkeley a magnet for these violent right wing extremists and their antifa counterparts who had engaged in violent street confrontations in the summer and early fall of 2017.<sup>69</sup>

To put this time, place, and manner issue into a larger perspective, just imagine that student radicals had closed six campus buildings and placed barricades in a Berkeley’s main entrance way in a disruptive protest. What would have happened to them? They would almost certainly have been disciplined – suspended, or

expelled – and likely arrested as well for interfering with the regular functions of the university. Yet here it was the campus administration that had disrupted the work of the university. Of course the administration did this with the best of intentions, tolerating such disruptions for the sake of ensuring that unpopular right wing speakers could be safely heard on campus and so preserving Berkeley free speech tradition.

But such good intentions do not alter that fact that the administration had allowed the time and place of a political event to disrupt the academic life of the university. All of this brings to mind the scholarship and arguments of Robert Post, Sterling Professor of Law at Yale, that the First Amendment has been inappropriately applied to college campuses.<sup>70</sup> Post makes a crucial point in reminding us that a university campus is not a park, but is part of an educational institution whose academic mission should be served by and not subordinated to extramural political events such as outside speakers invited by student groups. It was not merely leftist students, moreover, but a much larger group of academically engaged and politically inactive students who complained that the administration had allowed the Berkeley campus to become a political circus, with military-style occupations by the police, barricades, and a magnet for potentially violent extremists, and all for the sake of right wing speakers who had almost no appeal on campus and little, if any, educational value.<sup>71</sup> They felt that their campus had essentially been hijacked and their safety and academic environment sacrificed to the administration’s desire to prove its free speech bona fides.

There is then a striking contrast between Chancellor Christ’s success as a champion of free speech in the fall semester of her declared free speech year at Berkeley and her less stellar performance as a guardian of Berkeley’s academic environment and functions. This contrast reflects the oversimplified Left-Right discourse regarding free speech at the university and the ways it pressured the Berkeley administration to neglect its primary academic responsibility. It also suggests that many conservatives, who think nothing of provoking mass disruptions of the university, have lost touch with the key traditional responsibility of the university to hold classes and provide academic services to its students. Perhaps part of the problem is that most of those op-ed writers, politicians, right wing media stars and foundation officers have so long since completed their own college degree work that they have forgotten the importance of academics to current students, and carry on as if the university’s main obligation is to the First Amendment rather than to their students and the academic work in which students and faculty are engaged

First Amendment scholars and lawyers might characterize this situation I have described as a tension – and even a healthy one -- between the university as an educational institution and the university as a site where students and the outside speakers they invite exercise their First Amendment rights. But at Berkeley in the fall of 2017 this was more than a tension, it was a dictate: the university was essentially pressured into disrupting its academic work to host these right wing speaking events in a central campus location where they could be maximally disruptive. Chancellor



Christ, recognizing that the Yiannopoulos and Shapiro events – and their accompanying security – would be disruptive, initially thought the best way for the university to host these events would be to hold them away from the central campus area, at the Lawrence Hall of Science where intense security could be provided without disrupting the university since that building was up in the Berkeley hills quite a distance from central campus buildings. Had the chancellor been allowed to follow her instincts on this, these events could have been held with no disruption of academic life and work on campus. But this was not to be. Why? Because university counsel told the chancellor that convening these controversial talks at such a remote location raised First Amendment issues, that the university was obligated to provide equal access to the main campus venues for all speakers. Owing to this legal advice, the chancellor dropped the Lawrence Hall idea, and so First Amendment rigidity prevented her from acting in a way that would have better served the university's academic environment and educational work.<sup>72</sup>

Although it may sound counterfactual, it is worth pondering what would have happened had Chancellor Christ not taken the extraordinary steps she did to accommodate these prominent right wing speakers. Let's say that with Shapiro she had taken the hard line I seemed to be suggesting in this paper – that she'd only provide him with space if it was available in the rooms usually used by student organizations. And since there were none, the BCR would need to delay his Berkeley talk until such space became available. I indicated above that this only sounds counterfactual because this is precisely what happened with the Ann Coulter debacle. With Coulter, Christ's predecessor as chancellor, Nicholas Dirks, sought such a delay since a room large and secure enough to accommodate Coulter's talk would only become available a week after the date she and her BCR hosts had targeted. Result? Through histrionics by Coulter (and her student hosts) in the mass media about this being a violation of their free speech rights, and Coulter's refusal to wait a week to hold her talk, UC Berkeley was pilloried in the media for supposedly barring this right wing speaker. Christ, learning from the mistake of her predecessor, was determined to do all that was necessary to avoid such a PR disaster, even if it meant disrupting the university's academic work, since the false media narrative of UC Berkeley as repressive and the spotlighting of right wingers as free speech martyrs – however fanciful -- was damaging to the university's reputation.

If, however, we take a closer look at what Dirks actually did in relation to the Coulter fiasco it offers a valuable case study of how media distortions and the right wing's weaponization of the First Amendment to attack the liberal university have fostered a warped view of academic decision-making. Dirks could only have come out ahead in the Coulter PR war had he gone along with a ridiculous prioritizing of an outside speaker (and a vacuous one at that) over the university's own academic work. He could have won that PR battle by evicting some academic class or other university event from its large lecture room to make way for Coulter so she'd have had her event on the date she and the BCR wanted and so could not even pretend she was a free speech martyr.

Dirks in this matter, however, had too much academic integrity to play such a PR game. Thus when he inquired as to whether one of the best lecture halls at Cal, at the law school, could be made available for Coulter he learned that there was a class scheduled to take an exam there. After speaking with the acting dean who controlled this space, Dirks recognized that evicting the students from their lecture hall would be disruptive of their academic work. As the chief academic officer of the university Dirks thought it was wrong to cause such a disruption and so he wouldn't do it. Instead, he looked for other spaces for the Coulter event, and recognizing that none could be made available without similar disruptions of the work of student, faculty, and staff, opted instead for a postponement of the Coulter event so that it could be held when space was actually available.<sup>73</sup> In other words, Dirks was doing his job in protecting the university's educational work, but this fact was lost in all the right wing and media uproar about the university "cancelling" the Coulter talk.

In retrospect Dirks sees that he had not moved as quickly as his critics, and that going by the book and prioritizing Cal's academic work over this politically symbolic Coulter event was a mistake because it led to the university being unjustly slammed in the national news media as politically intolerant.<sup>74</sup> This perception that it had been a mistake to prioritize academic work over this PR battle to preserve Cal's reputation as a center of free speech is understandable given the PR beating that Dirks and UC Berkeley took in the Coulter affair. And of course Dirks' successor as chancellor learned from this "mistake" and so was careful not to repeat it – in the Shapiro and Yiannopoulos events. But if we put aside the PR battle for the moment, it is easy to see that Dirks had not in fact made a mistake. He had done what was best for the students in that class whose education he refused to disrupt. The point is that deciding to do the right thing educationally has been made to seem a "mistake" because neither the media nor the far right cares about the university's educational responsibilities, but act as if the university's #1 job is hosting extremist speakers on demand so as to prove its free speech bona fides.

To her credit, Chancellor Christ realized that though she had won extremely important free speech victories by demonstrating – via the peaceful Cal speaking events by Shapiro and Yiannopoulos in September 2017 -- that the Berkeley campus was open to even the most widely loathed right wing speakers, promoting free speech at Cal was not the straightforward task she had imagined when she declared her first year of her chancellorship “Free Speech Year.” She came to realize that there were significant minorities of the student body and faculty who were critical of her handling the speaker controversy. Indeed, in the forums that Christ had organized as part of Free Speech Year, one with the Berkeley faculty’s academic senate and another co-organized with PEN that included students as well as faculty, the chancellor got these criticisms first hand. And she began to adopt a more complex view of free speech on campus, describing it as an ongoing process involving discussion and reflection rather than a simple set of principles. Christ was also chastened by the experience with Yiannopoulos and the way that he misled the university, abusing Cal’s earnestness and free speech idealism for a self-serving publicity stunt that cost the university dearly in terms of time, money, and comity.<sup>75</sup>

Christ’s commitment to free speech had not weakened, but she developed an understanding that the UC Berkeley needed both to better defend itself against those who were weaponizing the First Amendment to harass the university, and to find ways to accommodate speakers all along the ideological spectrum without disrupting or bankrupting the university. Christ also recognized that the free speech disputes had yielded divisions and anger on campus, that the university needed to provide an open forum for the campus community to dialogue as a means towards healing, assessing what had happened, and what could be done to better respond to speaker controversies in the future.<sup>76</sup> Thus in October 2017 she convened a group of faculty, students, staff, and administrators, the Chancellor’s Commission on Free Speech, charged with investigating “how the campus could better address and manage politically controversial public events.”<sup>77</sup>

The Chancellor’s Free Speech Commission held three public hearings in January and February 2018 in which some 40 Berkeley students and faculty discussed – among other things -- how the campus’ free speech crises affected them. Much more effectively than the national media coverage, this testimony revealed just how disruptive the massive security measures for the Shapiro talk and Yiannopoulos’ “Free Speech Week” had been for students and staff who worked or made use of the services in the Sproul Plaza area.

It wasn’t just the building closures but communications problems that made those times chaotic. Students and staff reported that they did not know in advance the extent of the security measures and so could not prepare for them. So students came to campus to meet with counselors only to learn that the building in which

the office was located had been locked down. Office managers were unclear on how to respond when employees either missed or wanted to leave work early because they did not feel safe with the army of police and protesters on the Plaza. Some students had missed the notices concerning items banned from campus, and so came to Cal – as students often do – with their books in their backpacks only to learn that they could not bring backpacks to campus, leading to missed appointments and classes.<sup>78</sup> These were all problems that few if any universities could prepare for effectively since educational institutions are not in the business of coping with or administering a virtual stage of siege.

Arguably the most dramatic testimony during the hearings came from an African American staff member recalling the very tense moment for him amidst the militarization of Cal’s campus during one of these free speech events. He was leaving his campus job at night and remembers thinking he wished he’d worn his Cal ID card as he passed through the assemblage of police because he was afraid of how the police would respond – afraid he might get shot -- if he reached in his pocket for his ID.<sup>79</sup>

It became evident from the testimony at the commission hearings that the disruptive impact of the free speech crises was localized, in that it disproportionately impacted one part of the campus, the Sproul Plaza area. If one attended classes in the engineering quadrant or entered campus on the north side of Berkeley’s huge campus you might not even be aware that on the south side there was military-style police occupation and large crowds of protesters. This uneven impact had a racial dynamic to it since the offices and services disrupted in the Sproul area included those most heavily used by students of color. Indeed, both the hearings and the earlier free speech forums convened by the chancellor generated evidence that Black and Latino students felt they bore the biggest burden from these free speech crises since the right wing speakers were most hostile to their communities, the offices which served them were most disrupted, and they felt the most threatened by both the police presence and the potential violence from white supremacists drawn to Berkeley by the Left-Right battle zone that the campus and city had become.<sup>80</sup>

Race was not, of course the only dividing point since Yiannopoulos in particular was infamous for targeting transgender students in his campus tour, and both he and Shapiro were Islamophobic. But there is no question that many students of color felt a sense of betrayal at how these free speech crises has been handled by the university. That it was a mostly white group of right wing students who insisted on bringing in speakers hostile to Blacks, Latinos, Muslims, and undocumented immigrants, and a mostly white liberal university administration that supported such speaking events so that money was no object in that support, and whose white sensibility did not allow it to see that the supposed solution to the security problems generated by these speakers, a mass police presence on campus, left many Black and Latino students feeling even more unsafe.<sup>81</sup>

The Free Speech Commission hearings also offered a window on to those on the other side of the ideological divide at Berkeley, right wing students who had either invited or supported the

inviting of Yiannopoulos and the other far right speakers that sparked Berkeley's year of free speech crises. Among those testifying before the commission was the president of the Berkeley College Republicans, a right wing columnist for the Daily Californian, and there was a statement read into the record by a commission member on behalf of The Berkeley Patriot, the on-line right wing student publication that had signed on to host Yiannopoulos and his so called Free Speech Week.<sup>82</sup>

In several respects the testimony by these conservatives was the most depressing of any offered during the Commission hearings. On one level was the students' sense of victimhood, that they were an unpopular right wing minority on a liberal campus at a time and place when – thanks to Trump's election and presidency – Left and liberal disdain for the right was at fever pitch. The university had not found an effective way to make these conservatives feel welcome in the campus community, leaving them alienated— in ways that seem even deeper than sociologist Amy Binder and Kate Wood documented in their seminal, pre-Trump era study of conservative student activists, *Becoming Right*.<sup>83</sup>

But if the university had failed these campus conservatives, they reciprocated, and failed to display any concern about the impact of their actions on the campus community. At hearings where a wide range of members of the university community testified to the ways these speaker events had interfered with their education, work, and disrupted their lives, the conservative students displayed complete indifference to these complaints, took no responsibility for helping to foment the crisis, and repeated the mantra that they had the right to invite to campus anyone they liked.<sup>84</sup>

This too is part of the legacy of the media – and especially the right wing media -- frenzy over First Amendment rights on campus. It has popularized among right wing students a discourse of rights and an ethic of entitlement. But there has been no corresponding discourse about responsibility. Yes students have the right to bring hateful nativist speakers to campus. But is that the responsible thing to do, especially at a time of high political tension provoked by the most xenophobic president in American history? This is a question the conservative student leaders at Cal evaded consistently not only in their commission testimony but in every single one of their op-eds, press statements, and TV interviews.<sup>85</sup>

There was a parallel evasion on the part of Berkeley conservative student leaders when it came to their statements about Yiannopoulos and the logic of inviting him to speak on campus. All kinds of disingenuous or shallow rationales for the invitation were offered by these students both at the hearings and in print – that his appearance could supposedly spark dialogue and debate, that he was an attractive speaker because he charged no speaking fee and would pack the room, that he was a provocateur who would force liberal Berkeley to finally listen to the right, which it needed to get used to doing now that Trump was president, and finally that though they did not necessarily agree with what he said they were free speech champions by standing for his right to

bring his widely panned rhetoric to campus. But in none of this did these right wing students ever actually deal with the crudity and cruelty of what Yiannopoulos had been saying and doing on his campus speaking tour: such as referring to women as “cunts” at the University of West Virginia, mocking a gay professor there as a “fat faggot,” denouncing a transgender student at the University of Wisconsin at Milwaukee from the podium, by saying “you know he failed because I can still bang him,” while projecting that student's image and livestreaming it on the Breitbart website.

Even after the passions unleashed by Yiannopoulos' abusive rhetoric and his nativist and racist discourse had led to the shooting of an anti-racist protester at the University of Washington only a little over a week before his first Berkeley appearance, no reflection was heard from Berkeley conservative students on the wisdom of inviting him to their campus. In the hearings, none of these conservative students uttered a word of criticism of the way Yiannopoulos misled the university with a phony speakers list for his chimerical Free Speech Week. Nor did they take any responsibility for the time and money that right-wing initiated debacle cost the university. This was an extension of the amoral way the Berkeley College Republican leadership had reacted in February to Yiannopoulos's pedophilia scandal, which found BCR leader Troy Worden stating that the “Berkeley College Republicans have no comment” on his remarks concerning pedophilia.<sup>86</sup> Nor was there any explanation of why at a time when that scandal caused even Breitbart news and the American Conservative Union to break with Yiannopoulos he still received a second invitation to speak from Berkeley's right wing students.

In response to this vagueness on the part of right wing students about the justifications for bringing a troll like Yiannopoulos to campus, one of the recommendations that the Chancellor's Free Speech Commission made in its final report (issued just before the end of the 2018 academic year) was that for all events that required extra security, registered student organizations submit to the university “a public statement explaining how the event comports with the [university's] Principles of Community.” The Commission, again in the interest of getting student groups to take some responsibility for the consequences of their choices on public events also recommended that the student groups “provide volunteers to assist at sponsored events that need extra security.”<sup>87</sup>

In direct response to the testimony it heard that criticized the way these speaking events disrupted the Sproul Plaza area, the Commission recommended the establishment of an additional free speech zone on the west side of the campus. In essence, this meant that the Commission, recognizing that future disruptive events were likely (owing to the university's free speech obligations), was opting for greater geographical equity by altering which parts of the campus would have to bear such disruptions, instead of ghettoizing it, as was the case this past year in the Sproul area.<sup>88</sup>

Though not specifying how this was to be done, the Commission advocated “increase[d] communication about the steps faculty, staff, and student can take to protect themselves from a

disruptive event and “make the police a less intimidating presence during potentially disruptive events.” The Commission also recommended something chancellor Christ had considered doing but was unable to (since doing so would have stretched the police too thin) during Yiannopoulos’ “free speech week”: “organize counterprogramming to empower targeted community members in the face of the most disturbing campus speech events.”<sup>89</sup> The Commission wanted as well for the costs of such events not to be borne by the university alone, and so recommended that the state of California provide additional funds to cover the extra security costs for speaking events that were likely to be disruptive.

Given the polarized state of American politics it is not surprising that the media responded to the Commission’s report by focusing not on such recommendations about better managing controversial speaking events, but on the report’s critical words about far right wing campus speaking tours and their off campus sponsors. In Politico, for example, the story on the commission’s report was headlined “UC Berkeley Panel Blasts Motives of Conservative Speakers.”<sup>90</sup> And it is true that the Commission reported that “Many commission members are skeptical of these speakers’ commitment to anything other than the pursuit of wealth and fame through the instigation of anger, fear, and vengefulness in their hard right constituency. Speech of this kind is hard to defend, especially in light of the distress it caused (and was intended to cause) the staff and students, many of whom felt threatened and targeted by the speakers and outside groups financing their appearance.”<sup>91</sup> The report also took aim at the right wing foundation world and the role of outside funding in promoting campus turmoil, arguing that “at least some of the 2017 events at Berkeley can now be seen as part of a coordinated campaign to organize appearances on American campuses likely to initiate a violent reaction in order to advance a facile narrative that universities are not tolerant of conservative speech.”<sup>92</sup>

Since Yiannopoulos had spoken openly of his desire to provoke such campus turmoil he was, of course, defensive about these charges. And even the title, *Dangerous*, of his juvenile book boasted of his pride in provoking anger, as did its chapter titles: such as “Why Muslims Hate Me,” “Why Black Lives Matter Hates Me,” “Why Feminists Hate Me,” “Why Establishment Gays Hate Me.”<sup>93</sup> True to form, Yiannopoulos dismissed the Free Speech Commission report as the work of “Marxist thugs.”<sup>94</sup>

Though one can debate the Commission’s indictment of these right wing speakers and their sponsors, it reflected the frustrations many at Berkeley experienced at the disruption of their academic life for the sake of speakers like Yiannopoulos, with nothing to contribute intellectually and who seemed addicted to mean-spirited vitriol. It was probably impolitic to include this indictment since it distracted the media from the Commission’s major recommendations, which were well conceived, practical, and aimed at sustaining Berkeley’s free speech tradition in the wake of a year of challenges and turbulence.

But on the other hand, a Commission on Free Speech, almost had to speak freely about what it saw as the roots of Berkeley’s free

speech crisis.

The Free Speech Commission, despite all its recommendations for changes to better manage controversial political events on campus nonetheless shared the basic assumption of the chancellor and her legal advisors about the First Amendment and campus disruptions: That UC Berkeley was required by the First Amendment to accommodate invited speakers no matter how great the security risks or potential for major disruptions of the academic and work life of the campus. Thus there was a whole section of the Commission’s report devoted to “Improved Communication About Disruptive Events.” Here the Commission offered a number of suggestions about how, in these crisis situations, to improve such communication between the university’s top leadership and the university community “to enhance the ability of faculty, staff, and students to protect themselves” in the event that a dangerous environment emerged. In particular, the Commission asked that the chancellor and her leadership team let the campus community know the answers to the following questions:

- “May instructors cancel class without penalty?
- May students skip classes or other campus appointments without penalty?
- May staff leave their posts if they feel threatened?”<sup>95</sup>

If one reflects upon such questions it again becomes evident that First Amendment absolutism has placed the university in the ridiculous position of accepting as a given that it must live with continual disruption of its academic life and business in order to host political events that have little if any relationship to its academic mission. The assumption the Commission made was that the university – or at least parts of it – should be ready for another crisis and police invasion provoked by an extremist speaker because the university was required by law to allow such speakers and disruption. So for the Commission the task was how to better prepare and cope with such disruptions.

Now, let’s take as a given that in some cases the university, following the advice of the commission, does effectively communicate that students can skip classes because of safety issues caused by a speaker conflict. Is this a plus? Have we gotten to the point where we are ok with class attendance being interrupted in this way? If so, the whole point of time, place, and manner regulation has been negated, and the work of the university subordinated to the campus tours of celebrity speakers and provocateurs.

While this problem seems to me serious and worrisome it does reflect an impressive free speech commitment. That even after a year of turmoil and division caused by right wing speakers and the violent response on the Left to them, the Free Speech Commission stood by the right of such speakers to appear on campus, and searched for ways that the campus community could more effectively cope with such political events. Equally impressive given the university’s budget woes and the high costs of security Cal bore for the speakers this past year was the Commission’s refusal to put a cap on such spending, and



in effect refused to use finances and safety problems (serious as they have been) to shut down or even limit the free political forum at Berkeley.<sup>96</sup> And the same was true of the chancellor, who praised the work of the Commission and supported its recommendations.<sup>97</sup> These ringing affirmations of free speech at Berkeley, and not the Commission's criticism of the likes of Yiannopoulos is the heart of the story of the Commission and its work – and it is a story that the media largely missed.

This is not to say, however, that media criticism of Berkeley on free speech was groundless. There are vocal students and faculty at Berkeley and non-student militants across the SF Bay Area who take the position that hate speech, fascistic speech, must not be given a platform at the university. And in Yiannopoulos' case there were also students and faculty who, citing his abusive behavior from other university podiums, saw his personal attacks on students and faculty as forms of harassment that violated the university's own policies – as well as federal policy under Title IX -- and so should not be tolerated at Cal.<sup>98</sup> Those who have been vocal in airing these views are, however, only a minority of the student body and the faculty and do not set university policy. But their views do matter. And we need to remember that the Free Speech Commission was the chancellor's and does not speak for such dissenters, for whom the free speech conflicts of the past year at Berkeley did nothing to change their truncated views on free speech

Indeed, a key conclusion that emerged clearly from my oral history research at Berkeley is that each side in the Berkeley free speech conflicts of the past year came away more convinced than ever that its position on free speech was correct. Left critics saw the anti-Yiannopoulos riot in February 2017 and the time and money UC spent (and in their view, wasted) on his bogus free speech week in September 2017 as proof that hosting such a hateful speaker was wrong-headed.<sup>99</sup> This, of course, contrasted with the UCB administration's conviction that legally and morally the university had no choice but to host these far right speakers, and that the university managed to do so in the fall of 2017 without disruption represented a triumph for the free speech tradition.<sup>100</sup> And then of course, there were Berkeley's right wing students who have convinced themselves that they did right in inviting such extreme speakers since the turmoil this provoked supposedly proved the hollowness of liberal Berkeley's vaunted free speech tradition.<sup>101</sup>

What all this means is that the campus and off campus elements that paved the way for Berkeley's free speech crises of the past two academic years remain in tact. These include an alienated student right wing –aided by wealthy far right foundations -- eager to antagonize those on the Left and to challenge and embarrass the liberal university, a Left that seeks limits on the free speech rights of racist, transphobic, and nativist extremists, and a university administration committed to protecting and preserving Berkeley's free speech tradition. The one important change from the grim days leading up the the February 2017 riot at Berkeley is that President Trump's incompetence and corruption, and the rising strength of opposition to him both in the streets and at the voting booth, has diminished somewhat

the panic that beset the Left at the dawn of the Trump era in 2017. This offers some hope that future free speech conflicts at Berkeley will be free of the ugly violence and property damage of February 2017, and so in that sense, as UC spokesperson Dan Mogoluf put it, Milo Yiannopolous may eventually be looked back upon in the Berkeley context as Milo Anomalous.<sup>102</sup>

As I watched on-line the hearings of the Free Speech Commission and the other forums on free speech sponsored by the chancellor I was as impressed by the questions that didn't get asked as those that did. For me, these would be directed towards 1) the faculty and students urging the barring of hateful speakers. I'd ask them the mechanism they'd use for such barring. Would this be done by a board of censors? If so who would select its members and establish criteria for speaker bans? Can there be such a thing as a free university that included such a censorship apparatus? What would the university do when the courts ruled such censorship unconstitutional? 2) To the right wing students who invited Yiannopolous I'd ask them to engage with his crudity and cruelty, asking them how they can expect to promote dialogue via speakers who insult and frighten their classmates. I'd ask them if they are finding their own way politically or are being used as pawns by self-promoting celebrity speakers and rich foundations with an ideological axe to grind. And whether it makes any sense at all to be suing a university that spent millions of dollars securing their speaking events. 3) And to the university administration, I'd ask it both to define Cal's educational mission and explain how these speakers and the disruptions they foment serve that mission – whether the university has gone too far in tolerating disruptions of its educational work. I'd ask them to respond to the students who complained that the university had become a political circus, interfering with their education, as well as to the Left critics who complain that the administration allowed UC to be converted into a doormat for right wing interests that weaponized the First Amendment to harass the liberal university. I'd ask whether at times its leaders seemed more concerned with responding to outside pressures -- winning its free speech argument with Fox News, Trump et al than it was with the well being of its own student body.

On one level it seems unfair to sound this note of criticism of the UC Berkeley administration since chancellors Dirks and Christ have been both courageous and far more consistent in defending free speech during the Trump era than their critics on the Left or the right. Neither onerous security costs, nor slanderous tweets from the president of the United States, nor rioting leftwing vigilantes, nor the obnoxious political hoaxes of Yiannapoulos could shake the determination of these chancellors and their administrations to preserve and protect Berkeley's historic tradition as a center of freedom of speech.

But in the long term that free speech tradition cannot be preserved by the administration alone. Berkeley's free speech crises in the Trump era revealed, as Dan Mogoluf explained, that when it comes to free speech "our truths are not self-evident" to a significant segment of the Berkeley student body.<sup>103</sup> The challenge of championing such truths and demonstrating to students that those truths are worth sacrificing for is a daunting

one, all the more so because Berkeley's free speech crises in the Trump era have triggered justifiable student complaints, sarcasm, and searching questions, such as the one raised by the Daily Californian's disillusioned editors on the first anniversary of the antifa riot at Cal.

These editors bemoaned the fact that the university spent millions of dollars to protect hateful speakers while "financial support for the ... Undocumented Student Program is "nonexistent," and "the Title IX office also needs more money to help combat the campus's pervasive sexual misconduct problem... It's outrageous that 'Free Speech Week' alone cost the campus nearly \$3 million despite barely lasting 20 minutes... an event that was clearly a last-ditch attempt from a fallen public figure to regain the media's attention after he made comments that appeared to condone pedophilia. When UC Berkeley is forced to pay millions of dollars to allow campus groups to host bigoted speakers, it puts students in danger and starves them of much-needed funds. But on the bright side, the campus saved face to a group of donors, alumni, and legislators who wanted UC Berkeley to uphold its reputation as a bastion of free speech. Was it worth it?"<sup>104</sup>

The raising of such questions by students, and the difficulty this recent free speech history poses to being able to answer them in ways that they find convincing, are among the the great challenges facing Cal's leaders as they struggle with legacy of the Berkeley free speech crises wrought by Trump era -- with its polarization, bigotry, and ugliness. Given that the far right has used free speech as a political football at Cal it is not surprising that vocal Berkeley students on the Left have become cynical about the waving of free speech banners on behalf of bigoted, reactionary speakers. But such cynicism by students is an effect and not the cause of Berkeley's free speech crises.

It is external forces -- of the far right and far left -- not the university itself that have been at the root of those crises. The reactionary Mercer family of billionaires bankrolled Yiannopoulos, the wealthy YAF foundation subsidized Coulter and the subsequent law suits against UC Berkeley, supported by the far right attorney general, and the Trump tweet slandering Cal, none of these forces has any roots on the Berkeley campus. And the same is true of both antifa, with its left wing vigilanteism and its far right, Nazi and white supremacist counterparts. The two sides share a loathing for the university (the Left because Cal offered a platform for fascistic speakers, the Right because it sees the university as a center of left wing political correctness that undermines conservative values) and a willingness, even an eagerness to use the university as a battleground for ideological warfare. This is what Chancellor Dirks meant when, in one of the final op-eds of his tenure at Berkeley, he concluded that "the real issue in the campus speech debate was that "the university is under assault."<sup>105</sup>

With so much money and hatred being directed against the university, there are no grounds whatsoever for predicting a quick end to that assault. Indeed, as we have seen, the First Amendment itself has been weaponized by the far right against

Cal. But if, as the university continues to stand up to such attacks and for free speech, it is more forceful in articulating its educational mission and responsibilities it may be in a better position to insist on the need to contain the disruptiveness and the costs of the political events outsiders push on to the campus. This is neither a call for a closing off the campus to any political sect or speaker, nor a quest for some novel approach to campus political discourse, but rather a return to the long tradition, and legally ordained authority of the university to enforce reasonable regulation of the time, place, and manner of political speech on campus so that it does not interfere with the university's educational work.

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While this Berkeley history is new, the historian depicting it is an old hand at studying free speech at Cal. So some self-reflection seems in order to assist readers in recognizing and transcending my biases. There is no doubt that the location of the history narrated here in Berkeley, birthplace of the Free Speech Movement (FSM), and my own history as a biographer of FSM leader Mario Savio and historian of the FSM (and member of the FSM archives executive board) contributed to the pro-free speech slant of my account of the political turmoil at Cal in the early Trump era. On the other hand, the research that went into this study led me to question and then reject some of my initial assumptions, and to recognize, in a way I had not previously, the importance of time, place, and manner provisions of the Berkeley academic senate resolutions that ended UC Berkeley's free speech crisis of 1964. I had always seen it as a self-evident truth that free speech must be protected on the Berkeley campus, but through this research came to see that freedom alone would not suffice for a great university, which also required order if it was to accomplish its educational mission and function well as a workplace. Even so, the narrative I constructed and have presented here is generally admiring of those who defend Berkeley's free speech tradition and critical of those who do not. The nature of the events narrated in these pages, with antiras crudely employing violence against free speech and the university, and rightwingers just as crudely abusing free speech and slandering the university, makes it easy to reduce this story to a morality tale about free speech and its enemies.

But such a black and white image of this history cannot do justice to the grey areas, in which reside the complexities of the campus free speech issue. The fact is that while the free speech crises at Berkeley spotlighted those who, like the antiras, would take a sledgehammer to the Berkeley free speech tradition, those crises also provoked thoughtful criticism of both that tradition and free speech jurisprudence. Such criticism was most notable among radical faculty who the Berkeley academic senate and Chancellor Christ wisely included in the free speech forums organized as part of the programming for the "Free Speech Year" she had declared at the opening of her term as chancellor.

Among the most important of these criticisms was the one that concerned technology. Judith Butler, Berkeley's eminent professor of comparative literature, objected less to the speech than to

the abusive deployment of technology from the podium by Yiannopoulos. She was referring to his use of “cameras or ‘trigger cams’ that project images of audience members against their will” both to the audience at the speech and to a national viewership on-line, along with Yiannopoulos’ “direct appeal to those watching or present to mock, harass, or troll that person and flood that person’s e-mail with insult.” She argued that this use of “invasive technology in conjunction with explicit calls to invade privacy” violated the university’s “anti-harassment protocols.”<sup>106</sup> Since, of course, internet technology did not exist back in 1964, the Free Speech Movement’s principles cannot be used to resolve this dispute over abusive uses of technology. Can one actually claim it a free speech infringement if from a campus podium Yiannopoulos is denied the technological tools to humiliate and invade the privacy of audience members? Such questions demand serious consideration and reflection.

Also worth reflecting upon are the arguments against hate speech offered by Berkeley law professor John Powell. As a legal scholar, Powell acknowledged that the courts have upheld the constitutionality of hate speech. But he rejected deference to such decisions, arguing that the courts were wrong about hate speech, and have yet to catch up with the social science scholarship on the “psychological harm caused by hate speech,” much as the US Supreme Court for decades upheld Plessy and racial segregation until it finally came to grips with the psychological damage that segregation did -- documented in the scholarship cited in the historic Brown decision outlawing racially segregated education.<sup>107</sup> The implication here is that rather than spending millions of dollars protecting hateful speakers, the university should use its resources to challenge the courts and society to face up to the damaging impact of hate speech – as courts in democratic societies outside the United States have already done.<sup>108</sup>

This issue was taken seriously by top university officials. Nils Gilman found the mental health question real, but problematic since it was impossible to “eliminate insults,” and that if you even tried to do so it was “unclear how you the university can operate since” so many forms of expression can insult people and potentially damage their mental health. Gilman thought political expression could not be policed to bar hateful discourse without violating the First Amendment. But he did see and act on one important exception, and that was where speech acts -- in one case malicious political posters – targeted specific members of

the university community in ways “that might provoke violence against them.” Gilman had those posters taken down, and personally observed the “mental health impact” those threatening posters had on the targeted students, who were “depressed and scared and having anxiety attacks.”<sup>109</sup>

Putting aside for the moment the legalities, it is clear that the hate speech issue ought not be dismissed as some superficial impediment to freedom of expression on campus. That stereotyping students as liberal “snowflakes” because they express fear and loathing of hate speech is both unfair and misleading. Chancellor Christ’s personal experience with this issue during the free speech crises in her first year in office

made this all quite clear. Displaying the kind of empathy and sensitivity that is often absent in the media and virtually always absent on the right, Christ explained that she “became very aware of how some of the [bigoted] speakers made constituencies on campus feel that they didn’t belong, that they were threatening their sense of place in the community. Even though I wish our students were more resilient, I realized that I came from a [different] place... 73 years old, successful, I have a powerful position so it is easy for me to be resilient. It is not so easy for someone who feels that she may not belong at Berkeley in the first place, and [then to have a vitriolic speaker comet to campus] telling her she doesn’t belong.”<sup>110</sup>

Whether or not one agrees with the arguments and criticism raised by Butler and Powell there is no question that they enrich the discussion of, and debate about, the Berkeley free speech tradition. It is unfortunate that the free speech forums at which these views were aired did not attract the kind of national media attention that the right wing speaker controversies and riot did. But these forums were important nonetheless, especially because Christ listened so carefully and learned from them, as was reflected in her perceptive public statements that displayed a deepening awareness of the costs as well as the benefits of the Berkeley free speech tradition, and its impact on all segments of the university community. Thus the same chancellor who had insisted on keeping the campus open to the far right, proved herself open to hearing these leading critical faculty voices from the Left. Even if no consensus has emerged regarding how to act on such criticism, one can at least say that the university, as it should be, speaking freely about who loses as well as who benefits from Berkeley’s free speech tradition.

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# WHY BERKELEY CONSERVATIVE STUDENT LEADERS FELL FOR MILO YIANNPOULOS AND FED THE FALSE FOX NEWS/TRUMPIST NARRATIVE THAT THE UNIVERSITY OF CALIFORNIA SUPPRESSES CONSERVATISM

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I began my teaching career at UC Berkeley in the 1980s, as a teaching assistant and acting instructor in the History department. Although this was the height of the Reagan era, Berkeley continued to lean Left, and its student activists built a successful mass movement to pressure the university to divest its financial holdings in companies that did business with the apartheid regime of South Africa. The students in my history classes were mostly liberal, with a sprinkling of moderates and leftists, and one or two conservatives each semester. These conservatives tended to be bright, idealistic, committed to free market principles, and intellectually rigorous. They seemed more interested in entrepreneurialism than student activism. In fact, one of my most impressive conservative students had already found a clever way to generate lots of income – designing and selling the now classic t-shirt outlining on a football grid how the Cal football team in the last minute had defeated Stanford in a famed Big Game battle in which the Stanford Band had marched on to the field before the game had ended, contributing to the confusion that made that famous final play and winning touchdown possible. That student, and most conservatives in my classes enjoyed the give-and-take with their left-leaning classmates, and assumed themselves to be more in touch with where America was heading politically since the nation was shifting rightward. The conservatives were generally the most sympathetic to the UC administration – often giving officialdom the benefit of the doubt when conflicts occurred between it and student protesters. This seemed less an ideological phenomenon than an expression of a kind of school spirit that conservatives imbibed from the fraternity and sorority houses in which most of them lived. They referred to the university as Cal not Berkeley, had family roots in the university, and were often more interested in how Cal fared in the Pac 10 than in the political goings on of the campus Left on Sproul Plaza.

I mention these earlier Berkeley experiences because they help explain why I was so surprised by the behavior of Cal's conservative student leaders in the opening year of the Trump era: that they would repeatedly extend campus speaking invitations to mean-spirited, shock-jock style speakers, who specialized in baiting vulnerable minorities, speakers I believe my conservative students from the 1980s would have found embarrassingly shallow and intemperate. My students admired conservative intellectuals and valued civility. So I simply cannot imagine their having any interest in associating with a foul mouthed, self-promoting troll like Milo Yiannopoulos, whose celebrity status was attained through public remarks and

interviews that attracted attention because of their crudity, cruelty, and bigotry.<sup>1</sup> Nor can I imagine my conservative students being a party to frivolous law suits against the university that they loved, lawsuits that the Trump era Berkeley College Republicans and the far right Young America's Foundation have filed. Those suits made the ludicrous charge that the UC Berkeley administration had acted to suppress conservative ideas and speakers when in fact the university suffered more than \$100,000 in property damage while hosting the first Yiannopoulos appearance – which was shut down because of a riot by leftist vigilantes – and then spent millions of dollars on security to ensure that such rioting could not recur and so he and other right wing speakers could and would speak on the Berkeley campus.<sup>2</sup>

The question of why Berkeley's conservative students would invite Yiannopoulos to their campus has attracted little media attention. This media neglect is itself a fascinating phenomenon.<sup>3</sup> One can understand such neglect in the immediate aftermath of the riot that prevented Yiannopoulos from speaking at Cal in February 2017 since the primary task of reporting on the riot involved focusing on the Left, the 150 or so violent antifa militants who invaded the campus, damaged the MLK Student Union building, prevented the Yiannopoulos speech from occurring, and then trashed downtown Berkeley, leaving \$600,000 in property damage there. But long after that riot, and after a tape of Yiannopoulos' sick remarks making light of pedophilia caused even the American Conservative Union to disinvite him from addressing its national convention, most of the media still failed to ask why Berkeley's conservative students were so drawn to Yiannopoulos, why even after this scandal they extended an invitation for Yiannopoulos to return to Cal for a campus speaking engagement in fall 2017.<sup>4</sup>

This failure reflects the narrowness of the media focus on political speech at Berkeley, that it frames such far right speaking events almost exclusively in a First Amendment context. So for the media the question was whether the university respected the right of its conservative students to invite such far right speakers, not whether these speakers ought to be invited in the first place. Seeing the university only as a site of political combat and not as an educational community, the media proved largely incapable of asking whether such an invitation was damaging to that community and whether it in any way served the educational mission of the university. As with the right wing students themselves, the media proved unwilling to move from the realm of rights to responsibilities – of asking whether such an invitation

was responsible.<sup>5</sup>

Obviously, the First Amendment question answers itself, since yes these students did have the right to invite Yiannopoulos, and yes the university was obliged by law and committed via its free speech policies to enabling even such bigoted, mean spirited, and unpopular speakers to appear on campus when invited by officially recognized student groups. So really the live and unanswered questions are why right wing student organizations at Cal would invite a speaker so offensive that his first appearance at Cal sparked a major riot, and why after that riot and after Yiannopoulos had discredited himself even with the national right wing over his pedophilia scandal, Berkeley right wing student activists still were determined to have Yiannopoulos speak on their campus.

Before we can begin to answer these “why” questions concerning the Yiannopoulos invitations we first need to deal with the question of who the right wing student activists were that extended these invitations and how representative those activists were of Berkeley’s small group (ie a few dozen) of conservative student activists. This is an important matter because it would be both inaccurate and unfair to conservative students at Berkeley to assume that all, or even most of them, were fans of Milo Yiannopoulos or enthusiastic supporters of the right wing activists who invited him. Indeed, the Berkeley College Republicans, the organization whose leaders invited Yiannopoulos, never took a democratic vote on that invitation.<sup>6</sup> And in fact, Troy Worden, the key BCR leader and Trumpist, who initiated and defended that invitation would less than a semester later be impeached and replaced by a BCR leader more reminiscent of the Reaganite Republicans I taught in my Berkeley history classes in the 1980s.<sup>7</sup> Disgust with their extremism and the way the Yiannopoulos and other speaker controversies were handled by Worden and his BCR leadership cadre – and especially the way they trolled the university administration – led not only to this leadership change in the BCR, but also provoked some disillusioned conservatives to found the Berkeley Conservative Society as an alternative to the BCR, promoting a more intellectual and less confrontational brand of conservative student activism.<sup>8</sup>

So the who we are dealing with regarding the first Yiannopoulos invitation was the small (and as it turned out short-lived) leadership cadre of the BCR who spoke for that organization from the spring to the start of the fall semester of 2017. Another small student group on the far right, the staff of an on-line conservative student publication, The Berkeley Patriot, consisting of less than a dozen students, was primarily responsible for the second Yiannopoulos invitation to Berkeley.<sup>9</sup> This publication had posted a mere handful of articles, so even calling it a fledgling student organization is more than generous. What both the BCR leadership cadre and the Berkeley Patriot had in common, aside from their small size, was their commitment to far right ideology and politics – generally Trump-like – and their deep alienation from the liberal university.

A good place to start our inquiry into why Berkeley’s right wing

students invited Yiannopoulos is with the public statements of their leaders. The week before Yiannopoulos’

first scheduled appearance at Cal, Peter Sittler, the internal vice president of the Berkeley College Republicans (BCR), and Troy Worden, the BCR’s future president, who had helped initiate and sign the contract with Yiannopoulos for his Cal speaking date, published in the Daily Californian, Berkeley’s student newspaper, an op-ed “In Defense of Milo Yiannopoulos.” Opening by noting that “Berkeley College Republicans have suffered much criticism and abuse for inviting ... journalist and provocateur Milo Yiannopoulos to campus,” Sittler and Worden sought to explain the invitation.<sup>10</sup> But the explanation immediately became fogged up by its vagueness and evasiveness. “We invited Yiannopoulos,” Worden and Sittler write “precisely because he raises taboo political topics that our club believes are necessary for, and essential to a complete political debate – and he uses humor and satire while doing so.”<sup>11</sup> Were there actually topics at the university that were taboo? Topics that only Yiannopoulos could address? What were these topics? Sittler and Worden never say. Their claim that Yiannopoulos used “satire and humor” in his discourse obscured the reasons he was so widely loathed on campus. Yiannopoulos had been banned from Twitter for his vicious personal attacks on Leslie Jones, an African American actress, which unleashed a wave of racist tweets that his far right followers aimed at her. In his campus tour he had so humiliated a transgender activist by name (projecting that activist’s image on a screen from the podium and making obscene and transphobic remarks about that student) at the University of Wisconsin at Milwaukee that the student dropped out of school. At the University of West Virginia Yiannopoulos crudely and personally attacked a gay sociology professor as a “fat faggot,” and referred to women as “cunts.”<sup>12</sup> These personal attacks, especially the one involving the transgender student, were so offensive to some 130 Berkeley faculty that in an open letter to Berkeley Chancellor Nicholas Dirks, they denounced Yiannopoulos’ behavior from the podium as a form of personal abuse that violated the university’s and the federal government’s policies against sexual harassment; they urged the chancellor to cancel his campus speaking engagement.<sup>13</sup> Whether or not one agrees with such calls for the cancellation of Yiannopoulos’ speech (and Chancellor Dirks did not) or with the charge that his mean-spirited attacks aimed at humiliating targeted individuals on campus amounted to harassment (which at the very least they bordered on), to chalk this up as “satire and humor” is evasive at best. Sittler and Worden could not really explain why they chose to host a crude, cruel, and bigoted speaker when they refused even to face up to that cruelty, crudity, and bigotry.

Next Sittler and Worden tried to make their invitation to Yiannopoulos sound like a function of their commitment to political pluralism, asserting that “In order to fully develop intellectually, we must not hear solely from those with whom we agree and those who make us feel good – we must have our views challenged. Berkeley College Republicans are in fact the real thinkers on this campus precisely because they have the courage to stand up to Berkeley’s reigning political orthodoxy .... [ie] liberal thought.”<sup>14</sup> So if, as these BCR leaders suggest,



the BCR was already courageously challenging the Berkeley campus liberal “political orthodoxy” why was there a need for Yiannopoulos’ presence? If there was some intellectual quality that Yiannopoulos would add to BCR’s defiance of the liberals and the Left, Sittler and Worden certainly did not identify it – and other than his nastiness and baiting of minorities it is difficult to see what Yiannopoulos had the potential to add to the Berkeley campus right’s political discourse. Their proposition that hearing from Yiannopoulos would help any student to more “fully develop intellectually” is preposterous given how his bigotry, juvenile antics, and abusive rhetoric foreclosed rational political dialogue and led to disruptions and violent conflict on his campus tour.

Sittler and Worden claimed that Yiannopoulos “gives a voice to repressed conservative thought on college campuses,” but failed to share a single conservative thought that Yiannopoulos expressed.<sup>15</sup> What thoughts did he air that others on campus were not free to air? They do not say. Yiannopoulos was famed not for his “conservative thought,” but for baiting religious, racial, and sexual minorities.<sup>16</sup> How this connected with the goal of invigorating conservative thought on campus is a mystery that Sittler and Worden did nothing to resolve.

Matriculating on a campus famed for its role in promoting free speech – with Berkeley as the birthplace (in 1964) of The Free Speech Movement -- Sittler and Worden naturally sought to place themselves in that heroic tradition. They wrote that “In the past, Americans have fought and suffered for their right to express themselves; what we are doing here is no different, because... we know that it is right that people’s feelings should take a back seat to open discourse and free speech... The Berkeley College Republicans believe that we should err on the side of more speech instead of less. Our campus is not a ‘safe space,’ and true to Cal’s motto ‘Fiat lux,’ light will be shed upon issues in ways that some may find uncomfortable.... It is time [for liberals] to mature and realize that you will encounter people with whom you may not agree.”<sup>17</sup>

Such free speech sentiments are admirable, but here too these BCR leaders were studiously avoiding any discussion of the ugly way Yiannopoulos abused that freedom, how he had behaved on his campus tour and how that behavior combined with the political tensions accompanying Trump’s inauguration and Muslim travel ban to unleash conflict that was not merely ugly and frightening but violent. Just a little more than a week before Yiannopoulos’ scheduled Berkeley speech a pro-Yiannopoulos militant had shot and seriously wounded an anti-Yiannopoulos protester on the picket line at the University of Washington.<sup>18</sup> At a time when immigrant and undocumented students as well as LGBT students were feeling especially threatened by Trump’s ascension to power was it responsible to bring to campus a nativist, transphobic troll whose tour had provoked such violence? To this all Sittler and Worden had to say was “we disavow any violence or hurt that may occur as a result of him [Yiannopoulos] coming to campus.”<sup>19</sup> While surely Sittler and Worden were right about the need for “mature” attitudes towards speech with which one disagrees, there is also a kind of mature judgment that escaped them, and that involved

recognizing that some forms of speech, especially in moments of high political tension and crisis, are so incendiary as to provoke violence. Given the shooting at the University of Washington one might expect some soul searching about the wisdom and timing of the Yiannopoulos appearance at UC Berkeley and some serious thought about at least postponing that event until the political temperature dropped.

But such soul searching and re-thinking did not occur. And why was that? The answer to this question can be gleaned from the part of the Sittler and Wordon op-ed that was autobiographical, which was also the part that was by far the most honest. In contrast to Sittler and Wordon’s obfuscations and vagueness in discussing Yiannopoulos, they were direct, specific, and convincing in describing their own feelings of alienation from their campus and the anger and hurt the Berkeley College Republicans had suffered as they became an increasingly unpopular minority among their liberal classmates in the wake of Trumpism and one of the most polarizing presidential campaigns in American history. Thus Sittler and Wordon ended their op-ed with a plea to their political foes on campus not to do on the date of Yiannopoulos speech “what you have done in the past. Do not illegally release personal information of our members with intent to do harm. Do not steal or destroy our private property. Do not insult, yell at, spit on, intimidate, or otherwise physically assault us. Do not attempt to shut our events down...”<sup>20</sup> This litany of complaints conveyed the BCR leadership’s sense of victimization at the hands of an intolerant Left. And this is one of the keys to understanding some of the deepest motivations for the Yiannopoulos invitation: payback for their own mistreatment by the Left. Yiannopoulos’ scornful treatment of liberals and the Left was attractive and even cathartic for some among the Berkeley campus rightwing who felt themselves on the receiving end of Leftist and liberal scorn. So the enemy of my enemy is my friend was a submerged (ie not public) part of the reason the BCR ended up championing Yiannopoulos.

Understanding this sense of alienation and anger is central to sorting out the way the free speech issue figured into the Yiannopoulos invitations at Berkeley. Yes, there was a free speech element in the public rhetoric of the BCR leadership, which they sought connect to the now valorized Free Speech Movement (FSM) of 1964. But in reality the freedom being exercised via the Yiannopoulos invitation was not a freedom to liberate the student body from restrictions on the content of political speech on campus (since all such restrictions had been eliminated decades ago by the FSM), but rather their own freedom to bring in a speaker with a track record of insulting, offending, and inciting – in so nasty and personal a way that it bordered on harassment – progressive students, whom they loathed.

One could make a case, that students on the Left were too sensitive, since, Yiannopoulos’s words, however vile they might be, lacked the power to actually hurt them, especially if they simply boycotted his talk. But if the Left was arguably too sensitive, these BCR leaders were publicly almost gleefully extreme in their insensitivity and even callousness about the

fears, anxieties, and anger their progressive classmates felt about Yiannopoulos' hateful rhetoric. Indeed, Sittler, a little over a week before writing his pro- Yiannopoulos op-ed with Worden, was, in a *Daily Californian* interview, not merely dismissive of such concerns about Yiannopoulos – who he termed “hilarious” and “entertaining” – but insulting to students who expressed them, saying that they should “grow up.”<sup>21</sup> Noting that Sittler “evaded” questions about Yiannopoulos' assaultive rhetoric, that Sittler claimed to be “unfamiliar with an incident at the University of Wisconsin in which Yiannopoulos harassed a transgender student in front of an entire audience,” and merely mocked those concerned with such cruelty, the *Daily Californian*, in its editorial “Berkeley College Republicans Must Not Normalize Hate Speech,” accused him of acting “hypocritically” in claiming that “the BCR invited Yiannopoulos to campus to promote dialogue.... This is a club hiding behind the right of free speech as an excuse to legitimize – even laugh at -- hate speech and shirk responsibility for any resulting damage.”<sup>22</sup> The *Daily Californian* found it absurd that Sittler and the BCR claimed to be promoting “free speech and open dialogue on campus,” while ignoring the fact that Yiannopoulos was “a repulsive” purveyor of “alt right hate speech” who shuts down any potential dialogue as he “intentionally baits marginalized voices so he can bully them and exploit the angry backlash in front of his fans.”<sup>23</sup> Thus while Sittler and the BCR had the purer free speech argument, their disingenuousness about Yiannopoulos and refusal to publicly acknowledge the cruel and hateful character of his oratory and behavior undermined their credibility, motives, and claims to be pursuing any lofty goals regarding free speech.

Criticism of Yiannopoulos' bigotry – and the racist, xenophobic, Islamophobic, and transphobic component of his discourse—did nothing to stop conservative student leaders at Cal from identifying with him, owing to their feelings of marginalization and alienation.<sup>24</sup> This sense of marginalization and alienation was quite visible when Sittler and Worden, in their pro- Yiannopoulos op-ed charged that at UC Berkeley “any view that deviates from the liberal status quo these days is considered ‘hateful’ and ‘bigoted.’ It is nigh impossible for a Berkeley College Republican to disagree with one of his liberal peers and still expect respect – afterward – his outstretched hand of friendship is often left hanging in the air.”<sup>25</sup> The problem with this formulation is, of course, that just because charges of bigotry and hatefulness are sometimes unfair, does not mean that this is always the case. Nor is it even true that at a campus as politically diverse as Berkeley any view outside the liberal mainstream would automatically be assumed to be bigoted. This would certainly not be the case among faculty who study ideas professionally. Nor for administrators or students with any level of political sophistication. Indeed, since most conservatives who have spoken on the Berkeley campus attracted little notice and no protest,<sup>26</sup> it was clearly not the deviation from liberalism that led to charges of bigotry, but the specific words and actions of the individual charged with bigotry – and such charges need to be judged via empirical evidence rather than simply dismissed with a rhetorical flourish. Nonetheless the mindset of Sittler and Worden was that since some BCR activists were unfairly stereotyped as bigots because of their conservatism the same must be true of

Yiannopoulos (and Trump), and that it was fine with them if the heat of his nasty rhetoric melted the campus' liberal snowflakes.

But actually the charges of bigotry against Yiannopoulos were not unfair. The evidence of his bigotry is overwhelming. He served as a leading apologist for the white nationalist alt-right, most notably in his Breitbart puff piece “An Establishment Conservative's Guide to the Alt Right,” which he colluded with white nationalists in writing.<sup>27</sup> As conservative critic Elliot Kaufman noted, Yiannopoulos offered here “an outright apologia for racist white separatism,” as when he wrote sympathetically of their segregationism, which he sugar coated as people “fighting for self-determination” who “want their own communities, populated by their own people, and governed by their own values.”<sup>28</sup> Yiannopoulos was effusive about how “bright” white supremacist Richard Spencer was, and in an interview explained that he liked to hang out with Spencer because he was “edgy.”<sup>29</sup> This was the same Richard Spencer who was the headlined speaker and marched with the KKK at the Charlottesville Nazi rally at which a white supremacist murdered an anti-racist protester. Yiannopoulos refused to condemn their anti-Semitism and himself said things like “the Jews control everything.”<sup>30</sup> Given Yiannopoulos' proposal to set up scholarships reserved for white students, his lectures on what he hates about Islam, his denunciation of Black Lives Matter as a “terrorist” organization it is little wonder that he and Spencer have been drawn to each other. And then there was his bigotry on sexuality, with Yiannopoulos denouncing transgender people as mentally ill – urging that they be mocked – and slandering them as child molesters, much like homophobes had done to gays in the mid-20<sup>th</sup> century.<sup>31</sup>

Sittler and Worden were too scorned by and scornful of their progressive classmates to deal publicly with any of this evidence of Yiannopoulos' bigotry. And, of course, doing so would not have served their purposes since it would have sullied the image they sought to project as champions of free speech. The BCR's silence on bigotry and the campus right wing's own expressions of hurt and resentment reflected the new tensions brought to the Berkeley campus political scene by Trumpism. This ran far deeper than the normal fare of partisan division because Trump's nativist platform directly threatened undocumented immigrant students, their friends and families with deportation, and Trump's Muslim travel ban threatened students from that faith. Since the new Republican president's attacks on immigrants were so virulent and upsetting, Berkeley College Republicans could hardly expect to escape facing hostility from students in a majority non-white student body within which immigrants, especially Latinos, were so prominent.

It is almost impossible to overstate how tense the political climate was at Cal as a result of Trump's election, following his hateful nativist campaign. Chancellor Dirks, recognizing how shocked and frightened many students were, wrote a message to the campus community in the wake of Trump's election, affirming the university's “values of respect and inclusion,” and urging the university to “rise above the rancor” of an “election season that has witnessed a pervasive rhetoric of intolerance across our

nation which had been a cause of alarm and concern for many of us.” He expressed confidence that Berkeley would continue “to embody the best of what a free, open, and inclusive society should be.”<sup>32</sup> The chancellor carried this message directly to the students by appearing at a student senate meeting. At that meeting the chancellor saw first hand how polarizing the election and its aftermath had been.

Dirks encountered evidence of this polarization, right after his remarks to and q. and a. session with the student senate, when a BCR member came up to him and discussed the growing hostility BCR members had experienced because of the election, “including physical intimidation.”<sup>33</sup> Dirks replied that any such threats or attacks were “unacceptable,” and told him he would set up a meeting with the Student Affairs office immediately to prevent any such incidents in the future. Dirks noted that even after he’d offered to intervene to help the student was so upset that he kept on venting. “He didn’t want to let go.”<sup>34</sup> And here, as with the BCR use of the free speech issue, this BCR activist’s complaint to the chancellor was expressed in a kind of passive-aggressive way that was linked with resentment of the liberal university – in this case, however a resentment directed not only at liberal students but at Cal’s liberal administration and the chancellor himself. This BCR activist, as Dirks recalled, “kept saying ‘you supported every community, every minority, every this and that... but you’re not supporting us.’”<sup>35</sup> As Dirks became more familiar with the BCR leadership over the course of the Yiannopoulos and other right wing speaker controversies in his last year as chancellor, he came to see that it was opposed to “virtually every thing the university stood for.... I mean not only the official statements that are being made by the administration [especially on behalf of diversity and inclusion] but the culture of the faculty and the culture of students. And this was ... a dominant, repressive, and hostile culture as far as the BCR was concerned.”<sup>36</sup>

Almost as disturbing to Dirks as physical threats and violence directed at conservative students was what he termed “the choreography of polarization.”<sup>37</sup> That when the BCR member came up to speak with him at the student senate meeting, “no else would” come near him, as if he was a pariah.<sup>38</sup> In this tense political atmosphere it would take some brilliant intervention on the part of the faculty and administration to promote amicable Left-right relations on campus, but nothing that the chancellor did could change the fact that student politics at Cal was as polarized by Trump’s bigotry and the resistance to it as was the larger polity. In such a political climate it is not surprising that the BCR proved incapable of reconsidering its Yiannopoulos invitation.

There were numerous attempts, however to get the BCR to think through the consequences of the political choice it was making. Faculty and administrators, while respecting the right of the BCR activists to choose their own speakers, did try to reason with them about the ugly things Yiannopoulos had said and done on his campus tour, and why such hurtful behavior was so problematic. Probably nobody did more in this regard than the advisors in Cal’s LEAD Center, who provided organizational and

leadership training for Berkeley’s 1,200 student organizations. The LEAD Center advisors found that when they raised the issue in their private meetings with some of the BCR leaders, there was a willingness – absent in their public cheerleading for Yiannopoulos -- to acknowledge that they were not comfortable with the way he had mocked and bullied that transgender student at Wisconsin and did not want him (as was rumored to be his intention) to do the same to undocumented immigrant students -- who it was rumored he planned to out -- in his Berkeley appearance.<sup>39</sup> Reminding this BCR activist that the planned Yiannopoulos talk was the BCR’s event not his, the advisor suggested that the BCR contact him and tell him that they did not want him doing such a thing when he spoke at Berkeley. And this BCR activist did seek to contact Yiannopoulos, but could only reach his manager who laughed and told him that if he asked Yiannopoulos not to do something like that it would only make him more determined to do so.<sup>40</sup> In the end, however, neither this activist nor any BCR leader cared enough to insist that their speaker behave decently and with some civility.

It is difficult to avoid seeing a connection between Donald Trump’s coarse political discourse and the BCR leadership’s refusal to utter a word in public objecting to the parallel coarseness and cruelty in Yiannopoulos’s rhetoric. For these young Republican leaders, their party’s nominee and new president had normalized the most brutal forms of political discourse – from the use of demeaning language and personal attacks to racist stereotyping --to the point that Yiannopoulos’s hateful speech seemed not just acceptable but helpfully provocative. And Trump, having won, and ascended to the presidency through such rhetoric had proven its effectiveness. So the lesson for this small conservative student organization on a famously liberal- Left campus was that being provocative through coarse rhetoric a la Yiannopoulos and Trump was a path to greater influence and visibility.

It was natural, however, that the BCR leadership sought to make the Yiannopoulos invitation sound high minded (and may even have believed it to be so), whether as a bold act on behalf of free speech, an admirable venture in political pluralism, or a courageous challenge to political correctness. But in their private conversations with UC Berkeley administrators and even in a later BCR leader’s subsequent statement at the chancellor’s commission on free speech it was evident that organizational and personal ambition were major factors drawing the BCR to Yiannopoulos.<sup>41</sup> Contrary to the impression left by right wing media, the BCR, which has a long history at UC Berkeley, had regularly hosted respected conservative speakers. These speaking events usually drew neither protests nor media attention, and – this is crucial -- they were often sparsely attended.<sup>42</sup> This issue of poor attendance came up, when in the lead up to the February 1 Yiannopoulos event, Nils Gilman, chief of staff to Berkeley chancellor Dirks, queried the BCR leaders as to why they were departing from their and the university’s history of bringing thoughtful “credible conservative” speakers to campus, such as Jim Mattis, who had spoken at Cal several years earlier and went on to become secretary of defense in the Trump administration.<sup>43</sup> The answer Gilman received was that less

than a handful of students had shown up for Mattis' talk.<sup>44</sup> That Yiannopoulos was being invited in part because he would draw a big crowd. His national speaking tour had, of course, generated headlines, and crowds of protesters so yes it was true that such an event offered the BCR what for them (as a small and unpopular student organization) a rare opportunity to host a well attended political talk, and one that was inexpensive since Yiannopoulos did not demand an honorarium.<sup>45</sup>

Ordinarily, of course, there is nothing wrong with seeking to host a speaker who would draw a big crowd. In fact, student political organization leaders are supposed to maximize the appeal of their events to serve the institutional interests of their groups. But Yiannopoulos was a speaker whose lack of civility, whose cruel mocking of that transgender student for example, was objectionable to students and faculty alike. Was it not an unprincipled form of political opportunism to bring a speaker many viewed as lacking in basic human decency merely because he would draw a crowd? This was the issue Gilman, several other UC administrators and Berkeley history department chair Mark Peterson raised with Worden and another BCR leader at a meeting held in the wake of the February riot. The meeting was prompted by BCR statements about wanting to bring Yiannopoulos back to campus, and a desire to understand why the BCR was so eager to have him come to Cal even after his recent disastrous appearance.<sup>46</sup> One response they received from these BCR representatives was that "we couldn't get students to pay attention to conservative ideas [via conventional conservative speakers]. We have to do something to provoke them."<sup>47</sup> In this meeting the BCR leaders, forcefully challenged on such opportunism, were asked whether they'd want to be associated with Yiannopoulos's assaultive discourse: "Do you really think it's ok to say the many nasty things that Milo says?" "Troy [Worden], as Gilman put it, "literally smirked."<sup>48</sup> Worden and his fellow BCR leader sought to evade the question by invoking the First Amendment, claiming that they were standing up for Yiannopoulos's free speech rights. But as to the hurtful things Yiannopoulos had done from the podium, according to Gilman, "they'd just dismiss it and not want to deal with it." Gilman viewed this as defending "the right to be an asshole. The First Amendment allows you to be an asshole;" and he came away from the meeting aware that it had been futile to try to prod them to re-think their hosting such a loathsome speaker.<sup>49</sup>

Mark Peterson's follow up questions at this meeting may have been the most revealing of all. After one of the administrators asked Worden and his fellow BCR activist whether they agreed with Yiannopoulos' bigoted comments – such as those he'd made about Muslims -- and the students backed off, claiming that they "absolutely do not support everything that Milo says," Peterson asked: "So can you tell me which position that Milo has taken that you actually do support?" The conservative students seemed stumped. According to Peterson, "they were hemming and hawing. And finally Troy, after a certain amount of time, said 'Well we like what he says about mens' rights.'" <sup>50</sup> Peterson responded by asking "'What do you mean by that?' Then again kind of hemming and hawing, and not very clear," seeming to imply that "the decks are stacked on campus against men – I

don't know – who committed sexual assault allegedly. It was," Peterson noted, "quite feeble. They were not prepared to say much of anything about Milo as, in particular, as a speaker or supporter of anything they were in favor of."<sup>51</sup> Peterson pushed back, and also offered the BCR some advice: "Of course it's your right to ask anyone you want to come and speak on campus. But you should also understand that with rights come responsibilities too. And that in this case you're asking someone about whom you seem to have very little to say [concerning any ideas of his and how they align with the BCR's]... But at the same time you have [in Yiannopoulos] someone who has a ... record of engendering violence and danger, and destruction on the campuses he goes to, and they should be careful about the costs and benefits here... the very high costs of bringing the tiger to the nursery school."<sup>52</sup>

Chancellor Dirks' experience with the BCR leadership in connection with Yiannopoulos controversy was similar to Gilman's and Peterson's. "I was" Dirks recalled, "privy to conversations that were unguarded – that's really very limited obviously," but these made clear that the embrace of Yiannopoulos was an expression of BCR feelings of marginalization and alienation as well as a hope that a high visibility speaker, no matter how unpopular, would attract attention to the BCR – something they felt entitled to in the wake of Trump's recent election victory. A BCR leader told Dirks "we want to do this [Yiannopoulos event] because we have been just invisible at Berkeley. This is a way of making visible our reality. Do I approve everything the guys says? No." Dirks' impression was that "some of" BCR's leaders "approved of some of the" things Milo had been saying in his campus tour. "Milo is pretty edgy for a Berkeley student, but they didn't care."<sup>53</sup>

There is no way to be certain whether Worden and the other BCR leaders who met with Dirks and other Cal administrators to discuss their views on Yiannopoulos were actually being candid. Indeed, judging by some of the critical comments by BCR rank and filers who opposed Worden and his leadership cohort, these BCR leaders may have been closer to the far right fringe than they were willing to let on either in public or in meetings with UC officials. Berkeley BCR member Jonathan Chow, who had challenged Worden's leadership, claimed that Worden's views "veered toward the extreme."<sup>54</sup> Chow charged that some BCR members "who supported Worden told him they were 'national socialists,' a term used by neo-Nazis – which appalled Chow."<sup>55</sup> As BCR president, Worden had also been, according to Chow, unwilling to respond to member complaints when "anti-Semitic comments began to pop up" in a BCR-on line discussion board.<sup>56</sup> Though Worden denied these charges, on the Tucker Carlson show Worden had trotted out the anti-Semitic canard of a demonic George Soros (the Jewish financier), who Worden charged (without evidence) was funding Berkeley's violent left wing groups.<sup>57</sup> Moreover, San Jose Mercury News reporters noted that "Worden's social media pages are peppered with photos of himself grinning next to the likes of [Steve] Bannon and Kyle Chapman, an alt-right instigator who goes by the name of Based Stickman. He's also been photographed with ex-Google employee James Damore – who was fired for writing a memo suggesting that biological differences explain the tech industry's



gender gap – and Martin Sellner, the head of the far-right Austrian group Generation Identity.” Asked to explain these photos he had posted, Worden “dismissed the idea that he agrees with all of the people he poses with,”<sup>58</sup> a response that begs the question of why he thought so highly of these extremists that he posed with them and then posted the photos. At the very least, one can say that Worden – and some of his leadership cohort in the BCR -- flirted with the alt-right and white nationalism. Thus it is little wonder that BCR member Ivan Varlea complained that the BCR “has been hijacked by bigots.”<sup>59</sup>

In Worden’s case there was also an element of personal opportunism involved in the Yiannopoulos event. Given the controversy and headlines generated by Yiannopoulos’ vitriol and the protests, disruption, and violence at the stops on his national campus tour, hosting him, especially in liberal Berkeley, seemed a sure path toward calling attention to one’s self, and drawing media coverage. Becoming the voice of this effort to stick it to the Berkeley Left could lead to fame in the national conservative community, and possibly a career as a right wing political operative or in the right wing media world. All the more so in the wake of the riot that made the Yiannopoulos event a major news story. For Worden the Yiannopoulos controversy offered connections to his conservative heroes, as when he appeared on Fox with Tucker Carlson. Indeed, by the time the Yiannopoulos controversy was over Worden had his own website, featuring clips from his appearances on Fox, NRA TV, and other national right wing media outlets. In fact, Peterson, after viewing Worden’s initial appearance on Fox News, in which he overstated and overacted in the role of the oppressed conservative in liberal Berkeley, thought Worden sounded like he was “really interested in auditioning for a job on Fox News or Breitbart, one of these right wing media type of things.”<sup>60</sup> Worden would subsequently work for Campus Reform, a right wing organization devoted to attacking the liberal university.

There is nothing inherently wrong with such opportunism. So let’s not begrudge Worden and his fellow right wing student leaders their moment in the sun. Young people need to chart out career paths and Worden was doing it well here. But this kind of courting of the right wing media does become problematic when student leaders prevaricate on national TV, as Worden did on Tucker Carlson’s show, distorting campus events so as to slander the university and foment sensationalism, playing to the prejudices of the far right against the university – demonized as a left wing pc indoctrination center -- instead of being truthful. Worden did this on Carlson’s show when he falsely accused the UC Berkeley administration of being too “cowardly” to stand up to violent protesters who disrupted “high and low profile” conservative speakers on campus – making it sound as if the BCR’s speakers were regularly disrupted by force, which is simply untrue.<sup>61</sup> Indeed, an on-line BCR forum hosted by Worden and another BCR leader in April 2017, made it clear that disruptions of their speakers was a rarity, and that they were able to “host a large amount of conservative speakers. It’s just the controversial ones that get the headlines. Almost every other week,” explained Worden’s fellow BCR activist Elias W., “there’s another guest speaking at our meetings, for instance, just recently we had WW2

vet and journalist Charles Wiley speak to our club, Republican Assemblyman Rocky Chavez, Bay Area GOP Chair, former SF GOP head Harmeet Dhillon, RNC Committeeman Shawn Steel, Ben Shapiro, the list goes on.”<sup>62</sup>

Worden also told Carlson that when the anti-Yiannopoulos riot occurred at Berkeley the campus police did nothing because they had been ordered to “stand down,” apparently by UC’s liberal university administration, which was also untrue.<sup>63</sup> Indeed, in suggesting that the Berkeley campus police were derelict in their duty during the riot because they did not abandon their positions at the entrances of the Berkeley student union building to arrest the rioters -- which the police chose not to do because they were outnumbered and did not want to risk harming the many non-violent students who the antifa rioters used as shields -- Worden was insulting the officers whose actions had saved him from injury. Had the police not stood their ground, the rioters would have been able to enter the student union that they had besieged, where they could and almost certainly would have assaulted Worden and the others who were hosting the Yiannopoulos event, along with Yiannopoulos and his entourage.<sup>64</sup>

The implications of Worden’s condemnation of the way the UC Berkeley administration and its police force handled the riot were ugly; he was suggesting that Berkeley’s liberal administration was coddling the rioters. This was a form of guilt by association, in that he implicated liberals—the leaders of UC Berkeley’s administration -- in the violence of the far Left, ignoring the fact that the administration had deployed what for the campus was an almost unprecedented police presence, 85 officers, to prevent violence and protect the Yiannopoulos speaking event (no one could have foreseen the invasion of the campus by some 150 or so black-clad antifas organizing a riot), and then sent out for reinforcements from the Oakland Police department for help in ending the riot.<sup>65</sup> As suggested above, Worden’s attack on the liberal university was likely done in part to appeal to Carlson and his right wing viewers, and to make a name for himself on national TV. But there was clearly more going on here than mere posturing for the Carlson and his TV audience. Nils Gilman, who, on behalf of the Berkeley chancellor’s office, interacted with the BCR leadership throughout the free speech crises of 2017, came away convinced that their “motives and strategy” were “less about ideology than about trolling: they believe that getting the far left to overreact de-legitimizes the liberals – since, as is common on the right, they dismiss any distinction between these two positions; many of them are acting in patent bad faith – and yes, I think they are utterly cynical about the [university as an] institution, which they see as a cultural fifth column, which they are happy to do their part in destroying.”<sup>66</sup>

Though Gilman’s analysis may seem harsh, Worden’s own words in the on-line forum Worden co-hosted for the BCR in April 2017, attest to the validity of Gilman’s critical reading of Worden and the BCR leadership in the early Trump era. Worden’s posts in that forum express hostility to UC Berkeley and to the liberal university nationally, which he depicts as breeding grounds not only for liberal indoctrination but violent radicals. According to Worden, “If you look at what academia has become since the

1960s, it's easy to understand why universities have become factories for producing orthodox, bien pensant liberal students in the same cookie-cutter ideological mold. And because academia is self-propagating, it becomes an endlessly repeating example of confirmation bias and groupthink. The vast majority of humanities departments are filled with people who are easily offended and who regularly compare Trump to Hitler. They should not be surprised when their students believe them and use violence to prevent the rise of the next "fascist" regime.<sup>67</sup> Here you have all of the elements Gilman described: the depiction of the university as a cultural fifth column, the conflating of liberalism with the far Left, and a view of the university that is hostile and cynical.

While it is true that the Berkeley faculty (as well as the professoriate nationally) is, as Worden suggests, disproportionately liberal, the notion that it engages in ideological indoctrination is dubious and the claim that it seeds political violence among its students is over the top. The number of students who engaged in political violence at Cal (most of whom are affiliated with the small By and Means Necessary group) is minuscule, and those who even endorse such violence also constitute a very small minority of Berkeley's 40,000 students.<sup>68</sup> Were this not the case, the antifa riot on February 1, 2017, would surely have been a student-run operation, when in fact less than a handful of the 150 or so rioters were – according to the campus police – students.<sup>69</sup> A 2017 survey, noted that the vast majority of first year Berkeley students supported hearing from speakers on all sides of the political spectrum.<sup>70</sup> It should also be noted that the chancellor of UC Berkeley not only championed Yiannopoulos' right to speak on campus, and turned down faculty and student calls to cancel the speech, but also wrote an open letter to the university community condemning both the riot and the op-eds published in the Daily Californian that came in from the far Left defending the riot on anti-fascist grounds.<sup>71</sup> In the realm of causality, however, the fact that Worden's view of the university was inaccurate is less important than his underlying hostility to the university since that hostility makes plain that his motivations for inviting Yiannopoulos were linked to a desire to place the university in the most negative light possible.

In light of Worden's charges that liberal faculty inspire student violence, there is an ironic quality to the way he discussed violence in the BCR's on-line forum. Though one would expect any critic of political violence to express regret and outrage over the riot that prevented Yiannopoulos from speaking and did \$100,000 in property damage to the university, Worden did not react that way. On the contrary, he depicted the riot as a big win for the BCR: "the problem," wrote Worden, "is that violent and absurd actions and beliefs of groups such as BAMN will go unchallenged unless they are brought to national attention; that is what we succeeded in doing by inviting Milo to Berkeley."<sup>72</sup>

Though it is jarring to hear an aborted speech and a major riot described as a success by one of the key sponsors of that speech, Worden was looking at the event in terms of his organization's and his own self-interest. He even boasted in a BCR on-line forum that the riot was a real plus for the BCR since "our membership has increased greatly since the whole Milo fiasco.

Many students have ... become interested in 'coming out of the closet' as conservative or moving more to the center after what they've seen. Antifa is actually making students more conservative not less; their tactics have backfired."<sup>73</sup> Worden's fellow BCR organizer Elias W. concurred, explaining in the BCR on-line forum that "If anything, things like the Milo protests, and the violence/property destruction has helped our group to grow immensely."<sup>74</sup>

There is a clear connection between the BCR's lack of concern about the cruelty of Yiannopoulos's political discourse and the upbeat way that Worden and Elias W. viewed the riot at Cal. In both cases, there was an indifference to the welfare of the larger university community. If students from vulnerable minority groups were upset or hurt by Yiannopoulos's bigoted rhetoric that was no concern of the BCR; if university property was damaged by the riot, so what? So long as liberal hypocrisy was exposed, leftist violence provoked and blamed on the liberal university. For Worden and other activists in this militant right wing, liberal classmates were not friends, and liberal professors were not mentors – both were enemies in this view of the university as a political war zone. As Worden explained in a BCR on-line forum, "It's too easy to ignore the crazy things your peers and professors say. Call them out, stand up for what you believe in. Be willing to lose 'friends' who cannot rationally disagree with you.... As Churchill said, 'You have enemies? Good. That means you've stood up for something, sometime in your life.'"<sup>75</sup>

Though Worden was the most vocal and confrontational BCR leader in the early Trump era, he was not alone in his hostile view of the liberal university and its leadership. Naweed Tamhas, the BCR's external vice president, echoed Worden's charge that the university had coddled violent radicals who shut down the Yiannopoulos speech, and he even sought to trace the origins of such supposed permissiveness to UC administration liberalism. Among the documents included as an exhibit in the second lawsuit the BCR and the Young America's Foundation filed against the university for allegedly suppressing conservative speech, is an e-mail Thamas sent to UC Campus Police Captain Alex Yao charging that the UC police department (UCPD) "stood idly by the night of [the anti-Yiannopoulos] protests on February 1<sup>st</sup> as both civil demonstrators and attendees were assaulted by masked criminals."<sup>76</sup> Thamas attributed this police passivity to "the Robinson-Edley Report," a UC policy statement written in the aftermath of complaints about police brutality generated by the police baton charge against Berkeley's version of Occupy Wall Street demonstrators (the UC campus name for these protests was Occupy Cal) back in 2011. Thamas actually believed that this liberal document, the Robinson-Edley Report, "encouraged ... university police to take a hands-off approach when violence breaks out."<sup>77</sup> And he was writing Yao to inquire as to whether the "UCPD will respond differently than it did on February 1<sup>st</sup> in the case of a violent outbreak " at its next major speaker event (Ben Shapiro), scheduled for September 2017.<sup>78</sup>

This Thamas message to Yao is in its way an extraordinarily revealing document, attesting to the power that right wing ideology and alienation from the liberal university had to blind

this BCR leader to political reality. That ideology and alienation led Thamas, a junior at Cal, to believe that a liberal university would issue a report encouraging a “hands off approach” by police “when violence breaks out,” is simply astonishing since, of course, no university administration would ever encourage its campus police to ignore such criminality, and no police officers sworn to enforce the law would agree to breach their duty to halt and prevent violent criminal acts. Such a misreading of university policy derives from right wing stereotypes concerning liberal permissiveness being applied here to university administration and campus police rather than from the Robinson Edley report – which Thamas either never read or misunderstood. Just as groundless, of course, was his claim that the UCPD “stood idly by” while the anti-Yiannopoulos riot occurred. Thamas’s implication that the UCPD and UC administration were indifferent to violence was all the more misguided and wrongheaded in that it came as these police and campus officials were in the process of planning one of the most elaborate and expensive security operations in UC Berkeley’s history – including the closure of six campus buildings and the deployment of an army of police – to protect the BCR’s upcoming Shapiro event.<sup>79</sup>

Chief Margo Bennett of UCPD and Interim Vice Chancellor of Student Affairs, Steve Sutton responded to Thamas’ message, about which they expressed “regret” over its “unfortunate tone and inaccurate factual content.”<sup>80</sup> Bennett and Sutton explained to Thamas that his message “grossly mischaracterizes the Robinson-Edley report, falsely claiming that the report encourages police ‘to take a hands-off approach when violence breaks out.’ In fact, the Report clearly states that its general framework of restraint in police use of force, ‘must include explicit exceptions for responding to threats of violence and other exigent circumstances.... When confronted with a dangerous situation, our police officers should not be constrained in their ability to protect against property damage or injury, to themselves or others (Robinson-Edley Report at p. 80).’”<sup>81</sup> Bennett and Sutton also wrote Thamas that it had been wrong of him to “falsely accuse our sworn law officers of ‘idly standing by’ while the anti-Yiannopoulos riot occurred. “Both of us” explained Bennett and Sutton, “were on the scene last February when, in an unprecedented development more than 100 armed members of the Black Bloc paramilitary group invaded the campus with the intention of shutting down Mr. Yiannopoulos’s event. Rather than officers ‘idly standing by,’ what we saw was dozens of dedicated law enforcement officials who, despite being outnumbered, willingly put themselves in harm’s way to hold the building and safely evacuate your guests and members of your organization, the Berkeley College Republicans.... Far from ‘standing down,’ on multiple occasions teams of UCPD charged into the mayhem to extract individuals they observed under attack.”<sup>82</sup>

It was not unreasonable for leaders of a conservative student group to be sensitive to bias from the administrators of an overwhelmingly liberal university. But Thamas, Worden and like minded-BCR members went well beyond this, to a view of the university that crossed over into cynicism that bred an almost paranoid interpretation of the actions of the university administration. This was visible, for example, in the way

Worden discussed the actions and motivations of the Berkeley administration regarding the security fees it asked for in relation to the first Milo Yiannopoulos event. According to Worden’s post in a BCR on-line forum, “the initial quote for (mandatory) security we received from the university was \$10,000. We believe this was an attempt to scare us into cancelling the event. We held our ground, and the university issued a final fee of \$6,500.”<sup>83</sup> This charge that the UC administration wanted to use security costs as a weapon to frighten the BCR into cancelling the Milo Yiannopoulos talk is not merely groundless, it is ludicrous. Chancellor Dirks, as we have seen, had publicly championed the right of Yiannopoulos to speak on campus despite his distaste for this speaker’s assaultive and bigoted rhetoric. Indeed, Dirks, in an open letter, turned down on free speech grounds the request of more than 100 faculty to cancel the Yiannopoulos talk. As to the \$10,000 figure, it was mentioned by UC officials initially only as a rough estimate of security costs for the Yiannopoulos event, pending a more detailed review by the UC Police department, a review that came up with a smaller fee of \$6,370.<sup>84</sup> In other words, the final fee was lower not because the BCR, as Worden boasted, “held our ground” against an administration seeking to “frighten the BCR into cancelling” its far right speaker but because the police in their viewpoint-neutral security assessment came up with \$6,370 as the final figure for the security fee.

This, however, only begins to get at how disingenuous Worden’s account of the fee issue was in that on-line BCR forum. As we have seen, Worden falsely claimed that BCR resistance to repressive administrators had resulted in the lower final security fee of \$6,500, presenting the \$6,500 figure (the correct figure was \$6,370) as a victory for the BCR. But in a letter to Chancellor Dirks three weeks before the Yiannopoulos event the BCR had complained about the \$6,370 security fee, which it denounced as “arbitrary and excessive... In effect, the University is restricting BCR’s constitutional rights to free expression by charging fees for unsolicited security that amount to a tax on a ‘controversial speaker.... It is apparent that the \$6,370-tax is specifically designed to prevent the BCR from successfully bringing Milo Yiannopoulos to the University.”<sup>85</sup> The BCR then went on to threaten the university with a law suit, “injunctive relief in court if the security fee is not eliminated in its entirety.”<sup>86</sup> In other words, the BCR was claiming that if the university charged them even a modest security fee this constituted a free speech violation and an attempt to block their right wing speaker.

This last accusation was wildly inaccurate and reflected either ignorance of the costs of major speaking events, paranoia about the university, dishonesty – or some combination of the three. A security fee was not some sinister weapon that the university administration deployed against the BCR to stifle its right wing speaker, but was a standard requirement for large events on campus. As university counsel Chris Patti explained in his response to the BCR complaint, “The First Amendment does not immunize event sponsors from the requirement to reimburse the University for the reasonable cost of providing event security, so long as security fees charged are not arbitrary or content based.... It is the regular practice of the University to charge event sponsors such fees based on content-neutral

factors such as the venue, the type of event, the number of anticipated guests, whether tickets are sold, and if the university is open to non-university guests. The university has routinely and neutrally applied this policy to charge sponsors comparable fees for appearance of a wide range of speakers, including Anita Hill, Lewis Farrakhan, Will Farrell, Rand Paul, Justice Sonia Sotomayor and the Dalai Lama, and your claim that ... security fees have not been charged for similar events is baseless. Similarly baseless is your contention that the University's failure to give BCR special treatment with regard to security fees is motivated by a desire to block your event."<sup>87</sup>

Actually, when one considers the total costs for security that the university incurred in connection with the February Yiannopoulos event these BCR complaints about the security fee seem ridiculous. Given the threats the university was receiving for hosting the talk, and the disruptions and violence that had erupted at earlier stops on Yiannopoulos' national campus tour, the university opted to beef up the police presence for the event, so that it included – a sizable police presence, and the total security costs came out to \$220,000. With the university paying so much to protect their event and then suffering \$100,000 in property damage from the riot provoked by this first Yiannopoulos event it is quite striking – and evidences an obvious right wing bias against the liberal university -- that any BCR leader would complain about or claim political discrimination on account of their being assessed such a small security fee.<sup>88</sup>

Indeed, since Worden and like-minded BCR leaders were wedded to a view of the university administration as the liberal enemy of conservatism, it was almost impossible for them to credit the university with being fair-minded, let alone generous in its relationship with the BCR – even when the evidence of such fair-mindedness and generosity was overwhelming. This can be seen in Worden's discussion of the way the security fee issue was resolved after the riot. Worden acknowledged that in the end, "the Milo event" cost the BCR only "a few hundred dollars."<sup>89</sup> This was because the university decided that since the riot led to the cancellation of the Yiannopoulos talk it would dispense with the standard security fee, and absorb virtually all the costs. Rather than thank the university for waving the fee, Worden claimed (without evidence) that "the university was clearly afraid of the bad PR [public relations] they would receive if they made us pay such an outrageous amount of money [ie \$6,500 out of the \$220,000 security costs] for an event that they cancelled."<sup>90</sup> Actually the decision to wave the fee had nothing to do with PR, but was "simply standard best practice not to charge for event security if the event does not take place due to circumstance beyond the host's control."<sup>91</sup> Indeed, had the administration waved the fee for PR purposes it would obviously have coordinated this decision with UC Berkeley spokesperson and PR leader Dan Mogulof, but in fact, Mogulof only found out about the waved fee "after the BCR did."<sup>92</sup>

About the only accurate part of Worden's account of the fee issues was his assertion that "We had attorneys ready to sue if we were made to pay these costs."<sup>93</sup> This threat to sue the university was not empty rhetoric. Both the dominant faction of

the BCR, which had convinced itself that the liberal university sought to suppress conservatism, and its off campus financial angel, the wealthy far right Young America's Foundation, eager to sue liberal universities, joined forces in April 2017 in filing a law suit charging Cal with view point discrimination against campus conservatives and their guest speakers.<sup>94</sup> The suit centered on Ann Coulter, the next major far right media star -- a nativist extremist who specialized in demonizing Latino immigrants -- that the BCR invited to UC Berkeley. Though the free speech dispute over Coulter was phony, it was so cleverly instigated by the BCR and fanned by Coulter, a publicity hound, that most of the media fell for the rouse. The BCR launched the controversy when it announced – without having secured a room, arranged security, or consulted with

the campus administration – that Coulter would be speaking on campus the last week of classes. When it turned out that no room large or secure enough for the Coulter event was available on campus during this hectic week of the semester, the BCR charged that the administration had cancelled the event, when in fact no such event had ever been officially scheduled so there was nothing to cancel – a crucial fact that the gullible news media missed.<sup>95</sup>

The UC administration then offered Coulter a venue on campus during the week before finals, known as "Review, Reading, and Recitation week" (also known as "dead week") when students have no classes so they can prepare for their exams. But Coulter, playing the free speech martyr, turned down this offer, claiming in a tweet that students would not be on campus to attend her talk that week "BECAUSE THERE ARE NO CLASSES AT BERKELEY."<sup>96</sup> This was a ridiculous claim, because, as every Berkeley student knows – and as several explained in the Daily Californian -- "there are lots of people on campus during dead week – libraries are always packed"; "Many events happened on campus during dead week"; "Students are more likely to go [to hear Coulter during dead week than during the regular semester] because there are no classes. There are less [time] commitments."<sup>97</sup> As UC spokesperson Dan Mogulof put it, "Where do they think students go before finals? To the beach?"<sup>98</sup>

The BCR-YAF law suit also sought to indict the Berkeley's campus emerging major events policy as discriminatory. That policy required that controversial speaking events that generated threats to public safety be held in the day time and end before 3:00. The BCR and YAF viewed this as a way to keep the audiences small for conservative speakers. But the actual purpose of the policy was to avoid another riot, and keep controversial events safe so the First Amendment rights of even unpopular speakers could be protected. Had the university not sought out such new policies to prevent another riot and learn from the mistakes of February 1, (when the cover of darkness aided the antifa rioters and the night time rush hour delayed the police reinforcements requested from Oakland) it would have been negligent in the life and death area of public safety. But such safety concerns were virtually ignored by these right wing plaintiffs hungry for litigation and eager to accuse the university of some sinister political bias. Though the initial suit was quickly dismissed, the YAF and BCR would file a



second suit, this time joined by Attorney General Jeff Sessions and Donald Trump's Justice Department.<sup>99</sup>

This was not the first time the Trump administration aligned itself with the BCR in its feud with the UC administration. After the anti-Yiannopoulos riot, President Trump had sent out a tweet falsely claiming that the university had suppressed free speech and fomented violence against dissenters: "If U.C. Berkeley does not allow free speech and practices violence on innocent people with a different point of view – NO FEDERAL FUNDS?"<sup>100</sup> With his characteristic disregard for the facts and the truth, Trump was accusing the the University of California at Berkeley, whose administration had defended Yiannopoulos' right to speak, with suppressing free speech, and accusing the university of fomenting violence against dissenters, when in fact it had extra police on hand to seeking to prevent such violence against the Yiannopoulos event. This was not merely a case of blaming the victim – since the university had been the victim of violence perpetrated by armed and masked leftist vigilantes- but of also threatening the victim, since Trump's tweet pondered removing federal funds from the university for its alleged acts of political discrimination. Ignoring its gross inaccuracies and unfairness, BCR activists were so delighted by Trump's attack on the university that they designed and began wearing t-shirts quoting it: "De-fund?"<sup>101</sup>

It is difficult to say which act by the BCR's dominant leadership faction was the most hostile to the university: Misleading the public via the media into believing the university suppressed conservative speech? Cheering Trump's threat to de-fund their university? Suing the university for imaginary free speech violations? Boasting about the positive impact that a major campus riot had on their organization? Bringing speakers to campus who they knew would offend and upset vulnerable minorities on their campus? Not since the heyday of SDS and the New Left in its most revolutionary phase in the late 1960s has such deep hostility towards the university been displayed by student activists, and even SDS' hostility towards the university was mostly directed at it as a surrogate for the defense establishment rather than at the university as a cultural fifth column. It took not merely the leadership of far right students like Worden, but reinforcement from influential off campus figures and institutions, from Donald Trump to Fox News to the YAF, to get the leadership cadre of even this relatively small conservative student organization – the BCR had at most only a few dozen activists – to embrace so negative of view of the university.<sup>102</sup>

There was a strong element of conservative identity politics involved in breeding the kind of mindset that could lead to such hostility to the university and end up with the Yiannopoulos invitations. In a university so strongly identified as a center of liberalism and with a vocal student and faculty Left, conservative students felt, as one UC official observed, that "they have not got an equal footing or voice in the university, and promote themselves as behind enemy lines fighting the good fight."<sup>103</sup> Yet for all their boasting about their courage in defying a campus world mostly to the left of them, being such a small and

unpopular ideological minority was stressful in that "they did not feel free or comfortable in the classroom environment or among their peers in talking honestly about their ideas with students from the other side. They really, really don't feel that they can do that."<sup>104</sup> Such feelings led to not only the kind of alienation discussed earlier, but a disillusionment with the university, and an almost tribal identification with their conservative classmates and organizations. This can be seen in the autobiographical story that one BCR activist told an adviser: "He shared that he came to Berkeley excited to come to a place where there was going to be rigorous debate and classroom discussion about everything and he felt he did not actually get that. He came with unpopular views. And the only place he felt he could feel comfortable expressing those views was within the BCR and the Patriot."<sup>105</sup>

This yielded a strong "us against them" mindset, which connects up with the free speech issue and the Yiannopoulos invitation. Since as conservatives they did not often feel free at Cal to express their views, they eagerly embraced the Yiannopoulos invitation as a way of surfacing and challenging liberal intolerance towards right wing expression – which was for them a central part of their free speech cause, that they knew his far right provocations would leave the Left irate and calling for the event to be shut down, proving that Berkeley had a free speech problem. In this sense, as one UC official put it, "their purpose was the symbolism of what Milo represented not what Milo actually was."<sup>106</sup> This was yet another reason why they evaded questions about Yiannopoulos's bigotry, as it did not serve their own goals of making a statement about free speech and their own identity as an unpopular conservative minority. And, as this UC official explained, one must keep in mind their youth, that "they're 19 and 20; they're deeply committed to their cause and oblivious to things that lessen the righteousness of their cause.... In private they would be more thoughtful and indicate that they didn't like what [Milo] was saying, but he gave them the hammer that they needed, that they wanted, to drive home the very basic free speech concept... [and] they may not have had another way of getting that hammer."<sup>107</sup>

But the parochialism of this form of identity politics was so pronounced that it made the way the Right used the free speech issue seem not ennobling but petty and mean-spirited. As one dean explained it, these right wing students, "they're like all marginalized students. They want to say 'FUCK YOU' to the man, and there is no better way to say 'fuck you' than [inviting] Milo Yiannopoulos [to campus]. He's a big Fuck You package wrapped up and tied with a bow."<sup>108</sup> Campus officials tried to get these students to see beyond themselves, but the right wing students proved incapable of empathizing with the fears and anxieties that, for example, this nativist speaker, aroused in undocumented immigrant students. As one advisor explained, the problem was "it doesn't serve their purposes to have that empathy. Believe me we tried [to elicit such empathy]. We had many conversations with them about impact vs. intent. 'You don't feel safe saying something [conservative] in class. How do you think an underrepresented student felt when they were being threatened with deportation? We'd taken every opportunity to take that complexity of discussion into the room with those students.'" <sup>109</sup>

The invasion of the campus by riotous anti-fas was an unprecedented event that nobody could have predicted. But notwithstanding the BCR leadership's crowing about how the riot's backlash increased their membership and visibility, the ugly violence actually made the BCR an even more unpopular group on campus since vocal critics blamed the Yiannopoulos invitation for inciting the riot.<sup>110</sup> From the far Left, as we have seen, came plaudits for the antifas for doing what the administration supposedly lacked the backbone to do: protect UC's vulnerable minorities, especially undocumented students, from Yiannopoulos and his bigoted followers.<sup>111</sup> Such defenses of political violence were aired so fervently in the student newspaper that Chancellor Dirks responded with an op-ed condemning this authoritarian mindset.<sup>112</sup> More mainstream students were furious at both the antifas and the BCR for making their campus a political battlefield and damaging their student union building – which is why concerned students woke up at dawn to help clean up the broken glass left by the riot.<sup>113</sup> This anger would only intensify as the BCR's escalating efforts to bring other far right provocateurs to campus – including Ann Coulter – yielded more conflict and required yet more security that was even more disruptive of the academic environment. In other words, the Yiannopoulos invitation ended up solving none of the problems right wing students had been concerned about, and instead served to exacerbate Left- right tensions on campus.

Making matters worse, the BCR leadership refused to take any responsibility for having helped provoke the violence.<sup>114</sup> Obviously the antifas' vigilanteism was the prime culprit in the riot. But with the BCR writing and making statements asserting that they were blameless -- that "they should be able to have speakers come to say whatever horrible things and not have to think about security because ... people should not be violent" – made them seem yet more irresponsible and arrogant. Riot or no riot, they, as one UC official put it, "still believe that when a person has violence it is not because of what they are doing. It's because of that person's violence, lawlessness. They really, really don't understand -- and we really tried to get them to see – that they have a responsibility for provoking that reaction."<sup>115</sup>

The Yiannopoulos invitation and the riot had one other negative effect on Berkeley student politics. It fostered among BCR leaders an embrace of a distorted critique of the UC Berkeley administration's free speech record that would, as we have seen, continue through the Coulter affair and beyond. That critique originated in the right wing echo chamber, emanating from Trump's misleading tweet, Fox News, and the YAF, and held that the UC administration was at war with the free speech rights of conservatives on campus – carrying on as if the UC administration's cancellation of the Yiannopoulos talk was some kind of free speech violation rather than a move to save lives amidst a riot, and that this was a part of some broader agenda to purge conservatism from the liberal university. Such a critique was a product of the far right's imagination and was not indigenous to the Berkeley campus since everyone active in Berkeley student politics knew that regulating the content of speech was akin to the third rail in the Cal campus' political world, something the Berkeley administration had stopped doing

in the 1960s as a consequence of the Free Speech Movement. The fact that the dominant faction of the BCR in the early Trump era could embrace such an absurd critique was, as suggested earlier, a testament to their profound sense of alienation – and was a consequence of the riot which in its own way was as costly to the university's reputation as was the riot itself.

Here a reminder is in order that we must be wary of painting the entire BCR with the same broad brush, and assuming that the kind of flirting with the alt right and feuding with the UC administration that BCR leader Worden went in for was popular with the entire BCR membership and leadership. Even Peter Sittler, who had co-written with Worden that op-ed defending Yiannopoulos did not join with him in fabricating his narrative of a hypocritical liberal UC Berkeley administration conspiring to suppress conservative speech. In fact, Sittler, a BCR Vice President, told the Washington Post right after the February campus riot that Berkeley chancellor Nicholas Dirks "worked tirelessly to plan [the (Yiannopoulos) event and make sure it went through." Sittler praised the university for having "acted in good faith" and being "fully committed to protecting our First Amendment rights."<sup>116</sup> And, as noted earlier, the presence of BCR dissatisfaction with Worden's leadership took another semester to make itself known, but in late October 2017 that dissent led to Worden's impeachment on the grounds that the BCR ought to be working to train activists and promote education in conservative ideas "not to troll the university."<sup>117</sup>

Even so, it must be kept in mind that neither the February riot nor the Yiannopoulos pedophilia scandal – which had led to his resignation from Bretibart news, the cancellation of his book contract with a major publisher, and his being disinvited from speaking at the American Conservative Union convention -- could keep right wing students at Berkeley from inviting him back to Berkeley for a the fall 2017 speaking engagement. This time the sponsoring group was not the BCR itself but an on-line far right publication that a handful of conservative students staffed, The Berkeley Patriot. Not a single word of criticism of Yiannopoulos scandalous remarks on pedophilia was uttered publicly by any right wing student leader at Berkeley. And in fact, Worden, told the Daily Californian "that the BCR has no comment on Yiannopoulos' remarks on pedophilia."<sup>118</sup>

The Berkeley Patriot staff proved as unwilling in the summer and fall of 2017 as the BCR has been in early 2017 to take a hard look at Yiannopoulos' bigotry. While the Charlottesville tragedy in summer of 2017 so alarmed the Berkeley administration that it went all out in heightening security for right wing speaking events in the fall, that tragedy had not dampened at all the Berkeley Patriot's desire to bring far right speakers to campus. In fact, the Berkeley Patriot viewed Charlottesville just as Trump did, as a conflict caused by the anti-racist protester as well as the Nazis.

The most elaborate explanation of why the Berkeley Patriot staff – a small group of less than a half dozen Trumpist right wingers -- was so committed to bringing Yiannopoulos to Berkeley came in a statement read at the Chancellor's Commission on

Free speech. That statement was written anonymously by one member of the Berkeley Patriot staff, and read to the commission by commission member Mariel Goddu, a graduate student in psychology. Goddu was not affiliated with the Berkeley Patriot -- and did not approve of their politics -- but had solicited this statement because she thought it would be useful for the commission since this group's invitation to Yiannopoulos had contributed to the free speech crisis that the commission was seeking to resolve. The circumstances under which she first met him and other Berkeley Patriot staffers was in itself indicative of the problematic ethics and maturity level of these young activists. She encountered them while walking late at night on the Berkeley campus, when they were tearing down political posters. After Goddu objected, these students sheepishly explained that the posters they were damaging and then photographing were their own, a political prank, which would enable them to pose as the victims of anti-conservative vandalism.<sup>119</sup> But because Goddu, a teaching assistant, sought to be understanding and to learn more about them, she did not lecture them or turn them in for their prank, but instead befriended them and inquired about their ideas and experiences as right wing organizers on campus. This is what made it possible for her to solicit and receive the statement on Yiannopoulos from a member of the Berkeley Patriot.

That statement was written by one Berkeley Patriot staffer who claimed he was speaking only for himself, but whose views were obviously common among Berkeley student right wing activists since they so closely resemble those we saw earlier in the writings of the BCR leadership. This statement began by explaining that "the whole point of inviting Milo to campus was to demonstrate that the [university] community's values are toxic."<sup>120</sup> This was not followed with an explanation of what exactly was toxic about those values, but as with the BCR's rhetoric, conservative student alienation from the university was front and center. The statement implied that there was too little willingness to listen to dissenting ideas, too much emotion and not enough reason, that those who objected to ideas they disliked should explain why, rather than shutting down access to those ideas.<sup>121</sup> In other words, the statement was making a free speech and pluralism argument, and it expressed the hope that the Yiannopoulos talk would spark political dialogue rather than protest. Though these were positive statements regarding free speech and the need for political dialogue, just as the BCR's statements did the previous semester, they ignored what Yiannopoulos had been saying and doing on his campus tour -- which was inflaming conflict via assaultive discourse rather than promoting dialogue across the political spectrum. As with the BCR, the Berkeley Patriot ignored his abuse of minorities and his crude and cruel mockery of individuals on campus with whom he disagreed. If one wants to make a free speech argument that makes sense in this context it would be about the right of all views -- even hateful ones -- to be expressed from the podium of a public university, but this was not the argument the Berkeley Patriot statement made since doing so would have meant dealing with Yiannopoulos's bigotry and abusive behavior during his campus tour.

Was this second Yiannopoulos invitation offered to show that the violent Left could be overcome and that this time

Yiannopoulos actually could speak at Berkeley, restoring the free speech tradition established by the Free Speech Movement? This would be the most generous reading of the Berkeley Patriot staff's motivations. But the Berkeley Patriot's level of hostility to the university in their on-line publication, their intense anger at campus liberals, leftists and the Berkeley administration, makes it difficult to avoid the conclusion that defending free speech in this case was secondary, and that attracting attention to the Berkeley right wing and its leaders and using Yiannopoulos to offend, insult, and provoke these political enemies were central motivations for sponsoring his talk.

Just how white hot this anger was in the time leading up to the second Yiannopoulos appearance at Berkeley can be gleaned from a Berkeley Patriot editorial from late August 2017, which spoke directly and resentfully to Berkeley leftists and was equally scathing in its view of the UC Berkeley administration. Here the Berkeley Patriot fumed that "University administrators nearly always cave to your absurd demands, offering you safe spaces and counseling when 'controversial' speakers come to campus. You can riot and shut down speech with impunity, free from fear of suspension, expulsion, having scholarships revoked, or even a slap on the wrist. Illegal immigrants can parade around campus bragging about how they are 'here to stay' despite their immigration status with no consequences whatsoever. When the Berkeley College Republicans set up a table with a Trump sign on it? Their property is destroyed and their members are attacked. Professors who speak out against your worldview risk being blacklisted, protested, and perhaps even fired, in the case of Dr. Keith Fink of UCLA (and many others)."<sup>122</sup> Actually, Nils Gilman, the chancellor's chief of staff, was quite vocal in condemning physical attacks on the BCR, and the Berkeley campus police investigated all reported crimes against the BCR.<sup>123</sup> And there is no evidence at all that conservative faculty at Berkeley were persecuted or black listed, which is likely why the authors could only cite a UCLA adjunct's firing to support this strained argument about academic unfreedom at the liberal university. But again veracity is not the issue here; it is anger, resentment, and alienation. Thus one can bring a far right troll to embody that anger and infuriate the hated student Left, while at the same time valorize this mean-spirited event as a grand chapter in the history of free speech if the talk comes off peacefully, or if it does not use whatever disruption occurs to discredit the Left and the liberal university itself.

Since the Berkeley Patriot's discussions leading to the second Yiannopoulos invitation to speak at Berkeley have never been made public there is no way of saying for sure if it was all that different from the discussion held at Stanford University by the staff of its right wing publication, the Stanford Review, as it considered extending an invitation for Yiannopoulos to speak on their campus. A conservative present at that meeting recalled that it began with one confused editor of the Stanford Review, arguing that "Someone should sponsor his lecture -- it's a matter of free speech'.... Soon other editors made different arguments: 'This will create a huge stir,' said one. 'It will drive the [leftwing] social-justice warriors crazy,' offered another. This was certainly true. Campus leftists would definitely have protested the event,

and might even have tried to shut it down. As one influential editor put it: ‘Best-case scenario is that SJWs [social justice warriors] freak out and we get another Berkeley.’ We all knew what he meant: Inviting Yiannopoulos could bait the Left to do something silly and destructive, drawing media coverage that would allow us to act as martyrs for free speech on campus. That is, the left-wing riots were not the price or downside of inviting Yiannopoulos – they were the attraction.”<sup>124</sup>

While clearly the Berkeley Patriot staff was angry enough at the campus Left to want to bait them a la Stanford, the Patriot case seems somewhat different because this time Yiannopoulos was promising the moon to Berkeley right wing students. Instead of just appearing himself, Yiannopoulos claimed he would bring to Cal in late September 2017, a whole week full of high profile right wing events, that he called “Free Speech Week,” featuring some of the biggest stars of the American far right, including Steve Bannon, Ann Coulter, and Charles Murray.<sup>125</sup> The chance to host this all-star cast of far right celebrities was so dazzling to these young Berkeley conservatives that there seems little doubt that they were more than eager for these events to be held, and were not hosting this right wing extravaganza to spark a riot. Though of course it is also true that these “Free Speech Week” events, were supposed to include anti-feminist, anti-immigrant, anti-Muslim themes and speakers that were sure to offend, and generate protest from, the campus Left.

One of the ironies of this Yiannopoulos extravaganza is that it was not the student sponsors of these events but Yiannopoulos himself who more closely resembled those right wing editors at Stanford who were more interested in provoking a riot from the Left than holding a speaking event. Yiannopoulos was a narcissistic publicity hound, whose campus tour was much more centered on building his brand as a far right troll and enhancing his celebrity than on the needs and desires of his right wing student sponsors. The riot at Berkeley in February had been great for Yiannopoulos, who received massive media coverage because of it and was lionized on the right as a free speech martyr who had challenged and unmasked the liberal university’s hypocrisy and intolerance. It was only the pedophilia scandal just a few weeks later, that disrupted Yiannopoulos’s ascent as an iconic right wing celebrity. For Yiannopoulos the prospect of another Berkeley riot was deeply attractive, offering a shot at political redemption. Indeed, on the eve of his planned “Free Speech week” at Cal in September 2017, Yiannopoulos told Playboy “I believe the challenge for us is to create something so attention grabbing that it produces another U.C. Berkeley and I can sell another 100,000 copies of the book [he had just published]... Hopefully, God comes out and smiles on us and Antifa fire-bombs the entire university.”<sup>126</sup> In other words, the would-be free speech martyr actually had little interest in actually speaking at Berkeley or in bringing other major right wing speakers to join him in what would turn out to be a chimerical “free speech week.” He seemed to be counting on either the Bay Area’s violent left or the UC Berkeley administration to shut down his grandiose but fictional event, and so never finalized invitations to right wing celebrities, most notably, Bannon and Coulter, to join him at Berkeley, despite having indicated that they would be appearing at Cal. This was

all a political stunt, and one for which the Berkeley Patriot staff unknowingly were serving as props.

Indeed, UC Berkeley administrators who interacted with Yiannopoulos and his staff in the lead up to his “Free Speech Week,” came to realize that, as Chancellor Christ put it, this “Free Speech Week” was “a fiction. The event was designed to be provocation to try and get us to cancel the event and then to get the news story they wanted” about how the university bars conservative speakers.<sup>127</sup> University spokesperson Dan Mogulof agrees that this was “a charade” on the part of Yiannopoulos, “and an effort to get us to say no.” Yiannopoulos and his staff would tell UC officials “We’re coming for a week.” UC responded: “Fine. Yiannopoulos and his staff: “We’re bringing all the people that hate you the most.” UC responded: “Good.” Yiannopoulos and his staff: “We’re going to have it out in Sproul Plaza in the middle of the day.” UC responded: “Excellent.” “And so,” as Mogulof explained, “I think they started to panic a little bit” since the university was not going to cancel his “Free Speech Week” and allow him to pose as a free speech martyr victimized by the hypocritically repressive liberals who ran the university.<sup>128</sup>

It would take a book to document all the machinations and deceptions that Yiannopoulos and his staff employed in connection with “Free Speech Week,” but one in particular stands out since it attests to both his dishonesty and the hollowness of his claims to be a free speech warrior. I am referring to a furious e-mail that Yiannopoulos sent to Mogulof a month before “Free Speech Week.” Yiannopoulos accused Mogulof of having “leaked information to the press” about his upcoming “high profile speaking event,” which could lead to “violence and destruction of property” and Yiannopoulos threatened to expose this supposedly unethical behavior during Free Speech Week.<sup>129</sup> What actually had happened was that in a meeting with the chancellor, Berkeley Patriot staffers had confirmed several of the major speakers. The chancellor informed Mogulof, and as university spokesperson, he, in response to press inquiries, had merely done his job and let reporters know. He did not “leak” this information, as he allowed reporters to attribute the story to him. Mogulof noted “this overlay of incredible irony that this guy who’s coming for ‘free speech week’ is trying to tell me, the spokesperson what I can and can’t say.”<sup>130</sup>

And why was Yiannopoulos so angry that Mogulof had released the names of the speakers? It’s hard to avoid the conclusion this ire erupted because unknowingly Mogulof had made public the lies Yiannopoulos and his staff had been telling the student sponsors of “Free Speech Week.” They were, as Mogulof put it, “trying to maintain control [over the students working on the event] and what upset them was that this internal manipulation – ‘Oh we’ve got Bannon and Coulter coming, kids, please proceed with what you are doing.’ As soon as that washed down to the public it defeated its purpose because as we now know Bannon and Coulter [were not coming to Berkeley]... It was a clear case of what was an effective manipulation ... of a student group “—and the public release of the phony speaker list was the first step in exposing Yiannopoulos’ lies and manipulation.”<sup>131</sup>



And this brings us to the second irony of the Milo II chapter at Berkeley, that the Berkeley Patriot's right wing student idealists, in the process of being conned by Yiannopoulos, the far right celebrity they adored, and his staff, were essentially rescued from financial liability and total public humiliation by the liberal university administration they had so scorned. For at least a month the students had been misled by Yiannopoulos into believing that he was not only bringing right wing celebrity speakers with him to Berkeley, but that he was going to pay the fees of the campus venues for "Free Speech Week." Despite all the hostile rhetoric from the Berkeley Patriot (and the BCR) about the UC Berkeley administration, that administration actually cares about and seeks to assist all of Berkeley's 1,000 plus student groups to function effectively irrespective of their politics. In fact, as mentioned earlier, the University provides all registered student groups with mentorship through Cal's LEAD center, which seeks to help student groups develop organizational and leadership skills. With the Milo II events on the horizon, the LEAD advisors encouraged the Berkeley Patriot staff not to be taken advantage of by their celebrity speaker and his staff, financially or in any other way, advice that was especially apt given that Yiannopoulos was failing to come up with promised fees for the venues.<sup>132</sup>

But because of their conservative idealism, naivete, and inexperience in running major events, the Berkeley Patriot staff was initially, as one Cal official recalled, "unwilling to think about" this advice to be cautious with Yiannopoulos and his representatives, who had their own agenda and who, as it turned out, were deliberately misleading the students on a host of issues.<sup>133</sup> Yiannopoulos's people were objecting to provisions of the contracts for the events, which were common to most university events, and they were lying about the celebrity speakers who would appear at "Free Speech Week." The students, as this Cal official put it, "wanted to believe" that the source of these problems was the liberal university placing roadblocks in the way of this historic conservative event – and even made such accusations publicly – rather than face up to the dishonesty of their conservative idol. "They got so far down the road [of organizing these "free speech week" events]... feeling pressure to complete their mission" that they were easily "manipulated by Milo's people... The students did not realize there are people out there that are truly just con men... that there are people out there who will lie and cheat."<sup>134</sup> The student sponsors also overestimated their own power in relation to Yiannopoulos, assuming that he would have to make good on his promises to them because they controlled access to "the Berkeley platform... that Milo really wanted."<sup>135</sup>

And when UC Berkeley administrators got wind of the fact that several of the famous speakers Yiannopoulos had claimed were coming to Cal had not committed to speaking there, they prodded the Berkeley Patriot staff to cease relying on Yiannopoulos and to interact directly with those celebrity speakers to see if they actually planned to speak at "Free Speech Week"—and to get written confirmations of such commitments to speak at Cal. Getting these gullible young students to see that they had been deceived by Yiannopoulos proved a protracted

process since they found it so difficult to believe he would deceive them. But as the students began to make contacts with the most prominent speakers Yiannopoulos claimed were coming, they learned that neither Ann Coulter nor Steve Bannon nor Charles Murray were planning to come speak at Berkeley. This debacle with the speakers and the failure of Yiannopoulos to come up with the venue fees before the university deadlines finally woke up some of these students. After deciding not to sign the contracts for most of the speaking venues in the absence of the promised fees by Yiannopoulos, Berkeley Patriot staffers on the eve of "Free Speech Week" withdrew their sponsorship of this Yiannopoulos event (or non-event).<sup>136</sup>

In the end, Yiannopoulos, having lost his student sponsors and the venues for the Berkeley through his own duplicity, appeared only briefly on Berkeley's Sproul Plaza. Protected by an army of police – costing the university hundreds of thousands of dollars – he spoke for a few minutes, sung the national anthem, said a prayer, and left.<sup>137</sup> The planned week long conservative extravaganza had melted down to this brief appearance on Sproul. Given the enormous expense, the lack of serious intellectual or political content, and the incredible brevity of the Yiannopoulos appearance (which Yiannopoulos also lied about, falsely claiming that the campus police had urged him for security reasons to leave campus), UC Berkeley spokesperson Dan Mogulof was quite apt in terming it "the most expensive photo-op" in Cal's history.<sup>138</sup> By any objective measure the university and its free speech tradition had prevailed, affording Yiannopoulos the freedom and safety to have his Berkeley platform, though he made a fool of himself through his web of lies about his phony "free speech week" and lack of any serious political message on Sproul Plaza. It would be too much, however, for Berkeley's right wing student leaders to admit publicly that the liberal university had done itself proud while their far right celebrity speaker discredited himself -- a depressing testament to the power of ideology on the far right and the insignificance of facts in the post-truth Trump era.

True to form, the most vocal Berkeley Patriot staffers tried to save face by blaming the right wing's favorite scapegoat, the liberal university, for the implosion of Free Speech Week. The Berkeley Patriot filed a civil rights complaint with the US Justice Department claiming that UC Berkeley had "suppressed the group's First Amendment rights."<sup>139</sup> The Patriot spokesperson claimed that the organization ended its sponsorship of Free Speech Week because "it feared alleged retaliation from the campus for the complaint" its lawyer had filed with the Justice Department – as if the university was conspiring against the Patriot in order to pressure it into cancelling Free Speech Week. But, as Moguloff pointed out to the press, UC has spent \$800,000 on security for Free Speech Week, and "we aren't in the habit of spending \$1 million on events we are trying to cancel."<sup>140</sup> A Patriot spokesman also claimed that the UC administration had threatened this right wing group with criminal prosecution in retaliation for its Justice Department complaint, and added this charge to its complaint against the university.

These complaints and accusations against the university

administration were not merely groundless but dizzying in their topsy turvy quality. UC in seeking to help these student hosts of Free Speech Week had, as we have seen, alerted them to the likelihood that the key speakers Yiannopoulos claimed were coming, were not in fact coming. The university had also repeatedly extended the deadlines for both venue fees and signed contracts to give the disorganized students and the dishonest Yiannopoulos every opportunity to secure the venues.<sup>141</sup> And, of course, the university was paying the enormous security costs as well. It would be difficult to imagine anyone being more accommodating to a right wing event's sponsors than Cal had been here, so the idea that the university was suppressing these students' First Amendment rights defies all logic.

Equally bizarre was the Patriot's claims about criminal prosecution. This was a reference to the chancellor's call for police to investigate whether a hate crime had been committed in connection with the anti-immigrant and anti-LGBT chalkings (and incendiary posters charging students and faculty with supporting terrorists) that appeared on campus on the eve of what was supposed to be free speech week. The chancellor's statement criticizing these messages did not mention the Berkeley Patriot or any student group, and did not call for the prosecution of the Patriot. So to read her statement as an attempt to use prosecution to threaten or retaliate against the Patriot is far fetched, to put it mildly.<sup>142</sup> Judging by the Patriot's claims, it is evident that its members had a role in this hateful messaging – and with such crude nativist slogans as “Deport them all, build the wall” it is little wonder that the far right at Berkeley had so little appeal on a liberal campus with a large Latino and immigrant student population.<sup>143</sup> But in any case, the police determined that no crime had been committed, so no one in or out of the Patriot was prosecuted. Mogulof told the press: “These utterly unfounded allegations aimed at the Chancellor would be silly if they weren't so sad.... This is all part of an ongoing effort to blame others for an event that collapsed when it became evident that most, if not all of the speakers never had any intention of coming.. The letter [the Berkeley Patriot sent] to the Justice Department reads like an assignment in short form fiction.”<sup>144</sup>

Given how transparently inaccurate the Berkeley Patriot's charges against the university were it may be difficult to believe that even these right wing students believed in their veracity. But from first hand experience, Mogulof learned that at least one of them did. At a campus free speech forum, Mogulof ran into one of the Patriot students who he'd known for a while. So Mogulof showed him the chancellor's statement on the hateful messaging, pointing out that “it doesn't mention a student group.... It doesn't mention the Berkeley Patriot... It doesn't even state a crime was committed.” So there was no way the message could be seen as a threat of prosecution against the Berkeley Patriot, Mogulof insisted. “No,” the student responded, “it was clear what she meant.” He, as Mogulof put it, “absolutely believed that.”<sup>145</sup> Such students, in Mogulof's view, “came to campus” seeing themselves as an oppressed political minority, and so had “many extra bags filled with anger and resentment,” leaving them unable to look at the university objectively, and usually if not always assuming the worst, even in the face of contrary evidence.<sup>146</sup>

Chancellor Christ found it “troubling” that such students engaged in demonization of the university and seemed so devoted to an inaccurate view of the university as politically repressive. “One of the things that” Christ “never resolved to her “own satisfaction is whether the students who did feed this [Fox News/Trump] narrative [of the liberal university suppressing conservatism] actually believe it. I think some of them actually did.”<sup>147</sup>

This also raises the question of where or whether truth fits in to the politics of the far right on campus. At Berkeley in the opening months of the Trump era, the dominant right wing student leadership's role models, the successful right wing politicians, most notably Trump lie continuously, and demonize liberals with no regard for factual accuracy. Thus the fact that Trump's tweet about UC Berkeley after the February campus riot falsely accused the university of suppressing dissent and promoting political violence was no problem for at least some right wing students, who, as we have seen, happily sported t-shirts quoting that tweet's threat to de-fund the university. Or think of Ann Coulter, who Berkeley's right wing students invited to campus, and who with them orchestrated a fake free speech controversy. Her response in late September to the Free Speech Week controversy was to falsely charge that “Berkeley administrators were dead set on blocking the event ‘and pulled the usual tricks.... They think leftist ideas are so fragile and indefensible that they can allow NO OTHER VIEWPOINTS to be heard on campus.”<sup>148</sup> To offer this phony indictment of UC Berkeley Coulter had to ignore both the fact that Cal had in mid-September spent hundreds of thousands of dollars on security in order to host successfully right wing pundit Ben Shapiro, and that Yiannopoulos himself was intending, and would be allowed, to speak at Cal by a university administration that spent nearly a million dollars on security to make that possible. With such big name figures on the right carelessly hurling false charges at the university, is it any wonder that their youthful counterparts do the same?

Although the public side of the Free Speech Week debacle was the most covered by the news media, the internal story summarized above of the way the Berkeley Patriot students had been conned by Yiannopoulos was in some respects equally significant. Even as Yiannopoulos was playing them, as we have seen, most of this small group of right wing students, until at least the eve of Free Speech Week, chose to believe his lies and act as if the university rather than their disingenuous celebrity speaker and his staff were deceiving them. This at a time when campus officials were working effectively to protect them and the university by alerting the students to the lies Yiannopoulos was telling them. This raises the question of whether right wing students are, due to their idealism and youth, vulnerable to exploitation by such off campus right wing forces, adults with their own agendas. A similar question may be asked regarding the Young America's Foundation, and whether without its influence and money anyone other than a few hard core ideologues in the BCR leadership would have opted to sue the university.<sup>149</sup>

This issue of off campus, adult manipulation and exploitation of students is one that has largely escaped the media's attention – focused as it is on free speech and Left vs right conflicts on

campus. Since we have long since left behind the era of *in loco parentis*, there are limits to what the university can do about this, since it cannot order students away from those adult political operatives and celebrities who seek to push them around or exploit them for their own political, personal, or organizational purposes. Especially on a campus like Berkeley, the media attention it gets makes it a magnet for celebrities and foundations on the far right, whose skills in self-promotion make it difficult, once they are interacting with students, to determine whether student politics actually reflect the views and decisions of students or of adult politicians who are pressuring them. As a UC Berkeley administrator noted, “Last summer, one of the [Berkeley] Patriot members actually approached me and asked if the University would support them if they decided to withdraw their invite to Milo. He said they were being treated very poorly by Milo and his organization—‘bullied’, as he described it--- and that they feared what would happen should he come to campus. I made clear to him that the decision was theirs to make, and that the campus would support them either way. When the other active member of the Patriot (there were only three or four at most) heard about this he intervened, over-ruled and said the show would go on. My take-aways in that context: The tone and content of the Patriot messaging was entirely dependent on which of them was out front...and one of them was clearly in thrall with the notoriety he obtained (heady stuff for a twenty-something) and Milo’s own celebrity, but also quite intimidated at the same time. I have also heard from student sources that towards the end external parties, not the students were calling most of the shots. I believe they withdrew the invite at external direction to avoid a situation where Milo would have had no excuses for his fraudulent Potemkin event. Finally, to admit that they’d been had, and that the campus had been right all along, would have been deeply humiliating and ruinous for their standing among their fellow travelers.”<sup>150</sup>

Berkeley being Berkeley, the birthplace of the Free Speech Movement and a national center of Left militancy, in some respects makes this story unique. No university had an anti-fa- led riot on the scale of Berkeley’s and none had a debacle as wacky as Free Speech Week, with its very public unraveling, culminating with Yiannopoulos’s ridiculous photo-op at Cal, all of which exposed his dishonesty, that after all the fuss over his right to speak at Berkeley, when he finally made it to Sproul Plaza he had absolutely nothing memorable to say, little to say at all, and so with his craving for publicity satisfied he left after his photo-op.

But while unique in its scale and denouement, the Berkeley-Yiannopoulos conflict was with regard to the right wing student mindset and motivations not at all unique. The politics of resentment, anger, and right wing student alienation from the liberal university – fanned by the polarization wrought by the Trump campaign – that had led to the Yiannopoulos speaking invitations at Cal were (and remain) present on many campuses, which is what made his national campus tour possible. This politics of resentment and alienation had roots that preceded Trump’s ascendance, as sociologist Amy Binder and Kate Wood documented in their case studies of the campus right wing in their classic work *Becoming Right* (2013), though such resentment

and alienation escalated exponentially in the Trump era.<sup>151</sup> The challenge for university leaders is to work to ease these feelings of alienation and see if it is possible to convince the campus right and Left to join in a healthy dialogue, and to cease pretending that baiting each other will ever produce such dialogue.

There is an urgency to this task of political dialogue and healing. Not only to stop the violence and end the bitterness that we have seen at Berkeley. But also to serve the educational mission of the university. Though right wing students had every right to invite Yiannopoulos to speak at Berkeley, his presence did not serve that educational mission. Think of the contrast between the selection of this speaker and the search process universities conduct for professors. In such searches academics look across the nation and the world for the most brilliant, creative, and accomplished scholars who can engage with the university community and relate to students irrespective of their academic field or politics. The motivation is intellectually to enrich the university. In every respect the Yiannopoulos invitation was the opposite of this – a speaker selected because: 1) he was widely reviled; 2) he was practiced at insulting vulnerable campus minority groups; 3) his presence might provoke a disruption and possibly violence on the Left and damage the reputation of the liberal university; 4) he aligned with the politics of resentment of a very small political faction on campus, whose narrow organizational interests might be served by the negative headlines he generated. Note that none of these motivations had anything to do with education, and only the free speech argument makes such a hateful speakers’ presence on campus at all justifiable. If the university is to devote thousands or even millions of its precious educational dollars to outside speakers invited by students, it ought to act in ways that ensure that such speakers serve some educational purpose. Since the university cannot and must not bar even the most educationally worthless speakers from campus, it ought to strive to build the kind of inclusive educational community that right wing students feel a part of, and if that happens, if we build a community in which students on all points of the political spectrum feel valued, and in turn value education and the university itself, they may no longer want to devote time and money to speakers so obviously hostile to the university and barren of educational value.

A good starting place for such community building – suggested by both the LEAD staff and the free speech forum sponsored by Chancellor Christ and PEN – is taking more seriously the task of teaching students to tolerate and constructively engage with classmates whose ideas they may disagree with strongly. During that free speech forum it was suggested that Cal adopt a freshman requirement “on how to dialogue across differences of opinion.”<sup>152</sup> One of the faculty present responded: “Isn’t that what we’re supposed to be doing in the classroom?”<sup>153</sup> A LEAD center advisor found this “an awesome moment.” That faculty member was “exactly right. Why should there be a need for special training in how to dialogue across differences? That should be something they’re seeing in their classrooms.”<sup>154</sup> But apparently it has been something students have not seen nearly enough of at Berkeley, nor – judging by the way political conflicts have played out -- at colleges and universities across the nation. The challenge is

teaching students to really listen to each other. And to honor free speech ideals while also aspiring towards an ethic of responsibility, where speakers are asked to be mindful of the impact that belittling and bullying speech acts have on their classmates, the university community, and on the campus as a site for dialogue and education. The university must ask itself why such an ethos of constructive dialogue – and the skills to enact it – seems poorly taught and rarely learned, and how this poor performance in community building can be rectified both in and outside the classroom.

## ENDNOTES

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- 1 I don't mean to suggest that hard right nastiness was absent from Berkeley student politics (or from US student politics nationally) in the 1980s. There was at UC Berkeley (and other campuses had counterparts, most notably Dartmouth, with its far right *Dartmouth Review*) a publication that seemed to exist to troll the student Left. It was called *The Berkeley Review*, and my most vivid memory of it was when its race-baiting was directed at Pedro Noguera, Cal's talented African American student body president whose presence and radical politics so infuriated this far right publication that it called him "Nic the Nig." But this publication had virtually no impact on Berkeley student politics nor on my conservative students, who never even mentioned it.
- 2 Frances Dinkelspiel, "One Day, one night: The Fuse that lit the battles of Berkeley," *Berkeleyside*, Jan. 31, 2018.
- 3 Out of the scores of articles on the Yiannopoulos controversy in the mainstream media in February 2017 following the riot at UC only two probed the reasons that right wing students have been inviting Yiannopoulos to speak at their college and university campuses, and one of those was written by me. See Alyssa Rosenberg, "If College Liberals Are So Naïve, Why Did the Campus Right Fall For Yiannopoulos?" *Washington Post*, Feb. 21, 2017; Robert Cohen, "The Milo Yiannopoulos Scandal Reveals The Sorry State of Campus Conservatism," *Inside Higher Education*, Feb. 23, 2017. Later an anti-alt right conservative published a very revealing article on this topic, grounded in his experience in right wing student politics at Stanford University. See, Elliot Kaufman, "Campus Conservatives Gave the Alt-Right a Platform: They Deserve Their Fair Share of the Blame for the Entirely Predictable Consequences of That Choice," *National Review*, August 15, 2017. Note, however, that not even these articles explored, as I will in this paper, why right wing students at Berkeley invited Yiannopoulos to their campus.
- 4 "Berkeley Community Reacts to Milo Yiannopoulos' Resignation From Breitbart News," *Daily Californian*, Feb. 21, 2017.
- 5 It is worth noting that Berkeley Free Speech Movement (FSM) leader Mario Savio back in 1964, shortly after the FSM's victory (ie. After the Academic Senate of the faculty endorsed the movement's call for an end to all restrictions on the content of speech at Cal) was already more advanced than the mainstream media would be in 2017 in that he immediately saw that speech acts on campus involved not merely questions of right but also responsibility. Savio at the FSM's victory rally on Dec. 9, 1964 told the crowd "We are asking that there be *no*, no restrictions on the content of speech save those provided by the courts. And that's an enormous amount of of freedom. And people can say things in that area of freedom that are not responsible. Now... we've finally gotten into a position where we have to consider being responsible because we now have the freedom within which to be responsible, And I'd like to say at this time... I'm confident that the students and faculty of the University of California *will* exercise their freedom with the same responsibility they've shown in winging their freedom." (Robert Cohen. "What Might Mario Savio Have Said About the Milo Protest in Berkeley?" *The Nation*, Feb. 7. 2017).
- 6 Anon. source 1, telephone interview with the author, June 20, 2018.
- 7 "Bitter Feud Divided UC Berkeley Republicans as the Club's Future Hangs in the Balance," San Jose *Mercury News*, Oct. 28, 2017; "Berkeley College Republicans President Impeached by President Amid Power Struggle," *Daily Californian*, Oct. 12, 2017
- 8 "Berkeley Conservative Society Attempts to Foster Civil Discourse in Debate With Cal Berkeley Democrats," *Daily Californian*, Nov. 9, 2017.
- 9 Dan Mogulof interview with the author, May 9, 2018, Berkeley; "What is the Berkeley Patriot the Student Group Responsible for Organizing 'Free Speech Week,'?" *Daily Californian*, Sept. 18, 2017.
- 10 Peter Sittler, and Troy Worden, "In Defense of Milo Yiannopoulos" *Daily Californian*, Jan. 27. 2017.
- 11 Ibid.
- 12 "Free Speech Both Ways," *Inside Higher Education*, Dec. 5, 2016; Breitbart's Milo Yiannopoulos Doubles Down on Harassing University of Wisconsin Student," *Media Matters*, Dec. 16, 2016



13	“UC Berkeley Faculty Call for the Cancellation of Milo Yiannopoulos Talk,” <i>Daily Californian</i> , Jan. 10, 2017.	30	Kaufman, “Campus Conservatives Gave the Alt-Right a Platform.”
14	Sittler, and Worden, “In Defense of Milo Yiannopoulos.	31	“Breitbart News Published Slur-Filled Talk Given by Senior Editor Milo Yiannopoulos at the University of Delaware, Yiannopoulos: ‘Never Feel Bad for Mocking a Transgender Person,’” <i>Media Matters</i> , Oct. 25, 2016.
15	Ibid.		
16	Joel Stein, “Milo Yiannopoulos is the Pretty, Monstrous Face of the Alt-Right,” <i>Bloomberg.com/features-2016-America Divided/</i> Milo Yiannopoulos, Sept. 15, 2016.	32	“Chancellor Reaffirms Values of Respect and Inclusion, UCB Public Affairs, Nov. 9, 2016.
17	Sittler, and Worden, “In Defense of Milo Yiannopoulos. In a subsequent op-ed, Sittler, and Worden even claimed “The Berkeley College Republicans are the New Free Speech Movement,” see Peter Sittler and Troy Worden, “Conservative Speech Will Not Be Stifled by Violence,” <i>Daily Californian</i> , Feb. 14, 2017.	33	Nicholas Dirks interview with the author, June 20, 2018, New York City.
18	“How the Shooting at the UW Protest Unfolded,” <i>Seattle Times</i> , Jan. 23, 2017; “Couple Charged in Shooting, Melee during UW Speech by Milo Yiannopoulos, <i>Seattle Times</i> , April 24, 2017.	34	Ibid.
19	Sittler, and Worden, “In Defense of Milo Yiannopoulos.	35	Ibid.
20	Ibid.	36	Ibid.
21	“Berkeley College Republicans Must Not Normalize Hate Speech,” <i>Daily Californian</i> , Jan. 17, 2017.	37	Ibid.
22	Ibid.	38	Ibid.
23	Ibid.	39	Marissa Reynoso interview with the author, May 10, 2018, Berkeley.
24	It is entirely possible – and even likely -- that at least some of Yiannopoulos’s fans on the Berkeley student far right wing were in fact nativists and so embraced Yiannopoulos and his minority-baiting oratory not despite but because of its bigoted character. See, for example, the nativist graffiti that right wing students active in <i>The Berkeley Patriot</i> chalked on campus on the eve of Yiannopoulos’s second visit to the Berkeley campus, described in “Berkeley Patriot Alleges UC Berkeley Retaliation to Chalk Graffiti, Posters in Additional Civil Complaint,” <i>Daily Californian</i> , Oct. 4, 2017.	40	Ibid.
25	Sittler, and Worden, “In Defense of Milo Yiannopoulos.	41	Brad Devlin testimony, Hearings of Chancellor’s Commission on Free Speech, Feb. 9, 2018.
26	Elias W. (BCR activist) post in BCR on-line forum, April 2017.	42	Mark Peterson telephone interview with the author, June 30, 2018.
27	Joseph Bernstein, “Alt White: How the Breitbart Machine Laundered Racist Hate,” <i>Buzzfeed</i> , October 5, 2017.	43	Nils Gilman interview with the author, May 11, 2018, San Francisco,
28	Elliot Kaufman, “Campus Conservatives Gave the Alt-Right a Platform” <i>National Review</i> , August 15, 2017.	44	Ibid.
29	On Spencer, Yiannopoulos said, “I don’t see it as a bad thing that I surround myself with edgy people.... Because they’re interesting. I’m not going to not hang out with someone because the <i>New York Times</i> calls him racist. (“Milo Yiannopoulos is the Pretty, Monstrous Face of the Alt-Right”).	45	Devlin Testimony.
		46	Mark Peterson telephone interview.
		47	Gilman interview with the author.
		48	Ibid.
		49	Ibid.
		50	Mark Peterson telephone interview.
		51	Ibid.
		52	Ibid.
		53	Dirks interview with the author.
		54	Emily Deruy and Thomas Peel, “Bitter Feud Divides UC Berkeley College Republicans as the Club’s Future Hangs in the Balance,” <i>San Jose Mercury News</i> , Oct. 28, 2017.
		55	Ibid.
		56	Ibid.
		57	See, Worden interview on Tucker Carlson, “Campus Craziness,” Fox News, May 29, 2017.
		58	“Bitter Feud Divides UC Berkeley College Republicans.”

59	“Right-wing Student Groups Invite Bigoted Trolls to Invade Campus Under Guise of Free Speech,” <i>Daily Californian</i> , Sept. 22, 2017. also who met with Dirks and the Invade Campus Under Guise of Free Speech,” and white nationalism. Thus it is little wonder that	80	Ibid.
60	Mark Peterson telephone interview.	81	Ibid.
61	See Worden interview on Tucker Carlson, “Campus Craziness,” Fox News, May 29, 2017.	82	Ibid.
62	Elias W. post on BCR on line forum, April 2017.	83	Troy Worden response to question of “how much did the Milo event cost in total?,” BCR on-line forum, April 2017.
63	Worden interview on Tucker Carlson, May 29, 2017.	84	“Berkeley College Republicans Required to Raise Up to \$10,000 to host Milo Yiannopoulos,” <i>Daily Californian</i> , Dec. 26, 2017; “Berkeley College Republicans No Longer Required to Pay Security Fee For Yiannopoulos,” <i>Daily Californian</i> , Feb. 2, 2017.
64	Margo Bennett interview with the author, May 10, 2018, Berkeley.	85	Berkeley College Republican to Nicholas Dirks, Jan 11, 2017, copy in author’s possession.
65	Dirks interview with the author.	86	Ibid.
66	Nils Gilman to e-mail to the author, April 22, 2018.	87	Chris Patti to Berkeley College Republicans, Jan 12, 2017, copy in author’s possession.
67	Troy Worden response to chabanals, BCR on-line forum, April 2017, reddit.com/r/conservative16292jh/were_the_Berkeley_college_republicans-the-premier/	88	On the \$220,000 cost, see, “Here’s How Much... [It Costs When an Incendiary Speaker Comes to Campus.” <i>USA Today College</i> , Sept 23, 2017.
68	Mogulof interview with the author.	89	Troy Worden response to question of “how much did the Milo event cost in total?,” BCR on-line forum, April 2017.
69	Margo Bennett interview with the author.	90	Ibid.
70	UC’s Office of Planning and Analysis survey found that three quarters of entering Berkeley students in 2017 agreed that “the university has the responsibility to provide equal access to safe and secure venues to guest speakers of all viewpoints – even if the ideas are found offensive by some or conflict with the values of the UC Berkeley community,” (Report of the Chancellor’s Commission on Free Speech, April 9, 2018, 6).	91	“Berkeley College Republicans No Longer Required to Pay Security Fee For Yiannopoulos,” <i>Daily Californian</i> , Feb. 2, 2017; Mogulof e-mail to the author, July 12, 2018.
71	“UC Berkeley Chancellor Affirms Right of Milo Yiannopoulos to Speak on Campus,” <i>Daily Californian</i> , Jan. 26, 2017; Nicholas Dirks, “Do Not Condone Violence to Suppress Free Speech,” <i>Daily Californian</i> , Feb. 10, 2017.	92	Mogulof e-mail to the author, July 12, 2018
72	Troy Worden response to catuse, BCR on-line forum, April 2017.	93	Worden response to question of “how much did the Milo event cost in total?”
73	Troy Worden response to De Young Republicans Conservatarian, BCR on-line forum, April 2017.	94	“Law Suit Filed Against Berkeley For Canceling Ann Coulter Speech,” <i>Washington Post</i> , April 24, 2017. Note that both the headline and lead in this story typify the media’s poor reporting on the Coulter incident at Cal. As will be discussed below, her speech was never “cancelled” by the university.
74	Elias W. post, BCR on-line forum, April 2017.	95	Krissy Eliot, “Ann Coulter at Berkeley: Untangling the Truth,” <i>California Magazine</i> , May 8, 2017; Nils Gilman interview with the author; Dan Mogulof interview with the author; “UC Berkeley Administrators Propose Rescheduling of Ann Coulter event to September,” <i>Daily Californian</i> , April 19, 2017; Nicholas Dirks interview with the author.
75	Troy Worden response to request for “advice for those of us that are stuck in extremely liberal colleges,” BCR on-line forum, April 2017.	96	“Misconceptions Concerning Ann Coulter’s Now-Cancelled Visit to Campus,” <i>Daily Californian</i> , April 25, 2017.
76	Naweed Thamas to Alex Yao, Aug. 23, 2017, Exhibit Q, YAF and BCR v. Janet Napolitano, US District Court, Northern District, SF, Feb, 16, 2018.	97	Ibid.
77	Ibid.		
78	Ibid.		
79	Steve Sutton and Magro Bennett to Naweed Thamas, [Aug. 24, 2017], exhibit R, YAF and BCR v. Janet Napolitano, US District Court, Northern District, SF, Feb,		

98	Mogulof interview with the author.		Goddu, Chancellor's Free Speech Commission hearings, Feb 9, 2018.
99	"US Department of Justice Supports Free Speech Lawsuit Against UC Berkeley," <i>Daily Californian</i> , Jan. 28, 2018.	121	Ibid.
100	Donald J. Trump tweet, 6:13 AM- Feb 2, 2017,	122	"Faux Fortitude: Leftists are Not Brave for Speaking Out on Campus," <i>Berkeley Patriot</i> , Aug 25 2017.
101	Marisa Reynoso interview with the author.	123	"Berkeley College Republicans' Sign Destroyed," <i>Daily Californian</i> , March 2, 2017.
102	A BCR officer told the <i>San Jose Mercury News</i> that the BCR had 45-80 active members. See "Bitter Feud Divides UC Berkeley Republicans," <i>San Jose Mercury News</i> , Oct, 28, 2017. But judging by its generally small meetings and social media trail those numbers seem quite	124	Kaufman, "Campus Conservatives Gave the Alt-Right a Platform" <i>National Review</i> , August 15, 2017.
	inflated, and one or two dozen seems a more accurate count.	125	"Full Speaker List Revealed for 'Free Speech Week' at UC Berkeley, <i>Daily Californian</i> , Sept. 14, 2017.
103	Anon. source 1 telephone interview with the author.	126	Art Tavan, "From the Mouth of Madness: the Dangerous Brand of Milo Yiannopoulos, <i>Playboy</i> , Sept. 22, 2017.
104	Ibid.	127	"'Free Speech Week' at UC Berkeley Was a 'Political Theater,' Carol Christ Tells ASUC Senate, <i>Daily Californian</i> , Oct 3, 2017.
105	Ibid.	128	Mogulof interview with the author.
106	Ibid.	129	Milo Yiannopoulos e-mail to Mogulof, RE: Free speech week, 8/24/17.
107	Ibid.	130	Mogulof interview with the author.
108	Mogulof interview with the author.	131	Ibid.
109	Anon. source 1 telephone interview with the author; Marisa Reynoso interview with the author.	132	Marissa Reynoso and Millicent Grady Chaney interviews with the author.
110	Daryl Ansel interview with the author, May 9, 2018, Berkeley.	133	Anon source 1 interview with the author.
111	Nisa Dang, "Check Your Privilege When Speaking of Protests," <i>Daily Californian</i> , Feb. 7. 2017; Juan Pietro, "Violence Helped Ensure Safety of Students," <i>Daily Californian</i> , Feb. 7, 2017.	134	Ibid.
112	Nicholas Dirks, "Do Not Condone Violence to Suppress Free Speech," <i>Daily Californian</i> , Feb. 10, 2017	135	Ibid.
113	Daryl Ansel interview with the author	136	Marissa Reynoso and anon. source 1 interviews with the author; "Milo Yiannopoulos Makes Brief Speech at UC Berkeley as Hundreds Protest Outside Barriers," <i>Daily Californian</i> , Sept. 24, 2017.
114	Troy Worden, "UC Berkely Students Should Respect Free Speech Rights of Conservatives, <i>Daily Californian</i> , Sept, 8, 2017. Devlin testimony at Free Speech Commission hearing.	137	Bryan Schatz, "Milo's Dumb Free Speech Stunt Cost UC Berkeley \$800K and Nothing Happened: Could That Have Been By Design?" <i>Mother Jones</i> , Sept. 25, 2017.
115	Anon. source 1	138	Ibid; Mogulof interview with the author.
116	"Berkeley College Republicans VP: University 'Worked Tirelessly to Protect Our Rights,' <i>Washington Post</i> , Feb 3, 2017.	139	"Milo Yiannopoulos Speaks While Hundreds Protest," <i>Daily Californian</i> , Sept. 29, 2017.
117	Bitter Feud Divides UC Berkeley College Republicans, <i>San Jose Mercury News</i> , Oct 28, 2017	140	"Conservative Berkeley Students Ask US Justice Department to Launch Investigation," <i>San Francisco Chronicle</i> , Oct. 4, 2017,
118	"Berkeley Community Reacts to Milo Yiannopoulos' Resignation from Breitbart News," <i>Daily Californian</i> , Feb 21, 2018.	141	For an excellent summary (complete with a time line chart) of the deadlines extended and missed repeatedly by the <i>Berkeley Patriot</i> in the planning for "Free Speech Week," see "Berkeley Patriot Alleges UC Berkeley Ignored Request to Subsidize 'Free Speech Week' Costs," <i>Daily Californian</i> , Sept. 19, 2017.
119	Mariel Goddu testimony, Chancellor's Free Speech Commission hearings, Feb 9, 2018.		
120	Anon. <i>Berkeley Patriot</i> member statement read by		

- 142 “Chancellor Christ Condemns Hate Messages,” UC Berkeley Public Affairs, Sept. 21, 2017.
- 143 “Berkeley Patriot Alleges UC Berkeley Retaliation to Chalk Graffiti, Posters in Additional Civil Rights Complaint,” *Daily Californian*, Oct. 4, 2017.
- 144 “Civil Rights Law Suit Filed over Cancelled Free Speech Week,” California news wire service, Oct 5, 2017.
- 145 Mogulof interview with the author.
- 146 Ibid.
- 147 Carol Christ interview with the author.
- 148 “Coulter Says She Assumes ‘Free Speech Week’ at UC Berkeley is Cancelled, Milo Yiannopoulos Says It’s On,” *Washington Post*, Sept, 22, 2017.
- 149 That the YAF and not Berkeley students were the driving force behind the “free speech” law suit against Cal was asserted by every administrator who had first hand knowledge of both the law suit and what most conservative Berkeley student activists were saying – in private --- about the suit.
- 150 Mogulof e-mail to the author, July 12, 2018.
- 151 Amy J. Binder and Kate Wood, *Becoming Right: How Campuses Shape Young Conservatives* (Princeton, NJ: Princeton Univ. Press, 2013).
- 152 Millicent Morris-Chaney telephone interview.
- 153 Ibid.
- 154 Ibid.



# SHOULD FREE SPEECH BE ABSOLUTE ON COLLEGE CAMPUSES?

## A Lesson for High School Students

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by Robert Cohen

Objectives: After this lesson, students will be able to:

- Discuss the concept and importance of freedom of speech.
- Explain how freedom of speech has been challenged in the past and present.
- Assess whether it is possible to protect free speech and the people who might be harmed by it.
- Analyze whether freedom of speech should be absolute.

### Materials:

- Graphic Organizer
- Tape/Rope
- Handout
- OK/ Not OK signs

### Lesson Outline:

- 1) Ask students what free speech means to them and record their reactions on their grid. Solicit responses and record on a board or white board. Question prompts include:
  - How would you define “free speech”?
  - What might freedom of speech allow Americans to do or say?
  - Why do you think free speech is necessary in a democracy?
  - What statements or actions might be limited despite the right to free speech?

After students discuss their ideas and perception of free speech and their answers have been recorded, teacher may ask the following:

- What do all of your responses have in common?
- Based on this discussion, why do you think free speech is important? Why is this a right for which people are willing to fight?

- 2) Prepare the classroom with a rope or tape crossing the classroom with one part marked, ‘OK’ and the other part marked, ‘not OK.’ Introduce the activity, “Crossing the Line,” and establish guidelines for respect and civility as students physically demonstrate when free speech issues “cross the line.” Encourage students to be bold and honest in this activity. Call out a scenario, allow a few moments for students to think. Direct students to move to the part of the room that reflects their view: is the scenario ‘OK, or does it ‘cross the line’ and is not OK. Suggested prompts (as time allows):

- All people are entitled to freedom of speech.
- People have the right to express unpopular ideas.
- I am more willing to say something hurtful on social media or over text than in person.
- Freedom of speech includes the right to make hateful or cruel statements.
- Political speech should be protected to a greater extent than other forms of speech.
- “The only solution for hate speech is more speech.”
- People should be allowed to make statements that might lead to others’ physical or mental harm.

Invite students to return to their seats and debrief:

- How often did you cross the line? Was it more or less often than you thought at the beginning of the exercise? Why do you think you made those choices?
- To what extent did watching your classmates’ responses influence your own? How might others’ speech and expression influence an individual’s response to a situation?
- Why did you find some of the statements more palatable than others?
- To what extent did this exercise change or help you think more deeply about your ideas of free speech and what types of speech are acceptable?

3) Teacher will explain to the class that they will apply these ideas to an incident at Berkeley in 2017. Prior to evaluating this current event, students will briefly study the Free Speech Movement of 1964 for context. Instruct students to read distributed and/or projected information on the Free Speech Movement and instruct them to read it and answer the following questions in pairs on the grid provided.

- Based on the reading, why did Berkeley students believe the Free Speech Movement was necessary in 1964?
- Why did Mario Savio believe that the university is an appropriate site for protest (specifically the Free Speech Movement)?
- What conclusions can you draw about the purpose of the university from Savio's statement?

Divide class into jigsaw groups, assign roles, and direct students' attention to "Facts: Milo Yiannopoulos at Berkeley, 2017" (if necessary, modify for differentiation). Instruct each group to interpret "Facts:...." from their assigned viewpoint and prepare a short press release responding to the case. Press releases should include:

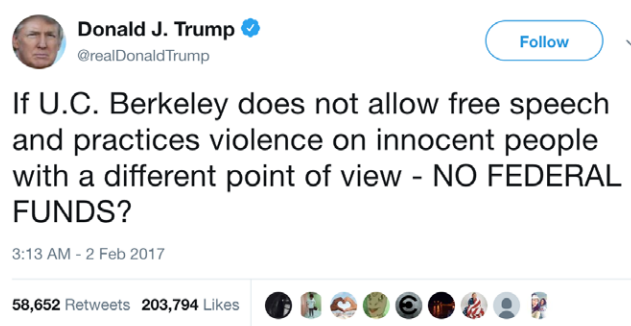
- events surrounding Yiannopoulos's speech at UC Berkeley in February 2017
- context for the chaos following Yiannopoulos' appearance
- a comment endorsing or criticizing Berkeley allowing Yiannopoulos' speech
- an articulation about the state of free speech at Berkeley, based on this incident
- a course of action for the university's future about free speech

Call on groups to present their press statements. Students should take notes on their graphic organizers.

4) After each group presents their press release the teacher will lead a full class discussion about the events at Berkeley and their implications for free speech at Berkeley and on other college campuses. Teachers will ask the following questions, debriefing the activity and connecting students' knowledge and conclusions to their earlier discussion about free speech.

- How did each group's press release differ based on their point of view? In what ways did the press releases confirm each other's account? In what ways were they contradictory?
- How might the existence of these one-sided accounts influence the way that Berkeley students and staff, and society at large, perceive these events?
- To what extent do different forms of media influence our concept of free speech in the 21st century?

Project or distribute President Trump's tweet.



#### Ask:

- How might this tweet from Donald Trump add to the controversy surrounding the events at Berkeley?
- Why might he threaten to withhold funding under these circumstances?
- To what extent might this tweet, or others related to this situation, further complicate the situation? How is this, in and of itself, an act of free speech?

Invite students to create a "real time" social media post about Berkeley, 2017 after having heard and evaluated the different perspectives on the situation. Call on a few students to share.

- How were your posts, which took into consideration multiple points of view, different than Donald Trump's?
- How does this reflect freedom of speech and its consequences?

5) Debrief by holding a class discussion or instructing students to return to their working groups. Suggested questions, if time allows:

- In your opinion, did Milo Yiannopoulos have a right to speak at Berkeley in February 2017? Why or why not?
- To what extent does Berkeley's history as the site of the Free Speech Movement complicate or add to this situation?
- Based on this case, to what extent is there a cost to "free" speech? Under what circumstances is that cost too much?
- Under what circumstances is it acceptable to limit free speech?
- How might the site of speech determine whether or not it can be limited?
- Students attend college to learn in classrooms, but also to experience the myriad educational experiences that happen outside the classroom. To what extent does the purpose of the university contribute to the role of free speech on campus?

### Summary:

Direct students to answer Essential Question—Should free speech be absolute on college campuses?—on their graphic organizer.

### Assessment:

Students fill out on grid- "Free speech is..."

How is their answer now different from what they wrote in the beginning? How did this lesson inform that change?

# Accompanying Documents and Information

## The Free Speech Movement (1964)<sup>1</sup>

The Free Speech Movement (FSM) was a college campus phenomenon inspired first by the struggle for civil rights and later fueled by opposition to the Vietnam War. The Free Speech Movement began in 1964, when students at the University of California, Berkeley protested a ban on on-campus political activities. The protest was led by several students, who also demanded their right to free speech and academic freedom. The FSM sparked an unprecedented wave of student activism and involvement. ...the center of the activity on the UC Berkeley campus was in Sproul Plaza.... In defiance of the ban on on-campus political activities, graduate student Jack Weinberg set up a table with political information and was arrested. But a group of approximately 3,000 students surrounded the police car in which he was held, preventing it from moving for 36 hours. Photographs show Weinberg in the car, both Mario Savio and Jack Weinberg on top of the surrounded car speaking to the crowd, and the car encircled by protesters and police.



*Sproul Hall with FSM signs hanging over the balconies<sup>2</sup>*

Through civil disobedience, knowingly violating campus rules, Berkeley students successfully challenged restrictions on student speech and gave rise to an era of vibrant student protest during the socially and politically turbulent era of the late 1960s and early 1970s.

## Mario Savio, “An End To History,” December 2, 1964<sup>3</sup>

“Here is the real contradiction: the bureaucrats hold history as ended. As a result significant parts of the population both on campus and off are dispossessed, and these dispossessed are not about to accept this ahistorical point of view.... The university is the place where people begin seriously to question the conditions of their existence and raise the issue of whether they can be committed to the society they have been born into. After a long period of apathy during the fifties, students have begun not only to question but, having arrived at answers, to act on those answers. This is part of a growing understanding among many people in America that history has not ended, that a better society is possible, and that it is worth dying for.”

1 “The Free Speech Movement,” Calisphere, University of California, accessed February 13, 2019, <https://calisphere.org/exhibitions/43/the-free-speech-movement/#overview>.

2 “Image / Sproul Hall with FSM signs hanging over the balconies. A student holds...,” Calisphere, University of California, accessed February 13, 2019, <https://calisphere.org/item/ark:/13030/tf0f59n4hb/>.

3 Mario Savio, “An End To History,” Voices of Democracy: The US Oratory Project, December 2, 1964, accessed February 13, 2019, <http://voicesofdemocracy.umd.edu/mario-savio-an-end-to-history-december-2-1964-speech-text/>.



Facts: Milo Yiannopoulos at Berkeley, 2017

Berkeley College Republicans (BCR) invited Milo Yiannopoulos, an alt-right, bigoted, provocateur to speak in early February 2017. This invitation was extended after a polarizing election that candidate Trump kicked off by suggesting that many Mexicans immigrating to the US are rapists and criminals and where he won the Electoral College but not the popular vote. This invitation also came on the heels of Executive Order 13769—more commonly called the “travel ban”—a realization of Trump’s campaign promise to ban Muslim immigration to the US and after the historic Women’s March on Washington in protest of President Trump’s inauguration. Milo Yiannopoulos was beloved by the alt-right for his nasty and dangerous comments about women, immigrants, and the LGBTQ community: perhaps a sizeable proportion of Berkeley’s student body.

When Yiannopoulos, who was hosted by the university, arrived on campus in February, 2017, violence ensued. The speech was canceled as \$100,000 of campus property was damaged when 150 people rioted in protest of Yiannopoulos (only one or two Berkeley students were identified among the rioters), and student and faculty safety was compromised. The BCR claimed that Free Speech was under threat at Berkeley and sued the university; media outlets and pundits endlessly discussed and debated the events at Berkeley.

Viewpoints on Events Surrounding Milo Yiannopoulos at Berkeley

<p><b>Chancellor</b></p> <p>Berkeley is world-renowned as the site of the Free Speech Movement. You want to uphold the tenets of free speech and give all viewpoints time and space, but you also understand that some of your students might feel threatened by certain comments. Moreover, you’re working with a tight budget and question the resources the university can devote to securing this event. Do you prioritize free speech, or student security?</p>	<p><b>Berkeley College Republican (BCR)</b></p> <p>You feel alienated on a campus where your views differ from the largely liberal student population and you’re angry that BCR events garner little attention. You hope that speakers like Yiannopoulos will spark debate and dialogue on campus. You believe that your group are the “real thinkers” on campus because you have the courage to introduce unpopular points of view. You believe that free speech is more important than students’ vulnerability or reactions to that speech.</p>
<p><b>Berkeley Faculty Member</b></p> <p>You worry that accommodating speakers like Yiannopoulos will disrupt the academic function of the university and concerned that outsiders will cause violence and chaos on campus. You fear for your students’ safety under these conditions. You wonder about the extent to which the university should prioritize free speech over student and campus safety, and whether accommodating this speech should be allowed to disrupt education.</p>	<p><b>Berkeley Student</b></p> <p>You are uncomfortable with Yiannopoulos’s rhetoric; you see it as bullying and you’ve learned to resist bullies. You support free speech and believe that multiple viewpoints should be expressed and heard, even if they are offensive, but you don’t want speakers and events to disrupt your campus and prevent learning opportunities. Additionally, you worry for classmates who might feel compromised based on speakers’ statements and reputations.</p>

Free Speech is...

The Free Speech Movement (1964):

Reactions to Milo Yiannopoulos (2017):

Chancellor:

Berkeley College Republicans:

Berkeley Faculty Member:

Berkeley Student:

Berkeley Alumni, Free Speech Movement Participant:

Conservative Journalist:

Tweet about this event to your followers:

Should freedom of speech be absolute on college campuses?

Free speech is... (Part 2):



# SHOULD FREE SPEECH BE ABSOLUTE ON COLLEGE CAMPUSES IN THE 21ST CENTURY?

## A Lesson Plan for College Students

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*by Robert Cohen*

### **Rationale:**

Since the 2016 presidential election, Americans have been exercising their First Amendment rights to Free Speech in astonishing numbers. Donald J. Trump's ascendance to the presidency has inflamed the electorate on the right, the left, and the far fringes of the political spectrum. Immediately following President Trump's inauguration, UC Berkeley was in the crosshairs of controversy and the unfolding story consumed the Berkeley community, the nation, and was even the topic of a late-night, presidential tweet.

### **Timing, setting, characters were all critical to this story:**

Berkeley College Republicans (BCR) invited Milo Yiannopoulos to campus for an early February, 2017 speaking engagement. Yiannopoulos had a documented track record of saying and doing crude and cruel things: he referred to women as "cunts;" mocked a liberal sociologist on the campus in which he was speaking as a "fat faggot;" used a video camera to humiliate a trans student by projecting the student's image on the screen in the lecture hall and to a right wing media outlet's website. Yiannopoulos frequently baits religious and racial minorities, and has written sympathetically of white supremacist Richard Spencer. Many students and faculty members were opposed to his appearance at Cal.

This Yiannopoulos speaking engagement was to occur in the aftermath of a polarizing election that candidate Trump kicked off by suggesting that many Mexicans immigrating to the US were rapists and criminals, and Trump lost the popular vote but was nonetheless elected president by the electoral college. The Yiannopoulos appearance at Berkeley also came on the heels of Executive Order 13769, a realization of Trump's campaign promise to ban immigration of Muslims to the US. This was also a time when anti-Trump protest was surging as evidenced by the massive women's march on Washington and other major cities in protest of President Trump's inauguration. Milo Yiannopoulos was beloved by the alt-right for his nasty and incendiary comments about women, immigrants, and the LGBTQ community: offending a sizeable proportion of Berkeley's student-body.

UC Berkeley is famed for the 1964 Free Speech Movement, a milestone in the struggle for student rights and free speech on campus. In the midst of the Civil Rights Movement and student mobilization in support of that movement, the UC administration banned political advocacy on campus. Through civil disobedience, knowingly violating campus rules, Berkeley students successfully challenged restrictions on student speech, paving the way for an era of vibrant student protest during the socially and politically turbulent era of the late 1960s and early 1970s – and making Berkeley a center of student activism and free speech ever since.



In 2017, however, a small but vocal group of student and faculty at Berkeley, convinced that Yiannopoulos was both hateful and guilty of using campus podiums to harass vulnerable minority students, urged Berkeley Chancellor Nicholas Dirks to cancel Yiannopoulos's speech. Dirks instead insisted that Yiannopoulos be allowed to speak since the First Amendment protected the right of even the most offensive speakers. When Yiannopoulos arrived on campus in February, 2017, violence ensued. The event was canceled as \$100,000 of campus property was damaged, 150 masked Antifa from off campus rioted in protest of Yiannopoulos (only one or two Berkeley students were identified among the rioters), and student and faculty safety was compromised. The BCR claimed that Free Speech was under threat at Berkeley and later sued the university; media was laser-focused on Berkeley. Ignoring the facts that the UC Berkeley administration had defended free speech and that the Yiannopoulos talk had only been cancelled after the riot posed a danger to public safety President Trump tweeted:



**Donald J. Trump** ✓  
@realDonaldTrump

Follow



**If U.C. Berkeley does not allow free speech and practices violence on innocent people with a different point of view - NO FEDERAL FUNDS?**

3:13 AM - 2 Feb 2017

58,652 Retweets 203,794 Likes



Not only was this initial invitation at issue. Leading Berkeley student conservatives wanted Yiannopoulos to return to campus in the Fall of 2017 despite the scandal over his crude joking about pedophilia. Yiannopoulos claimed he would hold a "Free Speech Week" at Cal, in which he and other far right celebrity speakers (deemed bigoted and offensive by many students and faculty) appeared. Chancellor Carol Christ permitted his appearance, despite widespread opposition at Berkeley, but the other celebrities did not appear with Yiannopoulos – who had lied about inviting them. Explaining his motivations for returning to Berkeley, Yiannopoulos told *Playboy*, "I believe the challenge for us [the fringe right wing] is to create something so attention grabbing that it produces another U.C. Berkeley and I can sell another 100,000 copies of the book [he had just published]... Hopefully, God comes out and smiles on us and Antifa fire-bombs the entire university."

### What is the role of Free Speech during your college years?:

In this simulation, you will pick up this story and play the roles of Berkeley principals. You will determine how you envision the scope of free speech at Berkeley during your college years and beyond.



## Members of the Berkeley Community, 2017

You are Chancellor Nicholas Dirks, UC Berkeley. Your thinking points are:



- Berkeley's fame over free speech
- Do you have the free speech right, as chancellor, to criticize a bigoted guest invited by a student group?
- What resources should you devote to this issue when you are running the campus on a tight budget?
- "It's a terrible inconsistency. Real tensions... exist between the [university's] values of inclusion and the values of free speech. I think for kids it is a genuine confusion. The truth is that students by virtue of being... member[s] of a student community are often constrained in ways that outside people are not... They are subject to student [conduct codes]. Students for saying things can be held accountable by the rules of student conduct that actually are not about freedom of speech because they are community values."<sup>1</sup>
- Your defense of free speech makes you a target for Antifa rioters (who want to shut down the Yiannopoulos speech)
- "In our present political moment, we need more than ever to cleave to the laws that protect our fundamental rights. The First Amendment is unequivocal in its almost unfettered protection of speech with which many might disagree... . We cannot support free speech selectively."<sup>2</sup>
- **Do you think I was right to have allowed Yiannopoulos to speak at Berkeley in February, 2017?**

And/Or

You are Chancellor Carol Christ, UC Berkeley. Your thinking points are:



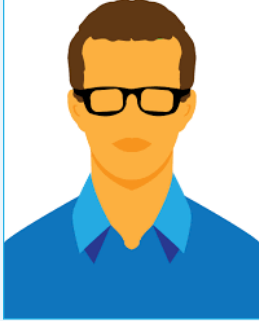
- Berkeley's fame over free speech
- Do you have free speech right, as chancellor, to criticize a bigoted guest invited by a student group?
- What resources should you devote to this issue when you are running the campus on a tight budget?
- After you assume the chancellorship following Dirks' term you will declare your first term as "Free Speech Year" and hold forums examining the complexity of this issue
- You are "aware of how some of the [bigoted] speakers made constituencies on campus feel that they didn't belong, that they were threatening their sense of place in the community. Even though I wish our students were more resilient, I realized that I came from a [different] place... 73 years old, successful, I have a powerful position so it is easy for me to be resilient. It is not so easy for someone who feels that she may not belong at Berkeley in the first place, and [then to have a vitriolic speaker comes to campus] telling her she doesn't belong."<sup>3</sup>
- **Do you think I was right to have allowed Yiannopoulos to return to Berkeley's campus in the Fall of 2017, as well as allow other far right celebrity speakers that many students and faculty deemed bigoted and offensive?**

1 Robert Cohen, "'Free Speech is Who We Are': The University of California and the Struggle to Preserve Berkeley's Free Speech Tradition in the Trump Era," 2018, in author's possession

2 Ibid.

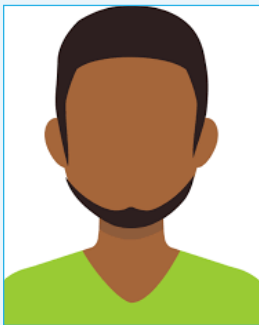
3 Ibid.

### You are President of the Berkeley College Republicans. Your thinking points are:



- You feel alienated and are fed up how BCR events garner little attention and participation
- You claim you do not feel welcome on a largely liberal campus because of your political right wing views
- You are hoping that when speakers like Yiannopoulos come to Berkeley, they will spark debate and dialogue
- “We invited Yiannopoulos precisely because he raises taboo political topics that our club believes are necessary for, and essential to a complete political debate - and he uses humor and satire while doing so.”<sup>4</sup>
- “In order to fully develop intellectually, we must not hear solely from those with whom we agree and those who make us feel good - we must have our views challenged. BCR are in fact the real thinkers on this campus precisely because they have the courage to stand up to Berkeley’s reigning political orthodoxy... [ie] liberal thought.”<sup>5</sup>
- You say that Yiannopoulos “gives a voice to repressed conservative thought on college campuses...”<sup>6</sup>
- “... we know that it is right that people’s feelings should take a back seat to open discourse and free speech... The BCR believe that we should err on the side of more speech instead of less... It is time [for liberals] to mature and realize that you will encounter people with whom you may not agree.”<sup>7</sup>
- After the riot with Yiannopoulos’ visit to Berkeley, you will be a frequent guest on national TV programs

### You are a faculty member, 2017, UC Berkeley. Your thinking points are:



- Accommodating speakers like Yiannopoulos will disrupt the academic function of the university
- In August, 2017 violence in Charlottesville, VA by alt-right extremists and Nazis left an ant-racist protester dead. You are concerned that outsider extremists will descend on Berkeley’s campus (again) and you fear for the safety of all your students, students of color, and those who may be undocumented
- Should you cancel your own classes if Yiannopoulos returns to Berkeley?
- While Berkeley is a public university which is obligated to protect the First Amendment as opposed to private universities (hence President Trump’s threat to withhold federal funds), you have been following the scholarship. Have First Amendment protections been misapplied to college campuses? Berkeley is not a public space in the sense of a park. It has an educational function and a responsibility to uphold this mission. If a speech interferes with education, by forcing the closing of academic buildings, should the university cancel the speech to restore its academic work even if the courts might rule it unconstitutional to prevent the speech?
- Security measures have inconvenienced you when these alt-right speakers come to campus: you can’t meet with students because buildings are closed, you can’t conduct campus business. Also, as a professor of color, you do not feel safe with the heavy police presence while on campus at night
- Concerns about the “mental health impact” on your students who may find Yiannopoulos and his ilk’s rhetoric directly offensive and see themselves as targets of the hostile speech

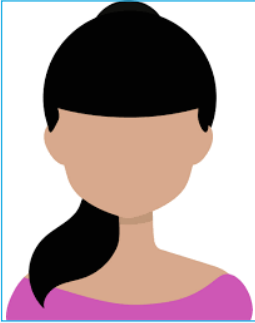
4 Robert Cohen, “Why Berkeley Conservative Student Leaders Fell For Milo Yiannopoulos and Fed the False Fox News/Trumpist Narrative that the University of California Suppresses Conservatism,” 2018, in author’s possession.

5 Ibid.

6 Ibid.

7 Ibid.

**You are a Berkeley student, 2017, UC Berkeley. Your thinking points are:**



- You are uncomfortable with the rhetoric of Yiannopoulos and the other far right celebrity speakers that many students and faculty deemed bigoted and offensive who want to come to your campus. You see them as bullies and everything you have learned starting in elementary school has taught you to take a stand against bullies.
- You are a part of the three-quarters of your freshman class that entered Berkeley after the February, 2017 riots who agree that 'the University has a responsibility to provide equal access to safe and secure venues for guest speakers of all viewpoints - even if the ideas are found offensive by some or conflict with the values held by the UC Berkeley community.'<sup>8</sup>
- On the other hand, you worked really, really hard to get to Berkeley, you are paying a lot of money and also feel that, "Students have a right to go to their classes and feel safe in their classrooms, and you're [the administration] ready to compromise that for, like, the First Amendment that you're trying to uplift?"<sup>9</sup>
- Is your campus being hijacked for the sake of placating the ghosts of the Free Speech Movement from 1964 at a cost to your education?
- Security measures have inconvenienced you when these alt-right speakers come to campus: you can't meet with professors because buildings are closed and some of them have cancelled classes.

**You are Mario Savio (1942-1996), leader of Berkeley's 1964 Free Speech Movement. Your thinking points are:**



Photo credit: Sam Churchill

<https://www.flickr.com/photos/samchurchill/7839417702>

- Your passionate but measured leadership led to codifying Berkeley's rules about political speech or activity. Among these resolutions are prohibitions against the university to restrict such speech *but* does allow the university to regulate when speeches happen, where they take place and how, "to prevent interference with the normal functions of the university."<sup>10</sup> (These are called Time, Place, and Manner regulations.)
- The technology in 1964 was far limited from today where hostile speakers film and broadcast audience members to harass and intimidate
- Regarding Free Speech: "The most beautiful thing in the world is the freedom of speech... those words are...burned into my soul, because for me free speech was not a tactic, not something to win for political [advantage].... To me freedom of speech is something that represents the very dignity of what a human being is.... It is the thing that marks us as just below the angels. I don't want to push this beyond where it should be pushed, but I feel it."<sup>11</sup>
- And after Berkeley students won Free Speech protections you will say: "We are asking that there be no, no restrictions on the content of speech save those provided by the courts.... And people can say things in that area of freedom which are not responsible...we've finally gotten into a position where we have to consider being responsible, because we now have the freedom within which to be irresponsible. And I'd like to say at this time...I'm confident that the students and the faculty of the University of California will exercise their freedom with the same responsibility they've shown in winning their freedom."<sup>12</sup>
- "We will never intentionally bring disgrace upon this our university. By our words and actions we will endeavor to honor the ideals of those who have come before us, and to deepen and strengthen this community in which we are privileged to speak."<sup>13</sup>

8 Robert Cohen, "'Free Speech is Who We Are': The University of California and the Struggle to Preserve Berkeley's Free Speech Tradition in the Trump Era," 2018, in author's possession.

9 Ibid.

10 Ibid.

11 Robert Cohen, "What Might Mario Savio Have Said About the Milo Protest at Berkeley?," The Nation, February 7, 2017, <https://www.thenation.com/article/what-might-mario-savio-have-said-about-the-milo-protest-at-berkeley/>

12 Ibid.

13 Mario Savio's Free Speech Movement monument design, 1989. This is discussed in Robert Cohen, "The Berkeley Rebellion: Mario Savio's Design for a Free Speech Movement Monument," Cal Alumni Association/UC Berkeley, accessed February 13, 2019, <https://alumni.berkeley.edu/california-magazine/spring-2010-searchlight-gray-areas/berkeley-rebellion>.

## Group Task

Step one: Get to know your character by reading: “You are.... Your thinking points are... .

Step two: Read UC Berkeley’s Principles of Community, 2018<sup>14</sup>:

These principles of community for the University of California, Berkeley, are rooted in our mission of teaching, research and public service. They reflect our passion for critical inquiry, debate, discovery and innovation, and our deep commitment to contributing to a better world. Every member of the UC Berkeley community has a role in sustaining a safe, caring and humane environment in which these values can thrive.

We place honesty and integrity in our teaching, learning, research and administration at the highest level.

We recognize the intrinsic relationship between diversity and excellence in all our endeavors.

We affirm the dignity of all individuals and strive to uphold a just community in which discrimination and hate are not tolerated.

We are committed to ensuring freedom of expression and dialogue that elicits the full spectrum of views held by our varied communities.

We respect the differences as well as the commonalities that bring us together and call for civility and respect in our personal interactions.

We believe that active participation and leadership in addressing the most pressing issues facing our local and global communities are central to our educational mission.

We embrace open and equitable access to opportunities for learning and development as our obligation and goal.

*UC Berkeley’s “Principles of Community” statement was developed collaboratively by students, faculty, staff, and alumni, and issued by the Chancellor. Its intent is to serve as an affirmation of the intrinsic and unique value of each member of the UC Berkeley community and as a guide for our personal and collective behavior, both on campus and as we serve society.*

Step #3: Discuss as the assigned members of the Berkeley community during 1917:

- 1) What is the purpose of the university?
- 2) To what extent is free speech important on a college campus? How important is it to you (in your role)?
- 3) How did the function of the media affect Berkeley and the events of 2017?
- 4) Did Chancellor Dirks on 2/17 and Chancellor Christ in the Fall of 2017 make the right decisions to provide Milo Yiannopoulos (et. al) the resources and accessibility to Free Speech at UC Berkeley?
- 5) Why do you think Trump criticized Dirks in his Tweet for suppressing speech and practicing violence when the opposite was true?
- 6) Should free speech be absolute on college campuses in the 21st century? Why? Why not?

*Teaching materials designed by Robert Cohen, Stacie Brensilver Berman, and Debra Plafker of the NYU Social Studies/History Curriculum Collaborative.*

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<sup>14</sup> “Principles of Community,” Berkeley Diversity, accessed February 13, 2019, <https://diversity.berkeley.edu/principles-community>.



# FREE SPEECH AND THE INCLUSIVE CAMPUS

## A Lesson for High School Students

by Robert Cohen

### Essential Question:

Can free speech and inclusivity coexist on college campuses?

### Rationale or Intro:

The extent to which students can exercise their First Amendment rights on campus has been debated at colleges and universities, in the media, in the halls of government, and in the courts for more than fifty years. In *Tinker v. Des Moines* (1969), for example, the Supreme Court ruled that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Though there are limits on student speech, students’ rights to speak and be heard, and the ways in which they exercise this right, have become a hallmark on college campuses in the United States. Where

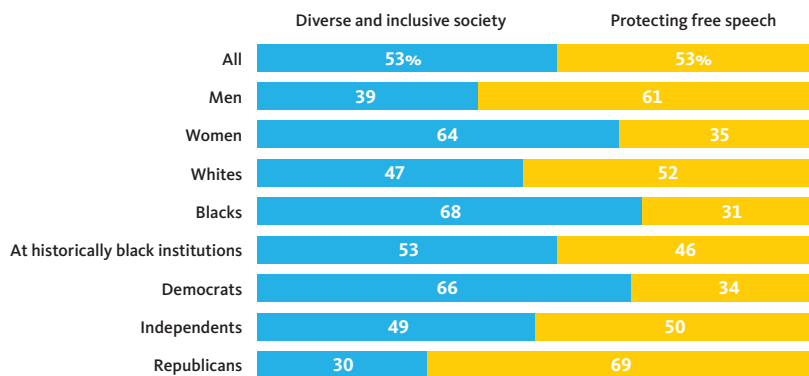
students maintain and express contradictory positions, though, speaking freely can lead to conflict and additional questions as to what is and is not permissible. Such was the case at UC Berkeley, during the 1964 Free Speech Movement, one of the foremost examples of advocacy in support of students’ First Amendment rights and in 2016 when the conservative Berkeley College Republicans’ support for a border wall, and the way in which they expressed it, seemed to threaten undocumented students on campus.

### Part One: How Do College Students View Free Speech?

**Directions:** Distribute or project the following charts and ask students to examine them. Guide a brief discussion using the suggested follow up questions, as time allows. [Note: The Gallup/Knight poll surveyed more than 3000 full-time college students (including students at historically black colleges) in the Fall of 2017.]

#### Inclusivity is more important than speech, majority of students say

When forced to choose, a small majority of college students say inclusivity is more important than free speech, though they widely believe in the importance of both to democracy.



Note: Due to rounding, some percentages may not add up to 100 percent.  
Source: Gallup survey of about 3,000 college students.

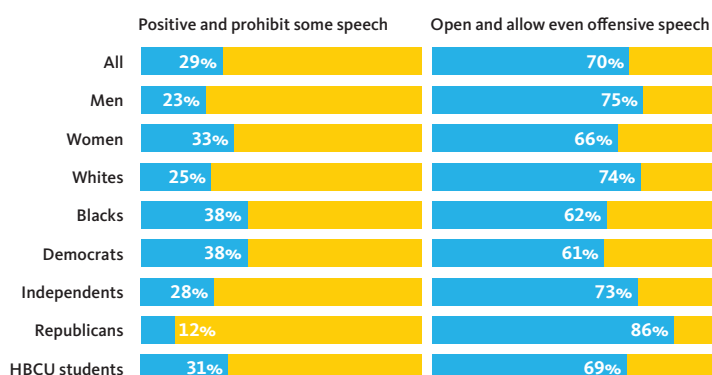
Gallup/Knight Foundation Poll, March 2018<sup>1</sup>.

1 Niraj Chokshi, “What College Students Really Think About Free Speech,” The New York Times, March 12, 2018, <https://www.nytimes.com/2018/03/12/us/college-students-free-speech.html>.

- In your own words, what question was asked in this chart? What does ‘diverse and inclusive’ mean to you? Provide examples.
- In general, how did the respondents (the students polled) prioritize free speech vs. inclusivity ?
- When you look at specific groups surveyed, to what extent did they depart from the majority’s view of inclusivity versus free speech? Did specific groups value diversity or free speech to the same degree? What might account for any differences in these respondents’ views from the majority?

### Students overwhelmingly prefer openness to inclusivity on campus

The vast majority of students say they would rather have a learning environment that is open and permits offensive speech to one that is positive but limits it.



Source: Gallup survey of about 3,000 college students.

*Gallup/Knight Foundation Poll, March 2018<sup>2</sup>.*

- What is the overall conclusion of this question? In your own words, provide examples of what might be ‘positive and prohibit some speech’ and ‘open and allow even offensive speech.’
- Do any specific groups depart from the majority’s views in greater proportion? What might account for this difference of opinion?

## Part Two: Case Study - UC Berkeley, Fall, 2016

**Directions:** Break students into discussion groups. Direct groups to evaluate the case study from the perspective of UC Berkeley’s chancellor and debate an appropriate response. Reconvene with each group presenting their recommended course of action.

At UC Berkeley (Cal) there is an advocacy group of and for undocumented immigrant students. Their members are tabling on campus just off of Sather Gate urging that the university accord their group a larger office space for their organization. Their table is set up not far from the Berkeley College Republicans (BCR) tent. The BCR is avidly opposed to illegal immigration, the presence of undocumented students, and UC providing any support at all for the undocumented student group. The BCR decides to demonstrate this opposition in an ‘in-your-face’ way, using Lego-like building blocks to build a replica of (then) Republican presidential candidate Donald Trump’s “Wall” and chanting, “Build the Wall. Deport them all.” All this is done inches away from undocumented students who feel angry, scared, and threatened by the wall model and the chants.

<sup>2</sup> Ibid.

You are the chancellor of Cal, and hear about this conflict and are afraid it may lead to violence. *What do you do?* Examine the following options, select the best one, and explain your reasoning. Consider the chancellor's responsibilities to a diverse student body and Free Speech concerns. Prepare a brief defense of your response as chancellor to present to your group. One person should take notes on the group's debate to share with the class.

As chancellor I would...

- A) Do nothing, since the BCR has a First Amendment right to express these views (and since its members are adults it is not my responsibility as chancellor to intervene). *How would you respond to complaints that doing nothing suggests that you are indifferent to the serious campus tension raised by the unprecedented political polarization wrought by the 2016 presidential race?*
- B) Bar the BCR from the Plaza to avoid violence and/or undercut assaultive and hateful speech. *How would you address the First Amendment issues such a ban would raise?*
- C) Meet with the BCR leaders and urge them to find a more civil way to express their views on immigration, ask that they seek to be more responsible in the way they exercise their free speech rights, and consider ways to engage rather than simply offend classmates with whom they disagree. *How would you deal with the criticisms this might raise that you are using your authority as chancellor to force a more moderate brand of politics on dissenting students?*
- D) Meet with the undocumented students and remind them that the BCR members have the right to express their views, and that undocumented students, in turn, have the right to express their views. You anticipate that these students will say that they feel personally threatened by the deportation chants. *How will you respond to these concerns?*

### Questions for Discussion:

*Following the case study activity and debrief, teachers may ask one or more of the following application questions.*

- Is there a difference between using your rights and abusing your rights? If so, how can you tell if an abuse has occurred? How would you characterize BCR's actions in this case?
- In 1927 Justice Brandeis (*Whitney v. California*) contended that the only solution for offensive speech was "more speech." What might he have meant by that? Do you agree with him? How might you apply that idea to the circumstances in this case study?
- How might changes in the nation and new methods of communication embolden people to speak more freely than in the past? To what extent do you think the conflict at Berkeley was the result of these new ideas about acceptable speech?

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