

EXCERPT: SENATE MINUTES APRIL 19, 2007

A. Committee on Research: Research policy regarding tobacco research funding (SenD#5947 attached)

Chair Sheppard introduced the next and final item on the agenda: a report from the Committee on Research and Senate discussion of research policy regarding tobacco research funding. “In your packets, you should have received a cover memo from Professor Bernd Girod describing the resolution forwarded by the Committee on Research related to the University's policy on the Principles of Research, and the subject of tobacco research that was discussed extensively by the Committee on Research at its last three or four meetings,” along with a copy of the proposed resolution, and the current Principles Concerning Research policy.

She noted that “All members of the committee were invited to hear the report today by Professor Girod. Some other guests are here to hear the report. We have also with us Robert Proctor, who's a professor of history; Robert Jackler, a professor of medicine; John Cooke, a professor of cardiovascular medicine; and Lynn Orr, professor of petroleum engineering and director of the Global Climate and Energy Project.”

“The steering committee believes that the issues involved in thinking about research, research funders, responsible and ethical work, Stanford's reputation, social responsibility, and our institution's policy on Principles of Research are very complex and potentially charged. As such, the committee does not believe that the Senate can adequately cover and vote on a measure on this topic in a single Senate session. This item is before you today for Senate discussion. A vote is not planned at today's meeting.”

“You may be asking, ‘What might come of today's discussion?’ Well, there are several possibilities. First, based on the tenor of today's discussion, the Steering Committee could recommend that the topic be brought up before Senate again, either for more discussion and/or a motion. Or, the Steering Committee could send the topic and motion back to the Committee on Research for further development. Or if the tenor is such, the discussion might suggest that no further action is needed. Or, second, a senator can make a motion on the floor today.

Professor Girod spoke for ten to 15 minutes to give background on the discussions that have already occurred, and to review some of the factual underpinnings. He also reported about some of the arguments that have been made, both for a ban of funding from the tobacco industry, and against such a ban.

Professor Girod stated that: “The Committee on Research was approached in February by Professor Robert Proctor to ask whether we would support a ban on the acceptance of research funding from the tobacco industry.

Proctor is one of the leading scholars of tobacco history. He presented his request to C-Res along with Professors Robert Jackler (Medicine) and Professor Hank Greely (Law) who is also a senator.”

Professor Girod added that the proponents' arguments rest heavily on a federal district court case brought by the Department of Justice against the tobacco industry. In 2006, after nine months in court, Judge Gladys Kessler found Philip Morris and the co-defendants guilty of racketeering under the Racketeering Influenced and Corrupt Organization (RICO) Act, a federal law to prosecute organized crime. The Judge’s opinion found that the tobacco industry had used sponsored research in their scheme to defraud the American public about the hazards of tobacco.

Professor Girod noted: “Tobacco consumption is the world's leading cause of preventable deaths, with 450,000 deaths per year in the United States alone, and about five million deaths globally. The life expectancy of a smoker is reduced, on average, by eight years. And every second smoker actually dies from tobacco-related disease. If smoking rates remain constant, we will see on the order of one billion tobacco related deaths in the 21st century.”

He added that “the tobacco industry has a long history of minimizing the hazards and denying the links between tobacco and disease. This goes back about 50 years, when the scientific evidence mounted that tobacco causes cancer.” Referring to the evidence developed at trial and over the past number of years, Professor Girod commented: “Sponsored university research has been appropriated by the tobacco industry in their public relations in a variety of ways. They point to their research funding as evidence that they are seriously concerned about the health of their customers. However, the industry has never supported research that might implicate tobacco in any health hazards. Instead, they select projects that help them promote theories of ‘alternative causation’ of tobacco-related diseases, such as air pollution or genetic predisposition. They select projects on seemingly positive health effects of tobacco components, and maybe most importantly, research funding is viewed by the industry as an investment into a pool of potential sympathetic expert witnesses for defending litigation.”

Professor Girod noted that the wave of tobacco litigation in the 1990s has produced millions of pages of internal documents that are now public, relating to the practices of the industry and the central role that sponsored research has played.

“With a few exceptions, everybody that I have spoken with at Stanford abhors the tobacco industry.” He added, however: “Nevertheless, not everybody agrees that we should institute an outright ban for the source of funding.

Professor Girod noted that there are two major arguments against such a ban: the “academic freedom” argument, and the ‘slippery slope’ argument.

“Let me talk about academic freedom first. Stanford's statement of the Principles Concerning Research includes the assurance that faculty should be free to seek research support from any source. The committee considered whether the word ‘from any source’ would have to be deleted from the statement if tobacco industry funding were banned. We concluded that this is neither desirable, nor would it be required, to institute a tobacco funding ban. We think that the general principle can be limited in rare and exceptional circumstances. In fact, it already is limited, for example, by policies on Conflict of Interest or Openness in Research.

“Those arguing against the ban believe that we should rely on the individual researcher's judgment and conscience, as our Principles Concerning Research state since 1971.”

“The second argument is the ‘slippery slope’ argument. ...Soon, some group that doesn't like the XYZ industry will demand that we won't work with them.” Professor Girod described a number of factors that he believed could be used to argue against the ‘slippery slope’ argument. He added: “And, moreover, the ‘slippery slope’ argument contributes nothing to the ethical question: ‘Does the responsibility for the consequences of one's research lie exclusively with the individual researcher or must the university share this responsibility?’”

Turning to the text of the resolution, Professor Girod stated the following: “After a series of discussions, the Committee on Research drafted a resolution which you have received in preparation for today’s meeting. Let me just quickly step you through this. There are five *Whereas* clauses, which recite the premises. The first *whereas* acknowledges our Principles Concerning Research, particularly the freedom of individual scholars to seek support from any source. The second *Whereas* clause states that this freedom should be limited only in extremely rare and exceptional circumstances. The next clause cites the [substantial evidence of the] tobacco industry's long history of deliberate public deception regarding the health effects of its products, which deception has been carried out in part through activities related to sponsored university research; the next clause mentions the tobacco industry’s responsibility for the public health catastrophe around the world, far outweighing any conceivable social benefits.”

“And the final *Whereas* clause recognizes that a sponsored research project is an association with three parties, the University, the Principal Investigator, and a sponsor, and that Stanford has great concerns lending its name to

such an association with the tobacco industry, particularly given Stanford's commitment to the advancement of human health.”

The resolution itself states that:

"Stanford University will not enter into sponsored research agreements with companies that make or market tobacco products. In addition, Stanford University will also not enter into such research agreements with entities controlled by such companies, where those entities fund research on tobacco-related diseases, alternative causes of such diseases, or the uses and effects of tobacco, tobacco products, or their components."

“The resolution does not prevent a faculty member from pursuing research on any topic or from seeking non-tobacco industry funding for any research, nor shall it apply to any currently ongoing research projects or to the non-competitive renewals of such projects. And the final sentence states that the resolution shall be reviewed by the Committee on Research in 10 years time. (The Resolution is attached to these minutes.)

Professor Girod concluded by noting: “In the Committee on Research, this resolution passed with 7 votes in favor and 5 votes opposed. We ask the Senate to consider the issues raised and offer this draft resolution as a point of reference for the discussion. Judging from our work in the Committee on Research, I would expect this discussion to be spirited. Like the steering committee, I would personally not recommend a final vote today, but I hope that a decision can be reached sometime in the near future.”

Chair Sheppard asked the Dean of Research Ann Arvin for any additional comments.

Dean Arvin responded (among other comments) that: “I think that this is really not, in my judgment, meant to be a debate about the conduct of the tobacco industry. There is no question about the facts on that. We do have to think about the discussion in the context of our Principles Concerning Research. We have the document which discusses and outlines our existing principles. I would like to be sure that we focus on whether this policy, as written, is adequate or inadequate to address our concerns about this source of research funding in the era where we are now.... which is post the Master Settlement that Bernd referred to.”

Dean Arvin added: “I think we can also bring up in the course of the discussion what -- not policies so much, but what procedures we have that are already in place to protect academic freedom in industry-sponsored research at Stanford. It's important, I think, for the community to know what those procedures are.”

She closed by noting: “Finally, I would say that Bernd has mentioned the clause about individual judgment and conscience. I think that is a focus for our discussion today.”

Professor Koseff began the further discussion by thanking Professor Girod for the conscientious way in which the committee had approached this issue. He added, however, that “I still think that if we're going to start targeting specific industries, it's not a ‘slippery slope,’ it's actually a precipice that we would be going over.” He commented: “Who decides next time? Who makes the decision? If it's tobacco now, fine. Next time it could be alcohol. I note the presence of my colleague, Lynn Orr here. It could be oil at some point.”

“Who's going to make those decisions? Once we get onto those kinds of arguments, I just don't believe there's anything to stop it. So I would much rather we deal with this in a more general way, strengthen the Research Policy Handbook, and focus our efforts on that rather than targeting a specific industry.”

Next, Chair Sheppard called on Professor Hank Greely, who stated his strong support for the resolution, commenting that the tobacco industry: “is unique in its effect on human health in the United States and throughout the world. It is unique in its documented and proven history of perverting and warping the process of research, something that should be dedicated to bringing out the truth, and which, as Judge Kessler found, they spent 50 years dedicated to hiding and obscuring the truth in order to continue addicting new generations of smokers, successfully.”

Professor Greely added that in his view: “It is that perversion, actually, of the research function that I think makes this so important for us to take a stand. It's not merely the public health catastrophe that's involved, although that's certainly important, but that using the guise of academic research, it has perverted academic research for its own ends in ways that have had horrific consequences.”

Addressing the academic freedom argument, Professor Greely stated that “[t]here is nothing in this resolution that prohibits anyone from doing research on any topic they choose. The only thing this resolution prohibits is having the faculty member of the University enter into a sponsored project relationship, a collaboration that puts our University as partners with this industry.”

Professor Greely added: “The ‘slippery slope’ argument has, I think, a couple of problems, one being, Harvard Medical School and Public Health School, Johns Hopkins Medical School and Public Health School have passed similar resolutions, and I have yet to hear that the sky has fallen any more than it usually falls on the East Coast of the United States on either of them in terms of ‘slippery slope.’ There's no evidence for a ‘slippery slope’ here.”

Professor Greely concluded by stating: “This industry is, — if any human endeavor deserves the term ‘evil,’ — I think the tobacco industry probably deserves it. It hurts me that my university gives them cover and sustenance. They are using us to whitewash themselves. They are using us to say, ‘Look, good places, great places, like Stanford and U.C., affiliate with us’ They are using us for their nefarious ends. We should stop it.”

He then added: “I think this is the right thing to do. I urge the Senate to do it. And further, Madam Chair, although I do not expect or want it to be resolved today, [and] I think further discussion is necessary, I hereby move that the Senate adopt the resolution proposed by the Committee on Research.”

Chair Sheppard asked “Do I hear a second for the motion?” Professor Fernald seconded the motion.

Chair Sheppard opened the floor for discussion on the motion.

President Hennessy cannot be at the next meeting was recognized to make a few points.

President Hennessy made a number of points. He began by stating “First of all, I agree with Senator Koseff; it is a precipice.”

He added: “I also worry that this is an infringement of academic freedom. For people in the sciences, restricting funding sources essentially restricts the kind of research you can do. It does restrict the kind of research you can do. So it has the effectiveness of restricting.

“I think we should consider whether or not things should be done in the Dean of Research's office to ensure openness, to ensure that our research is used in an appropriate way, which might even, in some cases, permit the Dean of Research to not allow a faculty member to submit a proposal to a particular agency or particular funding source.

The President also commented: “I worry about one other thing. And I think it was really clearly encapsulated in Senator Greely's articulate argument. This is a political message. If we are quibbling with the quality of research that any of our faculty are doing, then we should investigate the quality of that research and whether or not that research is being inadvertently or advertently affected by the funding source. But it is a political message.” And I am very concerned that we are changing academic policy, a core academic policy, to send a political message. And I agree to a bunch of evil players. But I worry about whether or not that is a wise change in our policy.”

Chair Sheppard recognized Professor Baker who asked whether “it's worth exploring the question of whether we cannot, in fact, uphold refusing funding from the tobacco industry on the grounds of professional ethics, something which is already in our Principles, without risking any kind of infringement upon the issue of the principles of freedom of research.”

Chair Sheppard recognized Provost Etchemendy, who commented as follows on the ‘slippery slope’ argument: “From my perspective, from my point of view, I do think it's a strong argument. And that's partly because I receive frequently e-mails from faculty colleagues requesting, in effect, that Stanford faculty not be allowed to do such and such research, accept funding from such and such an organization, publish such and such views using the Stanford name as their affiliation. You know, it's really quite remarkable how many faculty feel very strongly about different issues and see the publications of our faculty, the research of our faculty as somehow reflecting on them because they are colleagues at Stanford.”

“So I do think the slippery slope is strong. And I do expect that if we were to go this way, we would soon find similar efforts to ban funding from oil companies, pharmaceutical companies, the Department of Defense. These are not at all wild examples. These are examples that actually have been raised historically or currently.”

After commenting on various grounds of possible support for the resolution, the Provost added:

“So I don't actually understand what the point is if it's not, first and foremost, a desire to make a political point. And I think that changing the university's research policy is not a good way for the Senate to make a statement. I think if we want to make a statement, we should make a statement. We can make a statement about how we abhor the tobacco industry and its history of misleading research. That would be perfectly fine. Altering the University's Openness in Research policy is not a good way to make such a statement.”

The Provost then posited that perhaps an alternate rationale was involved: “The second possibility is that we think that it is actually immoral for an individual to accept funding from this particular source. And that's a possible opinion. And I think many people may, in fact, have that opinion. On the other hand, other faculty presumably don't have that particular opinion about accepting funding from this particular source, or whatever source. And it really scares me if we are going to start, as a faculty, saying that, ‘It is my moral belief that one should not, as an individual, accept this kind of research funding, so I'm going to legislate that all my colleagues have to conform to that particular point of view.’ I have to say that I just can't support this motion. I think it's a mistake to make a change in the Openness in Research policy.”

Chair Sheppard recognized Dean Pizzo as the final speaker, noting that “We then have to decide what we're going to do, since there's a motion on the floor.”

Dean Pizzo began by recognizing that the discussion on this topic had been both very thoughtful and very divided. He then stated his belief “that there is a difference between the tobacco industry and any other industry that exists today. And I think it is appropriate for us to consider a statement as a university about a violation of professional ethics. I don't agree that this is political or politics, per se. And I certainly respectfully -- I appreciate the president's comment about this. But I do think it is an opinion that relates to professional ethics. And for those reasons, I did convey to our community that this is something that as a proposition that's been put forth is something I support on a personal basis, understanding that the faculty in the School of Medicine, and I'm sure the faculty in the University, are going to have varying opinions about this issue, although, universally, everyone abhors the tobacco industry and what it has done and continues to do around the world.”

Chair Sheppard then announced that, due to the late hour and the departure of some senators, the Senate no longer had a quorum, and thus could not call the question. She commented: “Before everyone departs, quickly, I really think there's enough indication that this discussion is not over. So, I think that there's really going to be some discussion among the Steering Committee on Tuesday to figure out how a constructive set of dialogues can continue on this motion that's still on the floor.

Senate document #5947

RESOLUTION ON SPONSORED RESEARCH AGREEMENTS WITH THE TOBACCO INDUSTRY

Whereas Stanford University's *Principles Concerning Research* (Research Policy Handbook 2.1) includes the freedom of individual scholars to seek support from any source for their work;

Whereas this freedom should be limited only in extremely rare and exceptional circumstances;

Whereas there is substantial evidence that the tobacco industry has a long history of deliberate public deception regarding the health effects of its products, which deception has been carried out in part through activities related to sponsored university research*;

Whereas the tobacco industry's products are responsible for a public health catastrophe around the world, resulting in millions of preventable deaths every year and far outweighing any conceivable social benefits; and

Whereas a sponsored research project represents an association among Stanford University, the principal investigator and a sponsor, and Stanford has grave concerns about lending its name to such an association with the tobacco industry, particularly given Stanford's commitment to the advancement of human health;

Now therefore be it resolved that:

Stanford University will not enter into sponsored research agreements with companies that make or market tobacco products. In addition, Stanford University will not enter into such research agreements with entities controlled by such companies, where those entities fund research on tobacco-related diseases, alternative causes of such diseases, or the uses and effects of tobacco, tobacco products, or their components.

This resolution does not prevent a faculty member from pursuing research on any topic or from seeking non-tobacco industry funding for any research, nor shall it apply to any currently ongoing research projects or to the non-competitive renewals of such projects.

This resolution shall be reviewed by the Committee on Research in 10 years time.

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- See USA v. Philip Morris et al, 2006 ruling by Judge Gladys Kessler.
 - See also *The Cigarette Century*, Allan M. Brandt (Basic Books, 2007).