Mitchell, Gillian. (1984). "Women and Lying: A Pragmatic and Semantic Analyis of 'Telling It Slant". *Women's Studies International Forum* 7/5: 373-383.
Pearson, Judith C. (1985). *Gender and Communication*. Dubuque, Iowa: Wm. C. Brown.
Pepper, Gerald. (1988). "Metaphor and Public Speaking Education: Some Necessary Considerations". Paper presented at Speech Communication Assn. National Convention, New Orleans, La.
Pepper, Stephen. (1942). *World Hypotheses: A Study in Evidence*. Berkeley, California: University of California Press.
Peterson, Debra. (1990). "Old Men Sending Young Men Off To War: The Exclusion of Women From Describing and Defining War". Paper presented at Speech Communication Assn. Convention, Chicago, Ill.
Putnam, Linda. (1982). "In Search of Gender: A Critique of Communication and Sex Roles Research". *Women's Studies in Communication* 5: 1-9.
Rowland, Robert. (1993). "Feminism, Strategy, and Pedagogy in Intercollegiate Debate". *CEDA Yearbook* 14: 80-83.
Rybacki, K. And Rybacki, D. (1991). *Advocacy and Opposition*. Englewood Cliffs, New Jersey: Prentice Hall.
Siegler, D. And Siegler, R. (1976). "Stereotypes of Males' and Females' Speech". *Psychological Reports* 32: 167-170.
Spitzack, C. and Carter, K. (1987). "Women in Communication Studies: A Typology for Revision". *Quarterly Journal of Speech* 73: 401-423.
Talley, Talley and Peck. (1980). "The Relationship Between Psychological Gender Orientation and Communication Style". *Human Communication Research* 6: 326-339.
Thorne, Kramarae and Henly. (1983). "Language, Gender and Society: Opening a Second Decade of Research" in *Language, Gender and Society*. Rowley, Mass.: Newbury House.
Tuman, Joseph. (1993). "A Response to Crenshaw's 'Dominant Form and Marginalized Voices: Argumentation about Feminism(s)". *CEDA Yearbook* 14: 84-91.

CONTEMPORARY ARGUMENTATION AND DEBATE 17
(1996) 43-52

Defamatory Statements on the CEDA-L: To What Extent Does the First Amendment Protect On-Line Expression?

DOUGLAS FRALEIGH

Alexis J. Anderson (1980) noted that in the late 1800s, the broad value consensus which had existed in the United States was torn apart, due to trends such as urbanization and immigration. As the nation became more heterogeneous, and political minorities challenged the status quo, established society became less tolerant of freedom of speech (pp. 58-59).

The CEDA community has also become increasingly heterogeneous. The time when most competitors and judges supported the style of debate envisioned by CEDA's founders has long passed. As CEDA becomes less cohesive, the likelihood that the discourse of some members of the community will be offensive to other members of the community is enhanced. With the advent of the Internet, and computer bulletin boards such as CEDA-L, controversial statements that may once have been made in a private conversation at a tournament can be made available to any subscriber, twenty-four hours a day, on any day of the week. This technology also makes it possible for members of different forensics communities to communicate with one another, and the tone of these interchanges is not always civil.

Another trend in our society is the increasing reliance on lawsuits as a means of dispute resolution. If the target of a message posted to the CEDA-L believes his or her reputation has been maligned, the threat of litigation is an option (s)he may consider. Defamatory communication, or that which "tends so to harm the reputation of another as to lower him [or her] in the estimation of the community..., (Restatement [Second] of Torts, Section 559)" may cause the target of the message to sue for money damages. The communicator will probably insist (or at least hope) that his or her message is protected by the First Amendment.

This essay will discuss some of the major judicial decisions which establish the rules for determining when the First Amendment will protect defamatory communication. First, a brief overview of defamation law will be offered. Second, First Amendment protection for several categories of potentially defamatory expression will be analyzed. Finally, some concluding thoughts about defamatory messages on the CEDA-L will be offered. The thesis of this essay is that the First Amendment protects a wide variety of communication posted to bulletin boards such as the CEDA-L. Nevertheless, communicators should think very carefully before posting a derogatory message about any individual.

Douglas Fraleigh is Associate Professor and Director of Forensics in the Department of Speech Communication at California State University, Fresno. He is also the co-author of Freedom of Speech in the Marketplace of Ideas *(St. Martins, 1997).*

THE NATURE OF THE ISSUES IN A DEFAMATION CASE

Defamation consists of a false statement which exposes a person to public ridicule, hatred, or contempt, or injures his or her reputation (Keeton, p. 773). The following are typical of claims which have led to defamation lawsuits: the contention that a person is a member of the Ku Klux Klan (*Restatement [Second] of Torts*, Section 559), a claim that a mayor had committed the crimes of rape and obstruction of justice (*Cianci v. New Times Publishing Co.*, p. 64), and an allegation that a wrestling coach lied at a state athletic association hearing (*Milkovich v. Lorain Journal Co.*, pp. 19-20). False assertions that a debater had fabricated evidence, made a specific racist statement, or knowingly competed in a division (s)he was not eligible for, would be examples of defamatory statements that could arise in a debate context.

If a lawsuit for defamation is filed and the case goes to trial, the theories of argumentation employed by both sides would be somewhat analogous to those used in academic debate. The plaintiff has the burden to present a prima facie case. The "stock issues" in a defamation case include: (a)proof that a statement is false and defamatory, (b)proof that the statement was communicated to a third party, and (c)proof of some level of fault (at least amounting to negligence) on the communicator's part (*Restatement [Second] of Torts*, Section 558).[1]

The defendant's options are similar to those of a negative team. (S)he can present evidence to refute the plaintiff's case, or rely on substantive defenses. Examples of defenses which may be pertinent in cases involving the debate community will be discussed in Section II of this essay. Procedural arguments are also available, such as a claim that a court lacks jurisdiction to hear a particular case. In addition, the defendant can defeat a defamation case by establishing that his or her speech is protected by the free speech or press clauses of the U.S. Constitution.

When the Internet is the channel for communicating an alleged defamation, it can be difficult to predict which legal rules will be controlling in a given case. The guarantees of the First Amendment apply nationwide, but the states have latitude to set their own rules for defamation, to the extent that these rules do not conflict with the U.S. Constitution. As a consequence, state laws vary widely (Faucher, pp. 1052-53). For example, in some states, a plaintiff must prove monetary loss before (s)he can recover any damages, while in other states the rules for recovering damages are more favorable to the plaintiff (Faucher, pp. 1053-54).

---

[1]*Restatement (Second) of Torts*, Section 558. Negligence is an absence of the care that a reasonable person would exercise in a given situation.

A communication posted to the CEDA-L can originate in any state. The message is transmitted to the list's "home" and from there the message can be accessed by subscribers in any state. It is not a settled point of law whether the law the sender's state, a receiver's state, or the state which is indicated by the CEDA-L's electronic address would apply. There are choice of law rules which guide which of several states' substantive rules should be applied by a judge, but these rules are often unclear, and have not yet addressed the question of computer bulletin boards (Faucher, pp. 1049-51).

Despite the uncertainty surrounding the state law that would apply in Internet defamation cases, the U.S. Constitution provides a set of protections for communicators, which apply nationwide.

CATEGORIES OF SPEECH WHICH MAY RECEIVE FIRST AMENDMENT PROTECTION

Statements of Fact

If the statement in question makes a factual claim, the strongest argument available to the defendant is the claim that the defamatory words are true. The purpose of the law of defamation is to protect the individual's good name from false accusations. The U.S. Supreme Court has noted that compensation for inflicted harm by defamatory falsehood is "the legitimate state interest underlying the law of libel" (*Gertz v. Robert Welch, Inc.*, p. 341). As a California Appellate Court noted:

> "Since falsity is an essential element of libel, the fact that the published statement is true is always a complete defense, regardless of bad faith or malicious purposes" (*George v. ISKCON of California*, p. 505).

Therefore, making true factual claims will not subject a communicator to liability for defamation. If a debater is still competing in novice division although (s)he was won first place at four tournaments, or a judge did accept a ballot for a round involving a debater (s)he coached the year before, these facts would not lead to a defamation judgment even though they may harm the target of the message's reputation.

It is important to be aware of two caveats regarding the publication of truthful information. First, it is advisable to choose words very precisely when posting statements with defamatory potential. Claims should not imply facts which are not known to be true. If it is true that a debater does not meet the eligibility rules for purposes of earning CEDA points, the

declaration that "Debater X is ineligible to earn CEDA points" would not be defamatory. The claim that "Coach Y entered this same Debater X in a tournament, even though X was ineligible," is more problematic. The trier of fact (the jury or judge) could conclude that the statement implies the fact that Coach Y knowingly entered an ineligible student. If Coach Y had no knowledge of X's ineligibility, the communicator could be held liable for defamation.

A second caveat is that communication of truthful information may constitute an invasion of privacy, and open the message source to liability on that basis even if there is no defamation. An invasion of privacy can occur when aspects of a person's private life are disclosed, in a manner that would be offensive to a reasonable person (Dill, p. 137). For instance, if truthful information about a debater's sexual practices was published, there would be a sound case for invasion of privacy. Federal law also requires that certain information about students be kept confidential. Employees of institutions receiving federal funds may not release students' education records without their consent (20 *U.S. Code*, Section 1232g[b][1]). A coach who saw a student's transcript could know that a student had failed four courses. Although the truth of these failing grades could be proven, it would be inadvisable to post this information for the debate community to see.

If a *false* message is posted, the question of liability is more complex. A pivotal question in this situation is whether the communicator believed that the facts which were posted are true. For example, assume Coach A tells his or her student, Debater Z, that Coach B used falsified evidence at nationals ten years ago. If Debater Z posted the fact that Coach B had falsified evidence, could Z be liable for defamation? Or could the fact that Debater Z was making the claim in good faith, based on what her coach told her, protect Z from liability? When a false statement about a public official's conduct is made, the Supreme Court has held that the First Amendment provides considerable breathing space for the communicator. False statements are protected unless they are made with "actual malice." The Court held that actual malice exists if the claim was made although the source knew it was false, or it was made with reckless disregard for whether or not it was true (*New York Times v. Sullivan*, p. 279-80).

Many of the persons who are critiqued on the CEDA-L are unlikely to be classified as public officials,[2] hence the First Amendment would permit liability for defamation if the

[2]See *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966) ("The 'public official' designation applies at the very least to those among the hierarchy of government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of governmental affairs." In *Curtis Publishing Co. v. Butts*, 388 U.S.130 (1967), this rule was extended to public figures. Public figures people who are "intimately involved in the resolution of important public questions or, by reason of their fame, shape events in areas of concern to society at large," *id.* at 174 (Warren, C.J., concurring in result). This definition is also unlikely to

communicator acted negligently in publishing the false statement (*Gertz v. Robert Welch, Inc.*, p. 347). Negligence occurs when a person acts in a manner that a reasonably prudent person would not act in similar circumstances. This standard is subjective, and it would be up to the trier of fact in each case to decide whether the source of the defamatory message had been reasonably prudent in his or her attempt to discover the facts before communicating that message. Therefore, it is not advisable to repeat a defamatory rumor on the CEDA-L without taking steps to verify the accuracy of the statement. In the example given in the previous paragraph, Debater Z would have a stronger defense if she had checked with other reputable sources before reporting that Coach B had falsified evidence.

Statements of Opinion

Derogatory comments often take the form of opinions, which are similar to value propositions, because they cannot be objectively proven or disproven. An example of an opinion would be the statement that "Judge A is a bad judge." There are so many diverse standards by which people evaluate debate judges, that no "true" criteria could ever be proven. Even if some standards are agreed upon, reasonable people will have different opinions about the application of the criteria. For example, all members of the debate community would agree that impartiality is a good criteria by which to measure judges, yet two people may hold different opinions about Judge A's impartiality. The weighting of the relevant criteria is also subjective. To some debaters and coaches, it may be most important that a judge take an excellent flow sheet. To others, it may be most important that a judge is tabula rasa.

A strong case can be made that an opinion cannot be defamatory, because only false statements can constitute defamation. An opinion cannot be objectively proven true or false, because its "truth" varies, depending on the beliefs and values of the person evaluating the truth.

From 1974-1990, the theory that all opinion was protected by the First Amendment was strongly supported by the federal courts. The basis for this assumption was language contained in the Supreme Court's 1974 opinion in *Gertz v. Robert Welch, Inc.* The relevant passage reads:

> "Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the

apply to the typical member of the debate community.

conscience of judges and juries but on the competition of other ideas" (pp. 339-40).

In 1990, the Supreme Court held that an allegation that wrestling coach Mike Milkovich had lied before a state athletic association hearing could not be characterized as a constitutionally protected opinion (*Milkovich v. Lorain Journal Co.*, p. 21).[3] The Court indicated that the language of *Gertz* was not intended to create a "wholesale defamation exemption for anything that might be labeled 'opinion'" (*Milkovich v. Lorain Journal Co.*, p. 17). Justice Rehnquist's majority opinion reasoned that expressions of "opinion" could imply an assertion of a fact. He gave the example of the claim "in my opinion John Jones is a liar," which could imply a knowledge of facts proving that Jones lied (*Milkovich v. Lorain Journal Co.*, pp. 17-18).

The Court's *Milkovich* holding indicated that not all opinion is protected by the First Amendment, however, it retained constitutional protection for many opinion statements. The Court noted that "a statement on matters of public concern must be provable as false before there can be liability under state defamation law, at least in situations like the present, where a media defendant is involved" (*Milkovich v. Lorain Journal Co.*, p. 18). Assuming that much of the communication on CEDA-L is not of public concern,[4] and given that communicators on the CEDA-L are not likely to be members of the media, can debaters also use the *Milkovich* precedent to escape liability for opinions that cannot be proven false?

[3]The newspaper column at issue said that the students at Maple Heights High School had learned a lesson:

> "If you get in a jam, lie your way out. ... If you're successful enough, and powerful enough, and can sound sincere enough, you stand an excellent chance of making the lie stand up, regardless of what really happened. ... The teachers responsible were mainly head Maple wrestling coach Mike Milkovich, and former superintendent of schools H. Donald Scott (*Milkovich v. Lorain Journal Co.*, p. 9).

[4]When federal courts have found issues to be of public concern, the activities in question have more of a public following than college debate tournaments do. For example, a federal court has held that boxing promoter Don King's criticism of a referee's performance in a heavyweight title bout was of public concern because 'boxing fans are a sufficiently large and devoted segment of the public.' *Don King Productions, Inc. v. Douglas*, 742 F.Supp. 778, 783 (S.D.N.Y. 1990). A different federal court noted the public interest in a potentially unsportsmanlike play during a Georgia Tech-Alabama football game. *Holt v. Cox Enterprises*, 590 F.Supp. 408, 412 (N.D. Ga. 1984).

There are three reasons to believe that debaters would not be liable for an opinion, when it cannot be proven false. First, the courts have often indicated the unique importance of freedom of speech in the academic context,[5] even if the speech is offensive. For example, a federal court held that the First Amendment protected a fraternity's skit, despite the fact that it perpetuated racial and sexual stereotypes (*Iota Xi Chapter of Sigma Chi v. George Mason University)*. Second, if the rationale for protecting most opinions about public concerns is valid (opinions often cannot be proven false), the same logic would justify protection of opinions on private matters (*Restatement [Second] of Torts*, Section 556). Finally, there is one federal case in which faculty criticisms of a medical student were held to be protected opinion. In that case, the claim that the student had a "germ phobia" was not of public concern, and yet it was protected (*Assaad-Faltas v. Univ. of Arkansas for Medical Sciences*).

To maximize the probability that their statements will be considered protected opinion, debaters should be careful that their words do not imply false facts. For example, the issue of whether a particular piece of evidence is out of context is a question of opinion, which cannot be objectively verified. An excellent debate occurred on the CEDA-L in May of 1995, in which several respected professors offered differing perspectives on the appropriate criteria (if any) for determining the context of evidence. However, the claim that a given debater took evidence out of context is more problematic. That statement could be interpreted to imply a factual claim, namely that a debater made an intentional decision to cut a card that (s)he knew was out of context. Courts have given less First Amendment protection to opinions which allege criminal activity or personal dishonesty (*Murray v. Bailey*, p. 1283), hence a false allegation that a debater intentionally violated an ethical norm of the activity would be less likely to be classified as constitutionally protected speech.

Rhetorical Hyperbole

When debaters are discussing their opponents and judges, unflattering labels are often applied. A weak first negative who is programmed to read his or her partner's briefs may be called a "wind-up toy." A judge who is not receptive to critiques may be classified as an "Old Buffalo." Although these statements are literally false, and they do disparage their target, they

[5]See, e.g., *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967). ("[Academic] freedom is . . . a special concern of the First Amendment. . . . The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth 'out of a multitude of tongues [rather] than through any kind of authoritative selection.'")

cannot be defamation. The Supreme Court has protected statements that cannot reasonably be interpreted as stating actual facts about an individual. The Court has reasoned that public debate should not suffer for lack of "imaginative expression" or "rhetorical hyperbole" (*Milkovich v. Lorain Journal Co.*, p. 19).

Group Defamation

A communicator may want to criticize an entire category of persons, rather than a specific individual. For example, someone may want to argue that fifty of the teams at nationals are rotten, and that these teams hurt the quality of the tournament by bringing their brain-dead coaches along to judge. As discourse about different genres of debate increases on the CEDA-L, unkind generalizations about NDT or Parliamentary debaters are probably inevitable.

There is a 1952 decision in which the Supreme Court ruled that defamation of a group (rather than a specific person or persons) could be penalized. In *Beauharnais v. Illinois*, the Court upheld the conviction of a man who had argued that African-Americans moving into white neighborhoods would bring "rapes, robberies, knives, guns and marijuana" along with them (p. 252).

Most commentators assume that the Court would no longer follow the *Beauharnais* doctrine.[6] No subsequent case has upheld sanctions for group defamation,[7] and *Beauharnais* was a 5-4 decision, predating many significant developments in defamation law. Lower federal courts have expressed doubts that *Beauharnais* remains good law.[8] Consequently, it is unlikely that a cause of action for defamation of a group of persons in the debate community could be sustained today.

[6]See, e.g., Donald H. Brobst, "The Requirement of 'Politically Correct Speech': Any Constitutional Basis Whatever?" pp. 33-34.

[7]See, e.g., *Michigan United Conservation Clubs v. CBS News*, 485 F. Supp. 893 (W.D. Mich. 1980), aff'd, 665 F. 2d 110 (6th Cir. 1981). (Hunters cannot sue CBS for portraying those who hunt as cruel, selfish, and unfeeling because the portrayal could not have personal application to any individual hunter).

[8]See, e.g., *Collin v. Smith*, 578 F.2d 1197, 1205 (7th Cir. 1978), *cert. den.* 439 U.S. 916 (1978).

Fraleigh: Defammatory Statements on the CEDA-L

CONCLUSIONS ABOUT DEFAMATORY MESSAGES ON THE CEDA-L

Based on the preceding analysis, it can be seen that the First Amendment protects a significant amount of derogatory communication about other persons. If a critical statement is proven true, or cannot be proven true or false, it is highly likely to be protected. Hyperbolic statements and disparaging comments about a group of persons also receive considerable protection from defamation law.

Despite the availability of this protection, there are ramifications which debaters and coaches should consider before exercising their rights. One consequence stems from the fact that technology continues to make it easier for our electronic communications to be stored indefinitely. Any debater is at risk of being "vetted" when (s)he seeks a job or political office in the future, and the mere hint of impropriety may be enough to cut short a promising career. Another possibility is that information posted on the CEDA-L may be used by persons outside the forensics community to advance their own agendas. If a budget conscious administrator becomes aware of even a hint of impropriety, that may be a good enough reason for him or her to cancel a program. These concerns do not justify censorship of messages, but they should cause communicators to carefully consider the potential consequences of their words before they post them.

In the final analysis, the ethics of the communicator will be the primary constraint on the decision to post messages. The First Amendment provides a significant limitation on the power of the state to award damages to persons who feel they have been defamed. However, freedom of speech need not create a situation in which those who feel they have been wronged by another's message are powerless. The First Amendment can also be used to the advantage of (s)he who perceives to have been defamed. Rather than relying on a lawsuit, the target of a derogatory message can take advantage of on-line forums such as the CEDA-L to tell his or her story. The remedy offered by Supreme Court Justice Louis Brandeis over sixty years ago is still wise counsel today:

> "If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence" (*Whitney v. California*, p. 377).

WORKS CITED

Anderson, A.J. (1980). "The Formative Period of First Amendment Theory, 1870-1915," *American Journal of Legal History* 24: 56-75.

Assaad-Faltas v. Univ. of Arkansas for Medical Sciences, 708 F. Supp. 1026 (E.D. Ark. 1989).

Beauharnais v. Illinois, 343 U.S. 250 (1952).

Brobst, D.H. (1991). "The Requirement of 'Politically Correct Speech': Any Constitutional Basis Whatever?" Paper presented to the Speech Communication Association Convention.

Cianci v. New Times Publishing Co., 639 F.2d 54 (2nd Cir. 1980).

Collin v. Smith, 578 F.2d 1197 (7th Cir. 1978), *cert. den.* 439 U.S.916 (1978).

Dill, B. (1986). *The Journalists Handbook on Libel and Privacy.* New York: The Free Press.

Don King Productions, Inc. v. Douglas, 742 F.Supp. 778 (S.D.N.Y. 1990).

Faucher, J.D. (1993). "Let the Chips Fall Where They May: Choice of Law in Computer Bulletin Board Defamation Cases." *UC Davis Law Review 26*: 1045-1078.

Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974).

Holt v. Cox Enterprises, 590 F.Supp. 408 (N.D. Ga. 1984).

Iota Xi Chapter of Sigma Chi v. George Mason Univ., 773 F.Supp. 792 (E.D. Va. 1991).

Keeton, W.P. (1984). *Prosser and Keeton on the Law of Torts.* (St. Paul: West Publishing Co.)

Keyishian v. Board of Regents, 385 U.S. 589 (1967).

Michigan United Conservation Clubs v. CBS News, 485 F.Supp. 893 (W.D. Mich. 1980), *aff'd*, 665 F.2d 110 (6th Cir. 1981).

Milkovich v. Lorain Journal Co., 497 U.S. 1 (1990).

Murray v. Bailey, 613 F.Supp. 1276 (N.D. Cal. 1985).

New York Times v. Sullivan, 376 U.S. 254 (1964).

Restatement (Second) of Torts (1977). St. Paul: American Law Institute Publishers.

U.S. Code (1995). St. Paul: West Publishing Co.

Whitney v. California, 274 U.S. 357 (1927).

CONTEMPORARY ARGUMENTATION AND DEBATE 17
(1996) 53-66

Policy Advocacy and Delaying Action as Refutation: Implications for Argumentation Pedagogy

THEODORE O. PROSISE and TROND JACOBSEN

The negative strategy in the final round of the 1995 CEDA National Tournament featured a "delay counterplan," a relatively recent innovation for counterplan advocacy in CEDA. The negative team accepted the affirmative plan, arguing that plan action ought to commence at a later date. The rationale provided was that immediate plan action risked a rupture in the political consensus in the U. S. Congress needed to guarantee strong support for the Nuclear Non-Proliferation Treaty at an upcoming review conference. While most prominent in the final round, the delay counterplan continues to be advanced as a negative strategy, demonstrating its prevalence as an argumentative practice.

Educators certainly concern themselves with theoretical innovations in debate practice. Robert Branham observes that "there is often a pronounced delay between the introduction of an innovative theoretical position in debate practice and its eventual appearance in print" ("Editor's," p. 120). To avoid this lag, argumentation scholars must address the strengths and weaknesses of theoretical innovations quickly. Because successful argument practices are modeled in the debate community, the implications of this strategy are far reaching. Especially considering the prominence of the delay counterplan in the final round of CEDA Nationals and the widespread audience of forensic educators and students who observed this round.

The delay counterplan is assessed in terms of its pedagogical propriety. We argue that the delay counterplan degrades central educational goals of debate and should therefore be discouraged or subject to stringent argumentative burdens. This critical examination will first present the characteristics of the delay counterplan. The pedagogical implications of the delay counterplan in light of the normative goals of the debate activity are then considered. We argue that the temporal fiat of the counterplan should be curtailed. A minimum standard, limiting the use of the strategy based on relevant policy literature is also proposed.

This inquiry is valuable from the perspective of the forensic educator as well as the student for several reasons. The critical evaluation of practices encourages the development of normative community standards for the activity based on common pedagogical goals which is pre-emptive in nature and directed at a theoretical innovation in its infancy. This inquiry

Theodore O. Prosise is a doctoral candidate at the University of Southern California. Trond Jacobsen is an independent researcher in Eugene, Oregon. *The authors would like to thank Matthew Taylor and the anonymous reviewers for their helpful comments on the essay. An earlier version of this paper was presented at the Western States Communication Association Conference, Pasadena, CA, February, 1996.*