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A Filing of Research Misconduct Charges Against the Churchill Investigating Committee

May 10, 2007

To: Hank Brown, President of the University of Colorado
The Regents of the University of Colorado
Bud Peterson, Chancellor of University of Colorado, Boulder
Phillip DiStefano, Provost of the University of Colorado, Boulder
Susan Avery, Vice-Provost of the University of Colorado, Boulder
The Standing Committee on Research Misconduct
Members of the Investigative Committee in the Churchill Case

On April 23, 2007 the undersigned professors called on the University of Colorado at Boulder to rescind the "Report of the Investigative Committee concerning Allegations of Academic Misconduct against Professor Ward Churchill" [henceforth Report] because it contained so many egregious errors. On May 7, 2007, the University officially declined our call to retract the report. Since the university has declined to act in good faith, we are now compelled to file these charges.

For the dual purposes of defending academic freedom securing justice for Professor Churchill, we now bring charges of research misconduct against the authors of the Report: Marianne Wesson, Professor of Law at the University of Colorado [chair of Investigative Committee]; Marjorie McIntosh, Professor of History at the University of Colorado; Michael Radelet, Professor of Sociology at the University of Colorado; Robert Clinton, Professor of Law at Arizona State University; and José Limón, Professor of American and English Literature at the University of Texas.

We further ask that any person with a known bias against Professor Churchill recuse themselves from consideration of his case. We note that the decision not to retract the Report came from the new Vice President for Academic Affairs, Michael Poliakoff, whose office has a conflict of interest in this case because of his involvement with the American Council of College Trustees and Alumni (ACTA). Since ACTA has a long and well-documented history of animosity toward Ward Churchill, no-one with ACTA affiliations, including a co-founder like President Hank Brown and a named proponent like Poliakoff, is in any position to make an unbiased decision in this case.

The standard of scholarship applicable to a research report upon which the continued employment of a tenured professor hinges is even higher than that applicable to conventional

academic publications. When a colleague could lose both his tenure and his job as a consequence of claims made in a research report, these claims must be established beyond reasonable doubt. The investigators must explore, and must reject, all alternative explanations of the evidence sustaining their claims. When such high stakes are involved anything less constitutes research misconduct. We contend that the authors of the Report have not satisfied these demanding standards and are thus guilty of research misconduct. Their failure to respond to our detailed critique of the Report supports the charge of misconduct. We further contend that both the principles of academic freedom and Professor Churchill as an individual are likely to suffer as a consequence of this dereliction.

Through careful investigation guided by two recognized experts in the field of American Indian Studies – Eric Cheyfitz, Ernest I White Professor of American Studies and Humane Letters at Cornell University, and Michael Yellow Bird, Associate Professor, Center for Indigenous Nations Studies at Kansas University--we have found that the Report contains serious violations of standard scholarly practice. These violations include:

- relying on a biased and flawed source for major arguments;
- improper exclusion of reputable independent sources that contradict the Report's argument;
- suppressing text from a cited source that contradicts the Report's argument;
- excluding valid scholarly interpretations at variance with the Reports claims;
- rhetorically exaggerating the strength of the case against Professor Churchill.

These and further violations are explained more fully in the attached summary and in the documentary evidence packet.

Nor is credibility of the Report enhanced by its treatment of the three plagiarism charges against Professor Churchill. One of these charges is quickly dismissed, but immediately (and improperly) resurfaces as an ad hoc misconduct charge proscribing the practice of ghost writing. The other two plagiarism charges involve persons or organizations that once worked collaboratively with Professor Churchill. None of the authors supposedly plagiarized by Churchill ever filed a formal charge, and administrators at the University of Colorado were aware of these issues for over a decade without taking action. The plagiarisms attributed to Professor Churchill involve only a tiny fraction of his work and must be deemed insubstantial or even trivial, especially in light of other elite universities' repeated refusal to sanction truly egregious plagiarisms by eminent faculty members. Professor Churchill's actions could only be regarded as punishable misconduct for someone already defined as a political pariah and by an investigating body that had adopted an adversarial stance towards him.

Our concerns transcend the Churchill case altogether. The violations of standard scholarly practice within the Report compromise not only its own scholarly integrity but also the integrity of the protocols and principles that protect academic freedom. Allowing any faculty member to be fired on the basis of an investigative document so fundamentally compromised dangerously lowers the bar of due process and puts any professor at risk of arbitrary dismissal.

In support of our charge of research misconduct against professors Wesson, McIntosh, Radelet, Clinton, and Limón, we provide a “Documentary Evidence Packet” providing textual evidence of violations of standard scholarly practice within the Report they have authored. We also provide a “Summary” of these violations in a separate document. Our investigation of the Report is continuing, and we may submit further documentation in support of these misconduct allegations.

The signers of this letter understand that the University of Colorado is obligated to investigate all charges of research misconduct. We therefore assume that our charges against the authors of the Report will be investigated with the same vigilance, and by the same process, as the charges directed against Professor Churchill himself. It would seem only proper that any further action against Professor Churchill be halted pending the outcome of these investigations.

Signed,

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SUMMARY

VIOLATIONS OF STANDARD SCHOLARLY PRACTICE in the document:

“Report of the Investigative Committee on Research Misconduct at CU-Boulder concerning Allegations of Academic Misconduct against Prof. Churchill”
May 9, 2006. 124 pages

VIOLATION #1. Relying on a single biased and flawed source (LaVelle) for major arguments; importing LaVelle’s errors of source misrepresentation into Report

The report uses John LaVelle’s two essays as the basis for the report’s major findings of misconduct in the first two allegations, A and B. As the first two paragraphs of LaVelle’s 1996 review essay of Churchill’s *Indians Are Us?* show in their *ad hominem*, unsupported attacks on Churchill’s identity and work, LaVelle’s work is clearly biased before the fact against professor Churchill and contains substantial errors in its understanding of Native history (General Allotment Act, the Indian Arts and Crafts Act and the legal construction of Native identity through blood quantum) and in its misreading of two of Professor Churchill’s sources: Limerick and Thornton, misreadings that the Investigative Committee affirms and imports into the Report. For example, on page 266 of his 1999 essay in *Wicazo-sa Review*, LaVelle asserts: “But in fact, Thornton makes no such prediction about the demise of Indians in the twenty-first century-not within the range of pages cited by Churchill nor anywhere else in Thornton’s book.” And yet we find such “predictions” not only within the pages that Churchill cites (see 180 in *American Indian Holocaust and Survival*) but elsewhere in the book (239). As for LaVelle’s assertion that Churchill is quoting Limerick out of context on the effects of quarter-blood quantum, the context of the Limerick (see 338 in *The Legacy of Conquest*) appears to affirm Churchill’s use of it and calls into question LaVelle’s reading in his 1996 “Review Essay” in *American Indian Quarterly* (111). Further, other scholars have used this quote from Limerick in precisely the same way that Churchill uses it (see Cheyfitz, *The Columbia Guide to American Indian Literatures of the United States Since 1945*, p 25). Relying on one source (LaVelle’s work) as the basis for one’s major arguments despite its being clearly biased and flawed, constitutes a serious violation of standard scholarly practice.

VIOLATION #2. Artificial exclusion of independent sources representing alternate views; and, misrepresentation of a Supreme Court case to create false appearance of authoritativeness.

Following Lavelle, the Report misreads Churchill on Allotment and does not bring any evidence to support its claim that Churchill is wrong on the blood fraction of one-half or more used to issue allotments, a number that is supported by at least one other reputable scholar.(See Circe Sturm in *Blood Politics* 2002, 78). This matter of how tribal rolls were constituted by the Interior Department, using blood fractions—the department was empowered by the 1887 Gen. Allotment Act to constitute these rolls (sec.3 of the Act)—needs further research but it is clear, as Churchill and other scholars assert, that blood quantum was used in one fraction or another

(Angela Gonzales in “The (Re)Articulation of American Indian Identity” [1998]). Further, the Report’s reading of *US v. Rogers* in order to discredit Churchill’s historical sense of when blood quantum was formally instituted is at best debatable and at worst simply wrong, for Taney does not define race in his decision in terms of either blood or blood quantum (see 45 U.S. at 573) as the Report insists. By relying on the artificial exclusion of reputable independent sources (Gonzalez and Sturm) that contradict the thesis of the investigative report in order to make the case against Churchill and by creating the false appearance of authoritativeness by referencing a Supreme Court case (*US v Rogers*) in support of its argument in spite of the fact that the case in question is at best debatably relevant to the thesis—in these ways, the report violates standard scholarly practice.

VIOLATION #3 Importing factual error or distortion from LaVelle; and turning a scholarly debate into an indictment by arbitrarily limiting scope of interpretation when such limitation is not justified given the unresolved debate over such scope

The Report charges Churchill with falsifying the Indian Arts and Crafts Act of 1990. While Churchill’s account of the Act is not entirely accurate in *Indians Are Us*, it is not “egregiously” inaccurate as LaVelle claims on page 174 of his 1999 essay in *Wicazo Sa Review*, which does not get the Act entirely right either, omitting state recognition of a tribe as granting its members recognition as Indians and asserting contra Churchill that “the act [does not] refer to any such thing as ‘the Alaska Native Corporation’” (1999; 275). In fact the Act does explicitly include in its purview “Alaska Native village[s],” which, as scholars of federal Indian law know, are indeed organized into corporations. LaVelle, as he does over and over, is either willfully misreading Churchill here or is himself ignorant of the Alaska Native Claims Settlement Act of 1971, as he is of other key points of federal Indian law and Native history. Churchill’s statements about the Act’s federal standards of one-quarter blood quantum have validity because they are implied in the Act. Though the tribes have varying standards of blood quantum to determine enrollment, Stephan L. Pevar’s *The Rights of Indians and Tribes: the Authoritative ACLU Guide to Indian and Tribal Rights* notes that “Many tribes require that a person have at least one-fourth tribal blood to be enrolled” (Third edition; 19). Thus, the Report’s and LaVelle’s description of the Act as not including those standards is at best debatable and arguably wrong. As with the Allotment Act issue, what we have here is a scholarly debate about the extent of particular acts, and what is or is not included in them; and it seems that Churchill’s *extensive* readings make much more sense than the Report’s and LaVelle’s limited readings, which do not take into account the actual coverage and implementation of these acts. Further, the Report notes that Churchill also wrote a later essay (2003) on the Indian Arts and Crafts Act in which he cited it accurately and thus modified his description of it. But instead of giving him credit for scholarly revision, something the Report takes him to task for not doing in his Allotment formulations, it uses this revision to damn the earlier one (see page 30), noting “that in his 1994 essay, ‘Nobody’s Pet Poodle,’ Professor Churchill seriously and deliberately misrepresented the specification of a blood quantum requirement of one-quarter of Indian blood in the Indian Arts and Crafts Act of 1990” (31). This statement is not only inaccurate in charging Churchill with “*seriously and deliberately* [having] misrepresented the specification of blood quantum” but also exhibits in bad faith given the earlier demand of revision and so raises the question of intent. If Professor Churchill were “deliberately” misrepresenting the Act in his earlier characterization, why would he revise that characterization in a later essay, which he clearly calls attention to the earlier work?

VIOLATION #4. Suppressing text from cited source that contradicts the Report's argument

In the matter of John Smith and smallpox, the Report leaves out crucial quotes from Salisbury that Churchill cites as support for his speculation that there is circumstantial evidence implicating Smith's involvement in a smallpox epidemic in New England in 1616. The Report claims that Churchill fabricated Salisbury, a serious charge. In fact, the Report's assertion that "The pages referenced by Professor Churchill in the Salisbury book do not contain the words "Wampanoags" and have no discussion of any disease or epidemic (including smallpox)" (34) is completely incorrect. The Salisbury passage in question contains a sustained discussion of epidemic (101) and on p.102 refers to a tribe of the Wampanoags, the Pokanoket.

VIOLATION #5. Suppressing text from cited source that contradict the Report's argument; and distortion to bolster weakness of argument

The Report finds Churchill's account of the Ft. Clark epidemic supported by Native oral history. Further, in charging Churchill with misrepresenting Thornton on the epidemic, the Report leaves out Thornton's citing of the speech of Four Bears (*American Indian Holocaust and Survival*, (98-99), which supports Churchill's reading of the epidemic. But why spend almost one-third of the Report investigating a charge that is substantially dismissed unless one wants to make it look as if there is something to the charge in order to prejudice the reader against Churchill, even as one basically concedes his interpretation? This again strikes us as an act of bad faith, an act of deliberate distortion.

CONCLUSION

In sum, the Report turns what is a debate about controversial issues of identity and genocide in Indian studies into an indictment of one position in that debate. Further, while it is normative to interpret acts of Congress or any legal document for that matter to include both their implementation and effects, the Report, following LaVelle, insists on violating this standard and confining the acts under investigation to their literal language, which makes no sense if one wants to understand their actual political and historical force. By following this method, the Report restricts interpretation of the acts in a way that privileges its own understanding of them and excludes alternative explanations that it may find challenging to this understanding. This approach clearly runs counter to the accepted procedures of scholarly and critical interpretation, the purpose of which is to encourage a range of interpretations so long as plausible evidence can be produced in their support. Professor Churchill has provided such evidence in his interpretations but because of the manufactured limits of interpretation set by LaVelle's scholarship and the Report, Churchill's interpretations have been substantially excluded from reasonable consideration. Such arbitrary exclusion fails the scholarly standards of the profession.

DOCUMENTARY EVIDENCE PACKET

For claims re violations of standard scholarly practice in Churchill Report

* Because of time constraints, a few pieces of textual evidence cited in the Summary were not included here. But the Summary above provides the citations and page numbers to enable readers themselves to locate the texts in question.

VIOLATION #1 Relying on a single biased and flawed source (LaVelle) for major arguments; importing LaVelle's errors of source misrepresentation into Report

Textual Evidence re Bias, Ad Hominem

These are the opening 2 paragraphs of one of the LaVelle essays upon which the Report relies. This is LaVelle's review essay on Churchill's *Indians Are Us?* (*American Indian Quarterly* 20:1, 1996, 109-118):

Indians Are Us? is a collection of commentaries on American Indian political and social affairs, written in the truculent tone that readers have come to expect from writer Ward Churchill. Like its predecessors, *Fantasies of the Master Race* and *Struggle for the Land*, this latest Churchill project consists largely of polemical pieces hastily compiled from obscure leftist publications.

Through the course of all his writings, Churchill gradually has emerged as a spokesman of sorts for those persons derisively referred to as Indian "wannabees"--individuals with no American Indian ancestry or tribal affiliation who nonetheless hold themselves out to the public as "Indians" by aggressively inserting themselves into the political affairs of real Indian people. Churchill's appeal among the "wannabees" lies both in the boldness with which he expresses contempt for Indian tribes, and in the scholarly facade he gives his anti-tribal propositions; indeed, many Churchill fans appear to have been won over by the mere fact that Churchill's books contain an abundance of endnotes. By researching those copious endnotes, however, the discerning reader will discover that, notwithstanding all the provocative sound and fury rumbling through his essays, Churchill's analysis overall is sorely lacking in historical/factual veracity and scholarly integrity.

Discussion: The essay frames its unscholarly approach through vituperative ad hominem attack. The "wannabees" assertion borders on libel since the Churchill book in question is endorsed on its back cover by major American Indian figures Russell Means, Jayce Weaver, and Rob Robideau.

Textual Evidence re LaVelle's misrepresenting source Thornton

On page 266 of his 1999 essay in *Wicazo-sa Review*, LaVelle asserts:

“But in fact, Thornton makes no such prediction about the demise of Indians in the twenty-first century--not within the range of pages cited by Churchill nor anywhere else in Thornton's book.”

Directly contradicting this assertion, the page range Churchill cites from Thornton contains the following on p180 re the possible ultimate disappearance of full-blood American Indians, which is the group Churchill is referring to:

Thus part of the increased mixture of American Indians with non-Indians between 1910 and 1930 was due not to increased intermarriage itself but to the different rates of growth of the full- and mixed-blood American Indian populations at that time. After issuing and analyzing these data, the U.S. Bureau of the Census concluded, with particular reference to the ongoing population recovery of American Indians: “The results of the studies on sterility, on fecundity, and on vitality all point toward one conclusion, and that is that the increase of the mixed-blood Indians is much greater than that of the full-blooded Indians, and that unless the tendencies now at work undergo a decided change the full-bloods are destined to form a decreasing proportion of the total population and ultimately to disappear altogether” (U.S. Bureau of the Census, 1915:159).

Again, directly contradicting LaVelle’s assertion, at the end of Thornton’s book on p239 Thornton closes by suggesting a possible grim future:

It may be that demographic effects of less natural increase, more intermarriage, and less tribalism will ultimately eliminate American Indians as a distinct population, whereas 400 years of population decimation after European contact did not. American Indians as Indians may eventually end, in the words of T.S. Eliot, “not with a bang, but a whimper.”

Textual Evidence re Report Importing LaVelle’s Source Misrepresentation (Thornton) into Report

Professor LaVelle contends that Professor Churchill willfully distorts the scholarship of both authors [Limerick and Thornton] to buttress his claims concerning Indian statistical extermination. Although that issue is not central to the allegation before us, the Committee’s reading of Limerick’s and Thornton’s original writings finds that Professor LaVelle is correct in this instance as well: those authors do not support Professor Churchill’s claims. (Report p 31)

VIOLATION #2 Artificial exclusion of independent sources representing alternate views; and, misrepresentation of a major court case to create false appearance of authoritativeness.

Textual Evidence re artificial exclusion of independent sources representing alternate views:

Here is the Churchill text that the Report is investigating:

As forwarded to our Committee, the allegation focused on the most elaborated statement of Professor Churchill's position, found in his essay, "Perversions of Justice," in his *Struggle for the Land* (1993 edition), pp. 48-9.¹⁹

One of the first of these was the General Allotment Act of 1887, "which unilaterally negated Indian control over land tenure patterns within the reservations, forcibly replacing the traditional mode of collective use and occupancy with the Anglo-Saxon system of individual property ownership." [63] The Act also imposed for the first time a formal eugenics code—dubbed 'blood quantum'—by which American Indian identity would be federally defined on racial grounds rather than by native nations themselves on the basis of group membership/citizenship. [64]

Here is the Report's argument criticizing Churchill:

The General Allotment Act of 1887, as originally enacted, simply applied to "Indian[s]" and, unlike many later statutes, contained no definition of Indian whatsoever. It certainly did not, as repeatedly claimed by Professor Churchill, expressly require any blood quantum, let alone one-half or more Indian blood. (Report p16)

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The general thrust of Professor Churchill's underlying basic point (seemingly and surprisingly rejected by Professor LaVelle) is that late nineteenth-century racism by federal officials in implementing the General Allotment Act of 1887, rather than traditional Indian cultural practices based on community citizenship, better accounts for the predominance of current blood quantum requirements in tribal membership rules. That argument certainly has a firm historical basis, dating back at least to the *Rogers* decision. Professor Churchill nevertheless has virtually all of the details of that history wrong. This racism predated the General Allotment Act of 1887, as *Rogers* demonstrates. It was not imposed either for "the first time" or in any express way by the General Allotment Act of 1887, as Professor Churchill claims, although blood quantum was certainly employed to *implement* the Act during its fifty-year history of wreaking havoc in Indian country and justifying massive transfers of two-thirds of the Indian land base into non-Indian ownership. There was *never* a half-blood quantum requirement for eligibility for an allotment under the Act (Report p.22)

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"Professor Churchill deliberately embellished his broad, and otherwise accurate or, at least, reasonable, historic claims regarding the General Allotment Act of 1887 with details for which he offered no reliable independent support of any kind in his publications or in his defense during this investigation and for which the Committee was unable to find that any reasonable and reliable support exists." (Report p.27 "Conclusion")

Contrary to Report's assertion that Churchill's analysis is incorrect and not supported by any other "reasonable or reliable" work in the field, Circe Sturm argues in *Blood Politics: Race,*

Culture, and Identity in the Cherokee Nation of Oklahoma (Univ of California Press, 2002) on p.78:

As early as the Sauk and Fox Treaty of 1830, the federal government had used blood as the basis for racially identifying Native Americans and distinguishing them from the national body. However, in the late nineteenth-century, it began to impose a different racial ideology on Native Americans—the eugenic notion that Native-American identity was tied to Indian blood quantum. Beginning with the General Allotment Act of 1887, commonly known as the Dawes Act, the federal government used this ideology mostly to control access to economic resources. The Dawes Act was designed to break up the communally held Native-American land base by allotting parcels of 160 acres to individual Indians. Blood quantum was crucial to its implementation: Native Americans living on reservations who documentably of one-half or more Indian blood received allotments, while those who did not meet this standard were simply excluded.

Sturm's well-known text, from a reputable university press, closely supports Churchill's analysis of the historic impact of the Act re introducing blood quantum. Angela Gonzalez' article "The (Re)Articulation of American Indian Identity: Maintaining Boundaries and Regulating Access to Ethnically Tied Resources" in *American Indian Culture and Research Journal* (22:4, 1998, 199-225) is another such supporting text that appeared almost a decade ago in one of the main American Indian Studies journals:

BLOOD QUANTUM

When treaty making ended in 1871, the prevailing attitude of the federal government was that Indians should be assimilated and transformed into productive members of society. To hasten this transformation, Congress passed the General Allotment Act in 1887, aimed at the dissolution of collectively held tribal lands into individual land allotments. The criteria used to determine allotment eligibility was based on individual Indian "blood quantum."

Reflecting the scientific ideology of the time, blood was believed to be the carrier of genetic and cultural material. The amount of blood that an individual possessed of a particular race would determine the degree to which that individual would resemble and behave like persons of similar racial background. Inferred from the racial background of the parents, if both parents were of 100 percent Indian blood, their offspring would also be 100 percent and quantified at four-fourths Indian blood quantum. Children of mixed parentage, for instance, if the father was white and the mother was Indian, would possess one-half Indian blood quantum.

Determining blood quantum, however, required a benchmark, so beginning shortly after passage of the act, federal enumerators began canvassing Indian lands, counting Indian households, and recording the number of adults and children and the blood quantum of each. Given that few Indians possessed "official" birth certificates, enumerators had to rely on subjective judgment, individual self-report, and information supplied by neighbors, friends, and relatives. Compiled into what became known as the Dawes Rolls, these records continue to be used by Indian tribes for enrollment decisions and determination of eligibility for special programs and services provided by the federal government for American Indians. (from online version of journal)

Any expert in the field would be expected to know of the Sturm and, at the very least, would be expected to turn up both Sturm and Gonzalez in any research into this subject.

Textual Evidence re misrepresentation of a Supreme Court case to create false appearance of authoritativeness

The Report uses *US v. Rogers* to assert with sustained confidence that Churchill is historically incorrect:

During the nineteenth century, federal law did *not* rely exclusively, or even primarily, on tribal kinship-based definitions of citizenship, but rather insisted on employing partially racially-based definitions by demanding some degree of Indian blood or ancestry. Perhaps the most dramatic proof of that point, although unassociated with the allotment period or the General Allotment Act of 1887 (and surprisingly not mentioned by Professor Churchill in any of his claims about the General Allotment Act of 1887), was the United States Supreme Court's decision in *United States v. Rogers*, 45 U.S. 567 (1846), announced four decades before passage of the General Allotment Act of 1887. [...] Thus, in the nineteenth century, and forty years before enactment of the General Allotment Act of 1887, the United States Supreme Court already had adopted a racial definition of Indian, based literally on Indian ancestry (i.e., Indian blood), rather than the political definition of citizenship adopted by the Cherokee Nation. [...] Professor Churchill is inaccurate, however, insofar as he credits the General Allotment Act of 1887 as the source (as he puts it, "the first time") of that federal imposition of racial Indian ancestry (i.e., Indian blood), since it had been accomplished at least forty years previously in the *Rogers* case. The General Allotment Act of 1887 was simply enacted and, more importantly, implemented against that background. (Report p18)

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Thus, Professor Churchill's claim made to the Committee (but not clearly stated in his published scholarship) that an eligibility requirement of Indian blood quantum could be *implied* in the Act, and was certainly the way it was implemented by federal agents, might literally be true. Nevertheless, the requirement of Indian blood did not originate with either express or implied requirements of the General Allotment Act of 1887, as Professor Churchill claims, and the *Rogers* case disproves. (Report p19)

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The general thrust of Professor Churchill's underlying basic point (seemingly and surprisingly rejected by Professor LaVelle) is that late nineteenth-century racism by federal officials in implementing the General Allotment Act of 1887, rather than traditional Indian cultural practices based on community citizenship, better accounts for the predominance of current blood quantum requirements in tribal membership rules. That argument certainly has a firm historical basis, dating back at least to the *Rogers* decision. Professor Churchill nevertheless has virtually all of the details of that history wrong. This racism predated the General Allotment Act of 1887, as *Rogers* demonstrates. (Report p22)

The key section of the *Rogers* decision being cited does not support the Report's assertion that the *Rogers* decision clearly represented an earlier imposition of "blood" in defining Indian identity. Here is the key section from Chief Justice Taney's decision:

And we think it very clear, that a white man who at mature age is adopted in an Indian tribe does not thereby become an Indian, and was not intended to be embraced in the exception above mentioned. He may by such adoption become entitled to certain privileges in the tribe, and make himself amenable to their laws and usages. Yet he is not an Indian; and the exception is confined to those who by the usages and customs of the Indians are regarded as belonging to their race. It does not speak of members of a tribe, but of the race generally,-of the family of Indians; and it intended to leave them both, as regarded their own tribe, and other tribes also, to be governed by Indian usages and customs. (45 U.S. 567 at 572-573)

Taney's decision never mentions a "blood" requirement for identity. Further, he does not rely on a biological understanding of race in this decision but instead on a cultural/social definition—"usages and customs"—of American Indian identity. Biological theories of race were still only emerging in 1846 (the word "biology" was not coined until roughly 1820). The Report's use of *US v. Rogers* as a case which authoritatively proves Churchill wrong is clearly questionable.

VIOLATION #4. Suppressing text from a cited source that contradicts the Report's argument

Textual evidence re suppressing text from cited source that contradicts the Report's argument

Here is the Churchill text that the Report is investigating:

REPORT p33-4

Allegation C refers specifically to the next sentences [by Churchill]:

There are several earlier cases, one involving Captain John Smith of Pocahontas fame. There's some pretty strong circumstantial evidence that Smith introduced smallpox among the Wampanoags as a means of clearing the way for the invaders.[140]

[Churchill's] Note 140 cites Neal Salisbury, *Manitou and Providence: Europeans, Indians, and the Making of New England, 1500-1643*, pp. 96-101 (Report p33)

The Report then asserts a serious charge of source fabrication:

The pages referenced by Professor Churchill in the Salisbury book do not contain the words "Wampanoags" and have no discussion of any disease or epidemic (including smallpox). They contain no suggestions that John Smith or anyone else intentionally introduced a disease. (Report p34)

But the Report completely misrepresents the Salisbury pages in question:

But the real destruction of Smith's New England came during the ensuing three years. From 1616 through 1618 the Indians were subjected to an epidemic, or series of epidemics, of catastrophic proportions. Attempts by medical historians to diagnose the malady have floundered on the inconclusive nature of the surviving descriptions. The only first-hand European witnesses whose observations survive, Richard Vines and

Thomas Dermer, agents of Gorges, both referred to the disease simply as “the plague,” and the remaining evidence likewise supports the conclusion that the epidemic represented a strain of plague. (Salisbury 101-102)

The pages cited by Churchill contain not none but six mentions of disease or epidemic. Further, in this same section of discussion Salisbury also mentions “Wampanoags”:

The epidemic’s other coastal extremity is quite abrupt—the Pokanoket [one tribe that composed the Wampanoag peoples] on the eastern and northern shores of Narragansett Bay were struck but the Narragansett on the west side were not. (Salisbury 102)

Here, the Report commits fabrication in its handling of Salisbury, an Oxford Univ Press book from 1982 that is authoritative in the field.

VIOLATION #5. Suppressing text from a cited source that contradicts the Report’s argument

Here is the Report’s claim that Churchill misrepresents Thornton re Mandan epidemic:

In “Bringing the Law Home” (published in 1994), Professor Churchill writes: “Such tactics [deliberate spread of disease by the British among American Indians during the colonial period] were also continued by the United States after the American Revolution. At Fort Clark on the upper Missouri River, for instance, the U.S. Army distributed smallpox-laden blankets as gifts among the Mandan. The blankets had been gathered from a military infirmary in St. Louis where troops infected with the disease were quarantined” (p. 35).

He does not give a year for when this happened and provides no references for those sentences, but at the end of the paragraph, he provides the following note: “The Fort Clark incident is covered in Thornton, op. cit. [*American Indian Holocaust and Survival*], pp. 94-6.”

That wording indicates that his account was based on Thornton, whereas in fact Thornton says something quite different about the Fort Clark situation. On pp. 95-9 (not 94-6), Thornton discusses the Mandan situation in some detail. He says that that the disease was spread by people on the steamboat who had smallpox and/or by Indians who came in contact with them after the boat had first stopped at Fort Clark and then gone on to the Mandan villages. He says that this started a “pandemic,” but he does not mention blankets or suggest deliberate infection on the part of the U.S. Army or the American Fur Company. Professor Churchill therefore misrepresents what Thornton says.

Contrary to this assertion, the Thornton text in this very same section *does* contain extensive mention of deliberate infection when Thornton cites the speech by Mandan leader Four Bears on p98-99:

My Friends one and all, Listen to what I have to say— Ever since I can remember, I have loved the Whites, I have lived With them ever since I was a Boy, and to the best of my Knowledge, I have never Wronged a White Man, on the Contrary, I have always Protected

them from the insults of Others, Which they cannot deny. The 4 Bears never saw a White Man hungry, but what he gave him to eat, Drink, and a Buffaloe skin to sleep on, in time of Need. I was always ready to die for them, Which they cannot deny. I have done every thing that a red Skin could do for them, and how have they repaid it! With ingratitude! I have Never Called a White Man a Dog, but to day, I do Pronounce them to be a set of Black harted Dogs, they have deceived Me, them that I always considered as Brothers, has turned Out to be My Worst enemies. I have been in Many Battles, and often Wounded, but the Wounds of My enemies I exhalt in, but to day I am Wounded, and by Whom, by those same White Dogs that I have always Considered, and treated as Brothers. I do not fear *Death* my friends. You Know it, but to *die* with my face rotten, that even the Wolves will shrink with horror at seeing Me, and say to themselves, that is the 4 Bears the Friend of the Whites—

Listen well what I have to say, as it will be the last time you will hear Me. think of your Wives, Children, Brothers, Sisters, Friends, and in fact all that you hold dear, are all Dead, or Dying, with their faces all rotten, caused by those dogs the whites, think of all that My friends, and rise all together and Not leave one of them alive. The 4 Bears will act his Part—.

The Report's suppression of this speech in Thornton is made worse by the fact that Four Bears' speech is known the writers since the Report itself cites the speech on pp49-50.

The Seven Charges of Academic Misconduct (Prof. Churchill)

Allegation A: Misrepresentation of General Allotment Act of 1887

Allegation B: Misrepresentation of the Indian Arts and Crafts Act of 1990

Allegation C: Captain John Smith and Smallpox in New England, 1614-1618

Allegation D: Smallpox Epidemic at Fort Clark and Beyond, 1837-1840

Allegation E: Plagiarism of a Pamphlet by the Dam the Dams Group

Allegation F: Plagiarism of Professor Rebecca Robbins

Allegation G: Plagiarism of Professor Fay G. Cohen

Definition of Misconduct:

from CU Policy “**Misconduct in Research and Authorship**”

<https://www.cusys.edu/policies/Academic/misconduct>

“Fabrication, falsification, plagiarism and other forms of misappropriation of ideas, or additional practices that seriously deviate from those that are commonly accepted in the research community for proposing, conducting, or reporting research.”

“The definition of research misconduct does not include honest error or honest differences in interpretations or judgments of data.”