The Bill Cronon Email Case

William Cronon is a professor of history, geography and environmental studies at the University of Wisconsin–Madison. He leans left, or progressive, on some issues, but he is no hothead. His writing is calm, reflective, and analytical. He also defends conservative causes when he finds it appropriate, and has written an essay on the revival of the conservative movement in the US since the 1960s.

He also wrote a blog post about Wisconsin Gov. Scott Walker’s move to strip public employees of their union rights. Cronon sees this as a serious disconnect from a long Wisconsin tradition of grass-roots, bipartisan political progressivism going back to the late 1800s. He also wrote a New York Times op-ed about the public union situation in Wisconsin.

After writing on this subject, the Wisconsin Republican Committee sent a freedom of information request to the UW legal office asking for all of Cronon’s emails containing keywords like Republican and union, as well as Walker, the Republican leaders of the Wisconsin House and Senate, and the eight Republican legislatures who are the targets of election recalls.

Cronon argues that the request is intended to show that he misused university email to engage in politicking and thus silence him. He questions whether this is an ethical use of public information laws.

This request raises the issues of academic freedom, open public records, using the law to threaten or punish political opponents, employee rights, and electronic privacy.

Cronon writes,

When should we be more cautious about applying such laws to universities?

Answer: When FOIA is used to harass individual faculty members for asking awkward questions, researching unpopular topics, making uncomfortable arguments, or pursuing lines of inquiry that powerful people would prefer to suppress. If that happens, FOIA and the Open Records Law can too easily become tools for silencing legitimate intellectual inquiries and voices of dissent—whether these emanate from the left or the right or (as in my case) the center. It is precisely this fear of intellectual inquiry being stifled by the abuse of state power that has long led scholars and scientists to cherish the phrase “academic freedom” as passionately as most Americans cherish such phrases as “free speech” and “the First Amendment.”

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This is very different from asking an elected official or a government agency to turn over emails relating to their formal duties and their formal
exercise of state power. It asks a university professor to turn over personal emails relating to the day-to-day life of an intellectual community in its “sifting and winnowing” in pursuit of truth. This would not happen at private universities like Harvard or Stanford, and I would like to think it shouldn’t happen at the University of Wisconsin-Madison, which has played a more central role in defining and defending academic freedom than most other institutions in the United States.

Here is some background information on the case:

This is the UW policy against using school email for political purposes:

“University employees may not use these resources to support the nomination of any person for political office or to influence a vote in any election or referendum.”

Here is the FIRE discussion of email request to UW:

http://thefire.org/article/12998.html

FIRE reprints the email requesting Cronon’s emails, the relevant state FOIA statute, and a Wisconsin Supreme Court decision in a school email FOIA case in which the court ruled that personal emails by public employees were not public records; and that emails that were in part personal, and in part work-related, could be redacted by the custodian [in this case, the school] to keep the personal parts of the emails private.

Cronon’s blog entry that sparked the Republican request for his emails:

http://scholarcitizen.williamcronon.net/2011/03/15/alec/

Cronon’s post on the Republican FOIA request:

http://scholarcitizen.williamcronon.net/2011/03/24/open-records-attack-on-academic-freedom/

Cronon’s NY Times op-ed piece on Scott Walker:

http://www.nytimes.com/2011/03/22/opinion/22cronon.html?_r=1

State law says anyone can request public records; the requester may remain anonymous; and the requester need give no reason for the request.

Inside Higher Education report on UW Chancellor’s action in releasing relevant professional emails and withhold non-relevant professional and all personal emails: