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Dangerous Liaisons: Reflections on the Politics of Confidentiality in the Cyber-Age University

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“on n’ose pas tout écrire”

—Choderlos de Laclos, *Les liaisons dangereuses*¹

What is confidentiality? As academics, we write and receive letters marked *confidential* on a regular basis: letters of recommendation, tenure and promotion reviews, correspondence between the administration and the faculty, and other forms of communication are routinely stamped confidential. The characters in Choderlos de Laclos’s *Les liaisons dangereuses* (1782) likewise act as though they believe that they exchange confidential letters, and yet the missives wind up in the hands of Mme. de Rosemonde and are published by the “editor” and “publisher” in the form of the novel. All epistolary novels rely on this grounding “transgression” of literary voyeurism.² Readers read epistolary novels in part because of the prurient interest that reading letters addressed to someone else excites, especially if those letters are purportedly confidential. The following essay seeks to sort through the paradoxes and difficulties of confidential communication in periods of historical transition. Specifically, I am interested in the ways in which *Les liaisons dangereuses* might serve as a cautionary tale in an age of electronic communication and in the context of an institutional setting such as a research university. I contend that the upheavals of the late eighteenth century parallel the rapid changes in information technology that condition our daily lives and communication practices in the early twenty-first century. Questions about what is public and what is private, what is privileged and what is not, haunt Laclos’s novel, as they haunt us today. Reading *Les liaisons dangereuses* in light of social media, hacking, leaking, and legal concepts of privileged communication yields fruitful lessons about the politics of our self-delusions concerning our private lives. Most importantly, thinking about the way in which the eighteenth-century novel stages relations of knowledge,

power, and critical insight in the context of breaches of confidentiality sheds light on the trade-offs between control and freedom, privilege and open-access that color our understanding of electronic communications and vulnerability today.

CONFIDENTIALITY

On the face of it, confidentiality would seem to be an unproblematic concept. A letter marked confidential is intended for the eyes of the addressee only. In Laclos's novel, the letters exchanged between Cécile Volanges and Sophie Carnay and especially between the Vicomte de Valmont and the Marquise de Merteuil are presumed not to be shared outside of the closed circuit between addressor and addressee. Both parties—writer and recipient—assume that the letters will not be read by others outside of the dyad. But the novel subverts this easy understanding of confidentiality. Many letters are dictated by or otherwise manipulated by a third party to the writer-addressee pair. For example, in letter 115 from Valmont to Merteuil, the vicomte explains that he dictated letter 117, which was then sent by Cécile to Danceny. Although to Danceny this appears to be a confidential missive from his beloved, it is actually the work of her libertine seducer. More comically, the infamous, pseudo-gallant femme-pupitre [woman-desk] letter, written in the throes of ecstasy by Valmont using Emilie the prostitute as a kind of writing surface, is shared with Merteuil (letter 47) before it makes its way to the Présidente de Tourvel (letter 48).

The breaking of confidentiality serves an important purpose in the novel, as the femme-pupitre example illustrates. It is only with the breaking of confidence that a triangulation of judgment may be established that enables analysis and critical reception. The double reading of letter 48 to Tourvel requires the breaking of confidence enacted in letter 47 in order to allow the scene and context of writing to influence reception and interpretation. In other words, if letter 47 did not exist, readers of the novel would read letter 48 as the Présidente does, ignorant of the duplicity of Valmont's discourse about how he spent "a stormy night" in which he did not "close an eye" because of the "agitation of a devouring ardor, or in the complete exhaustion of all faculties" (letter 48, 99). Breaking confidence allows a meta-discourse to emerge that engages additional information about context, referents, and setting to construct layers of meaning that enable the pleasure of irony.

In spite of the fact that Valmont and Merteuil engage in the breaking of confidentiality when it suits their libertine purposes, they nonetheless continue to correspond as if such breaches do not regularly occur and as if they could not *themselves* be victims of such violations. It is precisely because they continue to correspond as if such a thing as confidentiality existed, that Danceny comes into possession of the means of precipitating Merteuil's downfall after the duel with Valmont. Danceny justifies revenge in certain circumstances in letter 169

by employing the circulation of formerly confidential correspondence as a weapon. He writes to Mme. de Rosemonde:

En effet, si vous convenez que la vengeance est permise, disons mieux, qu'on se la doit, quand on a été trahi dans son amour, dans son amitié, et, surtout, *dans sa confiance*; si vous en convenez, mes torts vont disparaître à vos yeux. N'en croyez pas mes discours ; mais lisez, si vous en avez le courage, la correspondance que je dépose entre vos mains. (374, emphasis added)

[Indeed, if you agree that vengeance is permitted, let us go one better and say that one owes it to oneself when one has been betrayed in his love, in his friendship, and, above all, *in his confidence*; if you agree about this, my wrongs will disappear before your eyes. Do not believe my words; but read the correspondence that I lay in your hands, if you have the courage.]

Significantly, he lists betrayal of one's confidence as a justification for vengeance, highlighting the eye-for-an-eye aspect of avenging misplaced trust by violating the tenets of confidentiality. Given his understanding of maintaining confidence as the most sacred moral duty—"Le plus sacré de tous [duties] est de ne jamais trahir la confiance qu'on nous accorde. Ce serait y manquer, que d'exposer aux yeux d'un autre les secrets d'un cœur qui n'a voulu les dévoiler qu'aux miens" [The most sacred of all {duties} is never to betray the confidence accorded us. This would be to expose to the eyes of another the secrets of a heart that only wanted to unveil them to mine] (letter 64, 130)—the revenge through betrayal is highly significant. It goes beyond exposing the formerly private correspondence only to a third party who forms part of the inner circle of the society of the novel. As Valmont's aunt, Mme. de Rosemonde represents an interested and already implicated party, through her confidential correspondence with the Présidente. In this respect, although the revelation to her of confidential correspondence between Valmont and Merteuil represents a breach, she has already obtained legitimate access to some of this information via the Présidente.

Danceny also releases two letters to a broader public, writing to Rosemonde, "Je n'y ai rien ajouté, et je n'en ai distrait que deux Lettres que je me suis permis de publier" [I did not add anything to it, and I only separated two letters that I permitted myself to publish] (letter 169). He goes on to explain that one letter avenges both himself and Valmont by exposing Merteuil (letter 81) and the other ironically exonerates the libertine M. de Prévan (letter 85). Danceny qualifies publication of the latter as an act of "justice" that will rectify the wrong of erroneous public opinion. The higher moral duties of justice and avenging Valmont after his death outweigh the moral imperative to keep confidence. Notably, righting the wrong entails having recourse to "publication"—the making public of formerly private information in order to rectify reputation.³ In this respect, Danceny's act would seem to pass a "civic good" test that weighs the

damage done by breaking a confidence against the possible good that making the information public might bring about. Such tests are sometimes used to justify and defend republishing documents initially made public through criminal hacks and other forms of leaks in today's world of cyber communication.⁴

The question of confidential correspondence raises a number of complicated questions. First, as I have suggested, breaches of confidentiality often enable critical readings of texts that without the breach might be taken at face value, as in the case of the *femme-pupitre* letter. In other words, exposing confidential documents to third parties can enable more critical types of interventions. But exposing confidential correspondence to third parties entails breaking a bond of trust and, thereby, exercising power. Relationships established in the marking of documents as confidential are vulnerable to various sorts of strategic interventions that may shift the balance and locus of power through unauthorized disclosure.

STRATEGIC ACTION

In Laclos's universe, it is Valmont and Merteuil who most often break confidentiality over the course of the narrative, but it is also they who are ultimately undone by the supreme breach of confidentiality at the novel's close, although the breach is one in which Valmont participates.⁵ To put it most simply, breaking confidence constitutes a strategic action that reconfigures the power relations established in the original pact between sender and receiver of confidential communication. To take a mundane example from the university context, students routinely request confidential letters of recommendation. In order to obtain such letters from faculty members, they usually waive their right to view the contents of the letter. Letter writers agree to write letters with the understanding that a candid assessment is required, one that is not constrained by the knowledge that the subject of the letter, the student in question, will read the letter. Likewise, admissions committees depend on the candor of the assessment, as nominally guaranteed by the waiver of the right to access. In fact, there is a tacit assumption, that I will tackle below, that confidentiality has a bearing on the truthfulness of the contents of the letter. However, many letter writers regularly choose to break confidentiality. Professors forward copies of glowing letters to students, in spite of the waiver of the right to view the letter. In this breach of confidentiality, the letter writer empowers the subject of the letter, the student, by revealing the contents of the letter. The fact of the breaking of the confidentiality is not made known to the addressee, leaving the assumed guarantee of candor intact. Many faculty feel a moral obligation to disclose the contents of the letter to the person whom it most affects, thus the breach of the confidential bond readjusts the power relation between faculty member, student, and the institution, by providing information to the subject of the letter. Although the pact of confidentiality between faculty letter-writer

and institutional-addressee is breached on the addressor side, the credibility of the message is left intact, while at the same time some amount of power in the form of information is restored to the “third party” subject of the letter.

External tenure and promotion letters pose a similar, if more complicated, scenario of confidentiality. In part, the situation is complicated by the multiplication of addressees of the confidential letter. Typically, department chairs solicit candid assessments of faculty dossiers and guarantee confidentiality with respect to the faculty member being assessed. However, in the University of California, reviewers are advised that their identities may not be entirely shielded. As chair of a department for ten years, I sent out numerous solicitation letters to potential external evaluators that contained the following paragraph, or some version of it:

Although the contents of your letter may be passed on to the candidate at prescribed stages of the review process, your identity will be held in confidence. The material made available will lack the letterhead, the signature block, and material below the latter. Therefore, we ask that you indicate your relationship to the candidate below the signature block as well as any other information that you wish to include that might identify yourself. *In any legal proceeding or other situation in which the source of the confidential information is sought, the University does its utmost to protect the identity of such sources.* (emphasis added)

So what does confidentiality mean in this instance? With respect to the candidate being reviewed, it means that clear identifiers will be removed, redacted from the file. Much like the asterisks that follow the names of some locations in Laclos’s novel (“Du Château de ****”), or the fact that all names have been changed (note to “Préface du rédacteur,” 5), or Tourvel’s omission of Valmont’s name in her initial letter to Rosemonde (letter 102), no proper names that could reveal the author’s identity will appear in a letter provided to a candidate. Explicit references to any possible relationship will also be concealed from the candidate, provided that they are below the signature block. The confidential unredacted letter will then be read by many layers of faculty and administrators as part of the review process. Much as in the case of the letter of recommendation for the student, the power of the letter depends in part on the degree of candor that this type of confidentiality ostensibly guarantees. And, as with the student letter of recommendation, some tenure and promotion reviewers choose to divulge the contents of their letters to candidates, shielding the breach of confidentiality from the institution and thereby maintaining the force of the letter. Finally, as in the student case, most faculty who disclose their identities or share the contents of their assessments of tenure and promotion files do so with an eye to ethical responsibility and an interest in attempting to apply pressure to institutional power relations enforced through confidentiality.

But what does confidentiality mean from an institutional perspective when

there are multiple addressees? The institution—supposedly—has an interest in protecting confidential communication in order to—supposedly—ensure the integrity and reliability of the review process. Absent a significant change in academic culture as I will discuss below, if the confidentiality of review letters were routinely breached, institutions would be unable to find reliable reviewers and unable to trust the reviews provided. The “art of redaction,” as it is practiced in universities and in Laclos’s novel, represents a strategic exercise of power. The “editor” in *Les liaisons dangereuses* reveals in the preface and footnotes the power to supply and delete information. For example, in a footnote to letter 2, the editor explains the relationship between the Comte de Gercourt and Merteuil, supplying crucial information for understanding the motives for the marquise’s revenge. In a note to letter 7, the editor reveals that many letters of the daily correspondence between Cécile and Sophie have been omitted so as “not to abuse the patience of the reader.” Other editorial notes indicate missing letters (e.g. note to letter 51) or provide meta-discursive commentary on the content of other letters (letter 22). This type of intervention reveals the editor’s power over the text. Like the archinarrator of a metafiction, the editor makes the reader aware of the power to shape the text.⁶ The critical reading practice being inculcated by the novel depends on breaches of confidentiality that enable the creation of meta-levels of knowledge. The reader learns to discern and critique precisely because of an awareness of the manipulation of texts, including their confidential status. The university as an institution exercises a similar kind of power. Redacted forms of letters are revealed in order to reinforce the distribution of power between individuals and the institution. Willfully thwarting confidentiality creates new power relations between individuals within the institutional setting and, with it, new forms of meta-discursive knowledge.

But the institution is an abstract entity composed of individuals fulfilling prescribed functions. The review process highlights the difficulty of understanding confidentiality from a human perspective. While it may be clear that a review committee cannot reveal the identity of particular letter writers to candidates for promotion, it is also true that review committees are composed of individuals embedded in multiple forms of power relations—power is ubiquitous. A memo from the Vice Provost for Academic Affairs at the University of California, Davis, addressed to deans, executive associate deans, associate deans, vice provosts, and vice chancellors and forwarded to department chairs reveals the concern with the human element of confidentiality:

Confidentiality is imperative at every level, including review of candidate files, discussions during faculty meetings involving appointments, advancement or other personnel review actions, submission of internal letters of evaluation, and serving on *ad hoc*, college or campus personnel committees. The identities of those writing external letters, serving on *ad hoc* committees, and speaking during faculty discussions, as well as the contents of their evaluations, must be kept confidential

if candid assessments are to occur. *No matter how innocuous you think a disclosure is, and no matter how significant you consider the rationale for disclosure to be*, experience has taught us that great harm is often done by breaking confidentiality within the academic review process.⁷

While the focus in the memo from the vice provost remains largely on preserving the reliability of the review process, the italicized phrases acknowledge the human element in such processes. As people read confidential letters, they may simultaneously inhabit different subject positions: chair of a department or dean of a college or friend of the candidate. Allowing institutional mandates to override personal considerations of fairness and equity is not always easy, especially when power dynamics are at play, and especially in cases, such as this, where the mandate is articulated as an absolute: Thou shalt not breach confidentiality. Abstract absolutes are often difficult to implement consistently, precisely because of their seeming inability to adapt to particular cases. Breaching confidentiality in the interests of creating or maintaining intimacy and trust in personal relations is both part of Laclos's novel and a reality of institutional life. Human beings cement relations often with unequal distributions of power by breaching precisely these sorts of strictures to bolster the underlying relationship through the establishment of special privilege and access.

SPEECH ACTS AND DUTIES

The letters in *Les liaisons dangereuses* are presented as and taken to be confidential by the characters in the novel (in most instances); they are not marked as such, nor are they part of an institutional process like tenure and promotion review. They represent private correspondence between private individuals. Underlying them is a tacit reciprocal speech act between letter writer and addressee: I promise not to disclose to others the information exchanged. In effect, the tacit promise amounts to a kind of contract between two parties who agree to hold each other's communications in confidence. The tacit promise creates a bond—a *liaison*, if you will—that ties the parties together. From the Latin *confidere*, confidential correspondence invokes a trust in another person to keep a secret. It is a mutual and reciprocal bond of trust that exists between two parties. As an implicit or explicit promise, the agreement to hold something in confidence is a speech act, but of an unusual variety. As distinct from other types of speech acts, the bond of confidentiality constitutes a meta-discursive promise.

In ordinary speech acts, as J. L. Austin asserts, "the uttering of words is, indeed, usually a, or even *the*, leading incident in the performance of the act (of betting or what not), the performance of which is also the object of the utterance."⁸ The utterance "I christen thee 'Titanic'" functions to name the ship; the performance of the act and the content of the message are one and the same. In

the promise of confidentiality considered as a speech act, however, there is a gap between the promise and the object of the utterance. All promises are speech acts of this meta-type insofar as they bind the person speaking to a future act but, in and of themselves, promises are not a performance of the act in question. For example, the promise to duly execute someone's wishes after their death is only realized in the administration of the estate, oftentimes separated by years from the making of the promise.

The speech act of confidentiality entails a promise not to divulge the contents of messages exchanged. It does not necessarily have a bearing on the content of the confidential utterance. Contrary to what is asserted with respect to letters of recommendation or promotion review, the fact of confidentiality does not guarantee the truthfulness of the content, although it might enable it. Unlike the person swearing "to tell the truth, the whole truth, and nothing but the truth, so help me God," where the meta-speech act ensures the truthfulness of the ensuing utterances, the promise of confidentiality applies to the act of transmission: it prevents the parties from repeating the information to others; it does not necessarily guarantee anything about the truth of the utterances. The logic of university administrations conflates these two acts. In fact, given the meta-discursive status of the speech act, letter writers for tenure and promotion review might be just as free, under the cloak of confidentiality, to engage in libel and slander without threat of discovery as they are to speak the truth. In this instance, their word is not their bond or, more precisely, their bond extends only so far as the keeping of confidentiality.

The bond of confidentiality, as a tacit or explicit promissory act, is an ethical bond between individuals. In some institutional contexts, it might also be a legal obligation, for example, with attorney-client privilege or doctor-patient confidentiality. It is also an act that creates a secret held between the parties to the bond. So what kind of an act is the breaking of confidentiality? Clearly, it is an unethical act and sometimes an illegal one.⁹ Breaking confidentiality destroys the bond between the parties because trust has been broken, but it also entails changing the status of the secret that the bond protected, as well as the power relations between those parties. By disclosing the secret to a third party, one party to the confidential information acts strategically by disclosing information that had been protected through the exclusion created by the bond. For example, Valmont sends a letter addressed to him from the *Présidente* (letter 26), along with his draft of a response, to Merteuil (letter 25), disclosing Tourvel's rebuffs of his advances and his own critical reading of them as disingenuous. The breach of confidentiality serves a number of functions which could be read as perlocutionary effects, although the illocutionary act of creating confidentiality is at the meta-discursive level.¹⁰ The breach asserts Valmont's loyalty to Merteuil above his feelings for Tourvel, for it uses the breaking of trust between Valmont and Tourvel to create trust between Valmont and Merteuil. It also creates vulnerability for both Valmont and Tourvel by allowing a third

party access to secret information. Finally, it enables the critical insight of meta-discursive reflection. Breaking a meta-discursive bond of confidentiality enables the creation of meta-discursive discourse about the content of the message, here by soliciting corroboration from a third party.

How do confidentiality and its breach differ in an institutional setting? The institutional setting introduces a number of complicating factors to the meta-discursive speech act. First, the parties to the pact are not simple individuals. As I have already suggested, the letter writer often engages a multitude of addressees, complicating the issue of the parties to the bond. The status of the utterance as confidential and its circulation among various parties through a variety of channels enforces institutional hierarchies. Breaking confidence disrupts those hierarchies, at least to some degree, by creating new bonds of inclusion and exclusion. As a corollary, these kinds of utterances are potentially more vulnerable to tactical forms of action within the institutional context by individuals interested in exploiting the possibility of breaching confidentiality to buttress their own status and/or cement new forms of relationship through new acts of inclusion and exclusion. Like Valmont disclosing correspondence to Merteuil, a person in a position of institutional authority could strategically break confidentiality for a variety of reasons.

In the world of Laclos's novel and our present-day world of cyber communication, further complicating the pact between writer and receiver of confidential letters is the fact that the exchange of letters requires the participation of third parties. In the novel, this can involve servants, other persons residing in the chateau (as in the case of Valmont facilitating the correspondence between Cécile and Danceny), and the system of the *poste*. Although today federal regulations protect privacy of information contained in letters sent via the United States Postal Service, no such guarantees existed in eighteenth-century France.¹¹ As Valmont's description of the postal relay system at Rosemonde's estate (letter 34) and of his efforts to intercept Tourvel's letters once she leaves the chateau (letter 101) attest, letters sent via the *poste* were not secure from prying eyes. Merteuil, in particular, is so concerned about the possible disastrous consequences of unauthorized circulation of private letters that she ironically declares, in the letter that proves her undoing, that she takes the precaution of "ne jamais écrire" [never writing anything down] (letter 81, 175). She also cautions Valmont never to leave anything in Cécile's hands that might compromise them (letter 106, 245) and instructs Cécile to pass along any letters from Merteuil to Valmont (letter 105, 242). Any confidential information that is put into written form must navigate the unsure waters of the divide between private and public information.

THE PUBLIC AND THE PRIVATE

The simultaneous emergence of the public and the private spheres in eighteenth-century Europe, and especially Britain, France, and Germany, has been the subject of research and controversy especially since the translation of Jürgen Habermas's *The Structural Transformation of the Public Sphere* in 1989.¹² The rise in literacy, coupled with the development of reading practices that encouraged solitary reflection, as well as the increase in private libraries, all point to the carving out of an intimate space for private life.¹³ Paintings of the period depict individuals "absorbed" in activities that reflect a valorization of the private sphere.¹⁴ Architectural changes, including an increase in alcoves, antechambers, and hallways, as well as new types of chairs and arrangements of furniture, indicate a growing attention to creating spaces for privacy and intimacy.¹⁵ Nonetheless, the eighteenth century, as Lawrence Klein (among others) has argued, is also a period of intense sociability during which private persons valorize shared experiences in the public-private spaces of the salons and cafés.¹⁶ The sharing of private thoughts and feelings is as valued as the privacy of the feelings themselves, as evidenced by the stunning number of journals, diaries, memoirs, and epistolary novels of the period.¹⁷ If "private writing" emerges from and reflects private spaces, it also ensures the transgression of the public-private boundary. In this world of great sociability, nothing guarantees the sanctity and privacy of intimate life except absolute silence on the part of the individual. Even Habermas's celebrated definition of the public sphere as "private people come together as a public" highlights the interdependence of the two realms.¹⁸ As Dena Goodman has argued in an analysis of the work of Habermas, Reinhart Kosellek, Roger Chartier, and Phillipe Ariès, the historical coincidence of the emergence of the public and private spheres means that the eighteenth century is a "moment in which individuals needed to negotiate their actions, discursive and otherwise, across constantly shifting boundaries between ambiguously defined realms of experience."¹⁹ For Goodman, the salon, in particular, represents a site that blurs the public-private distinction and necessitates these negotiations.

Electronic communication in the cyber age functions in a way similar to the intercepted letters and sociable disclosures of the personal in the eighteenth century and reminds us of the imagined and imaginary boundary between the public and private realms. We believe or act as though we believe that our e-mails and texts are safe from the prying eyes of an abstract public, but our confidence is misplaced. While many employees, including of universities, understand that their e-mails sent from a campus or other official address may be searched and read by the employer or a party to a lawsuit, many individuals also believe that their own private e-mails may be shielded from requests for access to records in the course of legal action. However, private e-mails sent from private accounts may not be so private. Subpoenas or other disclosure

processes requesting correspondence records may include the seizure of home computers, if the home computer has been used to originate or answer official campus e-mails.²⁰ In that case, both accounts—both the official, quasi-public campus e-mail and the private e-mail—may be searched and used as evidence. We also know, from disclosures resulting from Edward Snowden's breach of confidentiality, that the National Security Agency routinely collected metadata from companies such as Verizon on private calls both within and going outside the United States. Although the government admitted to the collection of the metadata, and denied collecting data on the content of the calls, nonetheless, at least one district court judge found that the program violates the protections of the Fourth Amendment.²¹ It would not be surprising if the content of text messages could be subpoenaed in the course of legal action. At the very least, it seems safe to say that the wall of privacy that shields private communications already contains numerous holes and we are deluding ourselves if we believe in the elaborate fiction that is confidentiality.

CONFIDENCE AND DISCLOSURE AS STRATEGIC ACTIONS

As I have already argued, confidentiality represents a kind of implicit promise and contract between two parties. Breaking the promise and divulging information entails shifting power relations and, as such, sometimes represents a strategic action. However, in the context of institutions, as in the universe of Laclos's novel, not all breaches are the same. The imperative of confidentiality may be articulated in the form of an absolute, but the way in which power is exercised through confidentiality does not always meet moral standards of accountability—and, ironically, transparency—that would render the imperative legitimate. Both parties are not always aware of the power stakes involved. Often times, power relations are imbalanced to a degree that undermines the legitimate exercise of authority through the use of confidentiality. To take an example from the novel, Merteuil's imperative to Cécile that she not disclose the content of their correspondence to anyone other than Valmont—not her mother, not Sophie, not Danceny—and that she not keep the letters in her possession, but pass them on to Valmont, represents an unconscionable (in the legal sense) exercise of power by Merteuil.²² Although Cécile agrees to the pact of confidentiality, she cannot understand the implications of her action. In effect, Merteuil leads Cécile down the path of perdition and expertly removes from her hands the means for understanding her status as a victim or for redressing wrongs committed against her. By not allowing her to disclose the contents of the letters to anyone, which might have enabled the critical questioning of the discourse contained within them, Merteuil disables Cécile from developing a meta-discursive understanding of their contents and how she is being victimized. Likewise, requiring that the letters be removed from her possession disables critical rereading, but also and more importantly, takes

from her the means to right the wrongs done to her.²³ In effect, Danceny ultimately exercises this power for her by circulating the letters, although by then it is too late: Cécile is already within the confines of the convent for the remainder of her days, effectively removing herself from the circulation of the public and even quasi-private spheres.²⁴ In this instance, the imperative of confidentiality is illegitimately exercised by Merteuil because Cécile cannot understand the implications of the constraint on her. In effect, power remains on only one side of this contract and obedience to its strictures shifts all the risk and potential damages to the other party.

In the institutional setting, the same sorts of dramatically imbalanced power relations can also obtain. Although letters of recommendation and external letters of assessment represent explicit forms of confidentiality with clearly articulated rules of disclosure tacitly accepted by both parties, other forms of confidential communication represent an exercise of power by an administration intent on self-protection that exploits the unequal distribution of power. The unequal balance of power results from a number contextual factors and, ultimately, renders the marking of communication and correspondence as confidential an exercise of power that raises issues of legitimacy. Specifically, in the case of accusations of discrimination and harassment, universities have a tendency to protect the rights of the accuser with various types of confidentiality aimed at remedying unequal power relations, but which can also have the unintended consequence of stripping or compromising the rights of the accused. In cases of accusations of discrimination or harassment handled within the institution itself, formal investigations often attempt to respect confidentiality. Consistent with Title IX, the University of California Policy, *Sexual Violence and Sexual Harassment*, III, D, 3 states that

the University will protect the privacy of individuals involved in a report of Prohibited Conduct to the extent permitted by law and by University policy and procedures. However, it should be recognized that an investigation may involve interviews with a number of persons to inquire if they have relevant evidence, and extremely sensitive information may be gathered. While such information is considered confidential, University policy may also require the disclosure of certain information during or following an investigation.²⁵

While the exercise of confidentiality is aimed at protecting the accuser from retaliation and further harm, it also effectively blocks communication between numerous parties involved in the investigation. In some cases, this confidentiality leads to the unintended consequence of limiting information (like in the Cécile case) and, potentially, abridging the rights of the accused. The description of the formal investigation process also includes this seemingly innocuous statement in V, 4, b: "The investigation generally includes . . . a review of documents as appropriate." This could include a request for disclosure of all com-

munication, including e-mails that mention the accuser's name, further infringing the accused's and others' right to privacy.

In accusations of discrimination that involve outside federal agencies, such as the United States Department of Education, Office of Civil Rights, or the Equal Employment Opportunity Commission, university investigations become even more complex with respect to the right to privacy. In these cases, the identity of the accuser cannot be shielded from the person or persons accused, but the investigation may entail a discovery process that requires the turning over of seemingly private e-mail correspondence. In these cases, confidentiality is breached on a number of levels. Those accused and subject to investigation are required to hand over documents to campus counsel, who then redacts documents that become part of the investigative process. In these cases, campus counsel represents the interests of the university, including those accused in their capacity as employees of the university, but not as individuals. While the university as an entity has an interest in protecting and defending its employees from frivolous and unfounded accusations of unlawful behavior, it is also true that the institution is a "fictive" entity. The legal rights and interests of the individual employees may coincide with those of the university, but not perfectly or entirely. Campus counsel represents the interests of the university, foremost among them maintaining the university's reputation and public image. The university as an institution has no investment in issues of truth or justice involving the individuals caught up in the process except insofar as they coincide with the institution's public image. In this respect, the university acts tactically, through various administrative channels, to comply with federal investigations, serving its own interests and using the procedures of confidentiality to do so.

After federal investigations are completed, the coincidence of interests between institution and employee may become uncoupled, as university administrations seek to create a record of appropriate response in the form of confidential reprimands of parties that were subject to the accusations, whether legitimate or not. Confidentiality enables tactical action to further the university's interests as a separate entity, independent of the individuals who compose it. Ironically enough, such "confidential" correspondence is created with the express purpose of demonstrating, in the event of any future federal investigation, that appropriate steps were taken by the institution. These confidential letters of reprimand represent a perfect instance of bureaucratic doublespeak. The "confidential" document exists expressly for the purpose of potential future disclosure to a federal agency (although in redacted form), thereby embodying the perfect paradox of confidentiality and its vulnerability to exploitation to reinforce hierarchy and privilege.

Such exercises of confidentiality raise serious questions about the rights of the individual in the context of institutional communities. While it is necessary to protect the rights of accusers who seek to publicize and redress abuses of

power relations, the process used to investigate and administer justice should not rely on the abuse of others' rights. The institution, whether it comes to the aid of accuser or accused, is nonetheless a powerful entity with its own interests to protect. The interests of justice and fairness, the interests of individuals and the interests of the institution can become tangled and even opposed in the investigation of such matters. Ultimately, the ways in which confidentiality is asserted, maintained, and even breached need to be carefully examined with a view to uncovering unintended illegitimate exercises of power.

IRONY AND PARADOX

The example of the "confidential" letter created with the intention of potential future disclosure underscores the paradoxes of the mechanisms of confidentiality. Confidentiality depends on an exclusion: the parties agree not to divulge information to other parties. Creating confidentiality erects a barrier between the private and the public, and privileged communications are only accessible to those who benefit from the privilege of inclusion. In other words, confidentiality creates an in-group and an out-group. The privilege of belonging to the in-group depends on exercising power in the form of exclusion of the out-group to ensure the recognition of privilege, which paradoxically calls attention to the existence of the "secret."

In the context of the late eighteenth century, the word "privilege" is fraught with political meanings. Aristocratic privilege—from the mundane keeping of pigeons or hunting rights to the *droit du seigneur*—spurs the debates that ultimately lead to the French Revolution.²⁶ On the night of August 4, 1789, the Deputies of the National Assembly officially abolished feudal privilege of any sort with a decree contained in 19 articles, 22 days before the *Déclaration des droits de l'homme et du citoyen*. In Laclos's novel, published just 7 years earlier, aristocratic privilege cannot shield its characters from public humiliation and a fictional form of ultimate justice. Although Valmont and Merteuil attempt to keep their form of association private and confidential, public and quasi-public revelations lead to Valmont's death and Merteuil's desperate escape. All privilege is destroyed with the sole exception of Mme. de Rosemonde's privileged access to the entire archive, a point to which I will return.

Perhaps it is the residual associations with the notion of privilege that tend to chafe against our democratic and egalitarian leanings in the setting of higher education and make the temptation to breach confidence more difficult to resist. Clearly, certain exercises of the power to assert confidentiality by the institution resemble privileged aristocratic assertions. When administrators mark a piece of correspondence "confidential," they exert pressure from above on individuals who have no choice other than either to comply or break confidence, possibly incurring institutional sanctions; no negotiation is possible. In these instances, confidentiality is not a mutual, reciprocal meta-discursive speech

act, but rather a raw assertion of privilege. While this kind of power *may be* justifiable in the context of institutions that require security clearance and the routine maintenance of confidentiality—the C.I.A., F.B.I., N.S.A., Department of Defense, etc.—this is not the case with the average university professor engaged in an educational mission. The desire to thwart perceived illegitimate exercise of authority through privilege may actually motivate breaches of confidentiality.

So, what choices do we have, given the nature of the public and private spheres in the age of electronic communication? Lawyers may advise never putting anything into e-mail—official or “private”—that you would not like to see on the front page of the newspaper (or in a blog). They may also advise, like the Marquise de Merteuil, mastering style and self-control. The marquise’s self-education includes the famous infliction of “douleurs volontaires” [self-infliction of pain] (letter 81, 171) that enabled her to practice perfect self-control. This control extends to writing. Her advice to Cécile in a postscript to letter 105, admonishes the young woman about her childish writing style originating from the fact that “vous dites tout ce que vous pensez” [you say everything that you think] (242). In the same letter, she exhorts Cécile not to hide anything from her—implying that the full disclosures will be reciprocal—all the while underscoring the necessity of maintaining tight control of the circulation of information.

What would it mean to act like Merteuil? It would mean resisting the temptation that Merteuil herself cannot resist to confide in another. It would also mean treating all communication strategically in an attempt to exercise control. Every written sentence, every utterance would need to be scrutinized for possible outcomes should it be made public.²⁷ Even Merteuil fails to fully master the art of confidence as a tactical form of action; she reveals her own vulnerabilities in her letters to Valmont, especially her jealousy with respect to Tourvel. There are at least three obvious problems with the Merteuil strategy. First, it is impossible to anticipate all possible readings and consequences. Second, strategic forms of writing challenge authenticity. Laclos’s novel posits this problem from the beginning, in the teasing “Avertissement de l’éditeur”:

Nous croyons devoir prévenir le Public que, malgré le titre de cet Ouvrage et ce qu’en dit le Rédacteur dans sa Préface, nous ne garantissons par l’authenticité de ce Recueil, et que nous avons même de fortes raisons de penser que ce n’est qu’un Roman. (3)

[We believe that we should warn the public that, in spite of the title of this work and what the editor says in his preface, we do not guarantee the authenticity of this collection, and that we even have strong reasons to think that it is only a novel.]

Documents that are leaked to the public excite interest through the belief that they are authentic. In a kind of circular logic, part of the belief in the authentic-

ity of leaked documents derives from their formerly confidential status. The desire to subvert authority couples with the voyeuristic desire to breach secrecy and enables strategic actions with wide-ranging consequences: from misinformation leaked to wartime enemies, to the Sony Pictures hack, to Snowden's dump of N.S.A. secrets, to the leaky Trump White House. Leakers and the public co-conspire to invest confidential documents with the allure of authenticity. The juicier and more damaging the secrets revealed, the more they resemble "admissions against interest," the more they excite public interest and are believed to be authentic. Carefully crafted documents with assertions made with "plausible deniability" generally do not excite the same fervor as leaked documents that clearly violate confidentiality. The discretion of letter 112, penned by Mme. de Rosemonde with the aid of her maid because of rheumatism, provides little other than a lesson in circumspection and equivocation. Authentic though it may be, it yields little interesting information, which is good for legal protections, but bad for a sense of human connection. The strategy of control may protect secrets, but it cannot substitute for an ethical bond of trust.

A third problem precipitates Merteuil's fate in the novel. She cannot resist the urge to confide in Valmont and is thus caught in her own trap: keeping secrets is difficult, even for manipulative libertines. Acting consistently on principle lies beyond the ken of most humans. One could argue that Merteuil, although ruined at the end of the novel, nonetheless escapes with some stolen diamonds and flees to Holland (letter 175). She has at least the chance of beginning a new life, interestingly in a republic. Although hideously scarred by smallpox, she's still alive, which Valmont and Tourvel are not, and she's not constrained by self-imposed vows of chastity, like Danceny and Cécile. She could find a way to survive. At any rate, it is highly unlikely that her libertine career will continue in her disfigured state, leaving her to contemplate the behavior inconsistent with her principles that led to her fall. Like Edward Snowden in Russia or Julian Assange in the Ecuadoran embassy in London, she will live out her days in exile with plenty of time to contemplate the intricacies of confidentiality and the consequences of its breach. Unlike Snowden and Assange, who both knowingly and willfully breached confidentiality in the public interest, Merteuil was a victim of the same type of "civic good" disclosure perpetrated by Danceny. Exile, for Danceny as well, seems to be the only mode of punishment imaginable for those who have breached this aspect of the social contract.²⁸

The only other solution that the novel offers is that of Mme. de Rosemonde—the 84-year-old aunt of Valmont, beyond the need for intrigue and manipulation—into whose hands falls the entire correspondence. In this cyber age, she seems to correlate to a kind of server or archive, a repository for information, a databank. And, like a databank, the novel does not suggest that she has any critical understanding of the information she holds. Perhaps the publication of the letters—either with or without her consent, we only know that her heirs retain

the originals (note to letter 169)—can be read as an egalitarian gesture resembling the one suggested by Jean-François Lyotard at the end of *The Postmodern Condition*: “give the public free access to the memory and data banks.” For Lyotard, this gesture enables a “politics that would respect both the desire for justice and desire for the unknown.”²⁹ The abolition of confidentiality through the gesture of open access avoids the pitfalls of inauthenticity, manipulation, privilege, and illegitimate exercise of power, but it confounds the public with an avalanche of information. Ironically, the gesture may lead back to the ignorant and naïve position of Cécile or the Présidente de Tourvel, unable to read critically or make discriminating judgments.

But the development of critical discernment need not rely on disclosing confidential truths. In our new age of cyber-enlightenment, we can learn, as the eighteenth century learned, that reading requires critical engagement. Abolishing most forms of confidentiality in the academy would have the result of forcing assertions into a public mode. This would mean that reviews of scholarly work, including tenure and promotion dossiers, would have to be conducted openly. But what harm would this bring about? Wouldn't transparency increase accountability? Administrators such as the Vice Provost for Academic Affairs would argue that without confidentiality, the review process would be compromised and cease to function. But why? Why shouldn't scholars engage in what Immanuel Kant called a public use of reason, “a use which a person makes of it [reason] as a scholar before the reading public” when they assess and judge? Kant also defined a private use of reason, ironically enough, limited to fulfilling the obligations of a civil post or office.³⁰ One cannot help but think of the Nüremberg trials here. Is that the restricted sense in which we understand the exercise of reason in confidential assessments of scholarly achievement? Or is it rather shame, honor, and even fear that prevent the public articulations of these judgments? We need to ask ourselves if these are appropriate values for a scholarly community composed of reasoning individuals.

If confidentiality were limited to the strictly private sphere, i.e. the sharing of intimate secrets about our most private feelings in face-to-face encounters, then all other types of communications would have to be “public” or, at the very least, assumed to be subject to public scrutiny and critique. One might object that this is a totalitarian form of democracy that enforces public accountability by sacrificing the private. Along with Jacques Derrida, who asserts that, “in a democracy, when someone asks you your name you have to answer; public space is a space in which a subject is questioned and has to answer,” we might seek to reserve a space for the “right not to answer.”³¹ But in the institutional setting, one must and does answer. For better or worse, the nature of the institutional setting is public in terms of an ethic of transparency and accountability. When I write a letter of recommendation or make a professional assessment to which I affix my signature, literally or figuratively, which is then erased in certain circumstances in order to create the exclusions necessary to forge a

private realm of secrets, these strategic actions enable exclusions that reinforce hierarchy and privilege. But the strategic creation of confidentiality also masks the fictive status of the private, luring us into believing that exclusions can be maintained.

For all intents and purposes, the private no longer exists.³² Hacks, leaks, legal discovery processes, and the like have positioned us in a world parallel to the eighteenth-century world where, to quote Goodman again, "individuals needed to negotiate their actions, discursive and otherwise, across constantly shifting boundaries between ambiguously defined realms of experience." In such a world, instead of strategic communications designed to obfuscate, equivocate, and create plausible deniability, and that ultimately create victims like Cécile, Tourvel, and Danceny, I would argue for a model that requires that we have the courage of our convictions. We should be prepared to face opposing arguments and, in so doing, strengthen our capacity to make discerning judgments.

In a perfect world, we would all be able to get beyond fear and the other emotions that cloud our capacity to speak openly and honestly in difficult situations. I would agree with Carol Blum's assessment that Laclos stops short of making "a positive case for an ethic of lucidity."³³ But Laclos's novel does make a compelling case for a politics of disclosure that would seek to avoid invoking and trusting in confidentiality whenever possible. Valmont's seductive gestures depend on an illusory confidentiality in order to create multiple forms of intimacy with Tourvel. Tourvel learns of his manipulations after falling victim to the lure of intimacy created through confidence. Likewise, Valmont's intimacy with Merteuil (and hers with him) depends on the illusion of private disclosures created by breaches of confidentiality involving third parties, such as Cécile, Danceny, and Tourvel.

But if the novel suggests, as I asserted earlier, that the breaching of confidentiality enables meta-discursive judgment and critical evaluation, the hierarchical privilege accorded to those in a position of greater knowledge collapses in the Tourvel-Valmont-Merteuil triangle. All three are self-deceived about their feelings and motivations, but most of all by their belief in the impenetrability of the boundary between the public and private. Tourvel is lured by Valmont's promise of confidentiality and trust to sacrifice everything she values. Her self-deception entails the repression of emotion and desire by moral and religious fervor that Valmont's attentions cause to erupt in erotic passion. For his part, Valmont believes his own strategic self-representation to Merteuil as a libertine rationally controlling both erotic desire and moral sentiment, as evidenced in the duplicitous correspondence with Tourvel. His suicide-like death at the end of the novel, and particularly his entrusting of his correspondence to Danceny, underscores the end of his self-delusions. Finally, Merteuil's manipulations of various forms of confidentiality shield her from self-knowledge about irrational desire and jealousy that lurk beneath the rational surface of self-control and

manipulative deceit. Confidentiality and strategic communication enable the manipulation of others, but also ironically enable self-deception and obstruct self-understanding. Only the reader remains in the privileged position of meta-discursive access to information obtained through the breach of confidentiality constitutive of all epistolary fiction: Read what is not intended for your eyes. But can knowledge obtained in this manner ground or enable ethical conduct? Even at the level of the reader, the novel supports a politics of hierarchical disclosure, but stops short of championing an ethical bond of lucidity.

An ethical bond that presupposes a horizon of equality, freedom, and justice, as well as transparency, like Habermas's ideal speech situation, seems to be beyond the imagination of the last decade of the eighteenth-century in France under the Old Regime, and certainly beyond the creative reach of a career military officer like Laclos.³⁴ It also seems naïve and ill-advised to invoke a Kantian- or Habermasian-style regulative ideal within the hierarchical structure of an institution like a research university. Multiple competing interests motivate strategic action and largely disable horizontal ethical bonds of trust between human beings as being the grounds for action. The institution itself, with its own separate interests, cannot stand in as an ethical guarantor of justice and fairness. Instead, in the context of an institutional setting constructed on hierarchy enforced through strategic action, a politics of promoting disclosure would go a long way toward remedying unintended conflicts of rights. Better to read the letters and develop a sense of discernment than to be forever acting strategically to manipulate others through the keeping and disclosing of secrets. In a world where the databanks are open to the public, at least everyone has the chance for enlightenment.

NOTES

1. "one dare not write everything," Choderlos de Laclos, *Les liaisons dangereuses* [1782], in *Ceuvres complètes* (Paris, 1979), 1–386, letter 118, 275; all parenthetical references are to this edition, and English translations are my own.

2. Béatrice Didier notes the complementarity of voyeurism and secrecy, *Choderlos de Laclos Les liaisons dangereuses: Pastiches et ironies* (Paris, 1998), 129.

3. Danceny's gesture resembles the work by lawyers on behalf of clients who circulated legal briefs or "mémoires judiciaires" to attempt to sway legal outcomes by influencing the court of public opinion. See Sarah Maza's *Private Lives and Public Affairs: The Cause Célèbres of Prerevolutionary France* (Berkeley, 1993). Nadine Bérenguier has emphasized the precarious position in which this left many women seeking separations for having made public elements of their intimate lives in "Victorious Victims: Women and Publicity in *Mémoire Judiciaires*," in *Going Public: Women and Publishing in Early Modern France*, ed. Elizabeth C. Goldsmith and Dena Goodman (Ithaca, 1995), 62–78. Laclos's use of the verb "déposer" in this instance resonates with juridical implications of deposition and testimony.

4. In response to questions posed by Chris Hayes on the MSNBC show *All In With Chris Hayes* about the morality of reprinting information obtained by a "malicious crime against Sony," Kevin Roose defended *Fusion's* republication of information about gender disparity in salaries as a "civic good" ("Sony Under Attack" [December 10, 2014]). Aaron Sorkin's editorial in *The New York Times* ("The Sony Hack and the Yellow Press: The Press

Shouldn't Help the Sony Hackers" [December 14, 2014]) attacked the argument about the public good, claiming that the republished Sony e-mails contain no information that could protect anyone from crime, misinformation, or general wrong-doing. Edward Snowden's leak of N.S.A. documents represents perhaps the most outstanding recent case for testing the standard of "civic good."

5. Mary McAlpin reads Valmont's death as a social and literal suicide, precisely because of the handing over of the letters ("The Rape of Cécile and the Triumph of Love in *Les liaisons dangereuses*," *Eighteenth-Century Studies* 43, no. 1 [2009]: 1–19, 13).

6. Denis Diderot's *Jacques le fataliste* (Paris, 1796) presents the best example of an antagonistic narrator from the period. On the importance for critical awareness of the antagonism between narrator and reader, see Richard Terdiman's *Body and Story: The Ethics and Practice of Theoretical Conflict* (Baltimore, 2005), esp. 131–66.

7. Memo with Statement on Confidentiality from Maureen Stanton, Vice Provost for Academic Affairs to deans, executive associate deans, associate deans, vice provosts and vice chancellors, dated August 20, 2012. Forwarded to chairs and directors in the Division of Humanities, Arts and Cultural Studies in an e-mail from Dean Jessie Ann Owens, August 21, 2012. Emphasis added.

8. J. L. Austin, *How to Do Things With Words*, 2nd ed. (Cambridge, Mass., 1975), 8.

9. Snowden's case raises questions about interpreting breaches in ethical and legal terms. Clearly his leak was illegal; the question of its morality is less clear in the light of significant information that it brought to public attention.

10. Jürgen Habermas discusses the strategic implications of perlocutionary effects in relation to Austin in *On the Pragmatics of Communication*, ed. Maeve Cooke (Cambridge, Mass., 1998), 122–29.

11. According to the website of the United States Postal Service, "Title 18 of the U.S. Code (Crimes and Criminal Procedure) contains all federal criminal laws, including those enforced by the Postal Inspection Service. . . . The major postal regulations protecting mail are contained in the USPS Administrative Support Manual, Domestic Mail Classification Schedule, Domestic Mail Manual, International Mail Manual, and Postal Operations Manual," available at about.usps.com/who-we-are/privacy-policy/intelligent-mail-privacy.htm#H7. The Administrative Support Manual, section 274.2, explicitly states that Opening, Searching, and Reading Mail Generally Prohibited (about.usps.com/postal-bulletin/2011/pb22311/html/updt_001.htm), although exceptions have been made in the interests of Homeland Security since September 11, 2001.

12. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry Into a Category of Bourgeois Society*, trans. Thomas Burger with the assistance of Frederick Lawrence (Cambridge, Mass., 1992).

13. See Roger Chartier, "Les pratiques de l'écrit," in *Histoire de la vie privée: De la Renaissance aux Lumières*, ed. Philippe Ariès and George Duby (Paris, 1986), 126–52.

14. Michael Fried supports this argument with his aesthetic analysis in *Absorption and Theatricality: Painting and Beholder in the Age of Diderot* (Berkeley and Los Angeles, 1980).

15. See Orest Ranum, "Les refuges de l'intimité," in *Histoire de la vie privée*, 223–28. Ranum cites Daniel Roche (*Le Peuple de Paris: Essai sur la culture populaire au XVIIIe siècle* [Paris, 1981]), who notes that the placement of beds changed over the course of the eighteenth century toward corners and alcoves. Mimi Hellman provides a helpful discussion of the ways that interior spaces and furniture conditioned sociability, encompassing both the public and private spheres ("Furniture, Sociability, and the Work of Leisure in Eighteenth Century France," *Eighteenth-Century Studies* 32, no. 4 [1999]: 415–45).

16. See Lawrence E. Klein, "Enlightenment as Conversation," in *What's Left of Enlightenment: A Postmodern Question*, ed. Michael Baker and Peter Hanns Reill (Stanford, 2001), 148–66.

17. Laurent Versini, in his study of Laclos's novel, underscores the fact that literary society of the eighteenth century particularly prized the letter as emblematic of the cen-

trality of commerce (*Laclos et la tradition: Essai sur les sources et la technique des Liaisons dangereuses* [Paris, 1968], 231).

18. Habermas, *Structural Transformation*, 27.

19. Dena Goodman, "Public Sphere and Private Life: Toward a Synthesis of Current Historiographical Approaches to the Old Regime," *History and Theory* 31, no. 1 (1992): 1–20, 14.

20. Two attorneys working for University of California, Davis, Campus Counsel confirmed this in conversation.

21. United States District Court Judge for the District of Columbia Richard Leon in *Klayman et al. v. Obama et al.* (2013) found that bulk data collection "almost certainly does violate a reasonable expectation of privacy" and "is indeed an unreasonable search under the Fourth Amendment" (the complete decision has been posted on the *Wall Street Journal* web page: see online.wsj.com/public/resources/documents/JudgeLeonNSAopinion12162013.pdf), 47, 62. See also Joseph D. Mornin, "NSA Metadata Collection and the Fourth Amendment," *Berkeley Technology Law Journal* 29 (2014): 985–1006.

22. Contracts deemed unconscionable may be voided by courts. Undue influence, duress, or unequal bargaining power, including lack of information, renders them one-sided and, therefore, unenforceable. Merteuil exploits Cécile in precisely this way in the "contract" concerning confidentiality between them.

23. In a corollary argument in letter 33, Merteuil critiques Valmont's attempt to seduce the Présidente through writing, claiming that sober reflection will enable a cooling of whatever passions the writing initially enflames (67).

24. McAlpin reads Cécile's self-cloistering as a result of her realizing the horror of what she has done. The final editor's note hints that Cécile had further adventures, but claims not to be able to provide any more information.

25. University of California Policy, *Sexual Violence and Sexual Harassment*, Section III.D.3 (2016), 8; available at <http://policy.ucop.edu/doc/4000385/SVSH>.

26. Thousands of *cahiers de doléances* prepared for the Estates General Meeting in 1789, as well as the performance of Pierre Beaumarchais's *Marriage of Figaro* in 1784, indicate the degree to which aristocratic privilege had become the hot-button issue of the late eighteenth century. For examples of cahiers, see John Hardman, *The French Revolution: Sourcebook* (London and New York, 1999).

27. Wendy Hui Kyong Chun's critique of the paradoxical understanding of freedom as a kind of paranoid control that has come about in the Internet age demonstrates the necessity of moving toward a conception of freedom that embraces the vulnerabilities associated with virtual forms of communication and recognizes the futility and ultimately self-defeating nature of the desire for control (*Control and Freedom: Power and Paranoia in the Age of Fiber Optics* [Cambridge, Mass., 2008], esp. 247–97).

28. Jean-Jacques Rousseau recommends exile for those who refuse to swear the "profession of faith" to the republic in book 4 of *Social Contract* [1762]. For those who swear the oath and knowingly violate it, he recommends the death penalty (*Du contrat social*, in *Œuvres complètes*, ed. Bernard Gagnebin, 5 vols. [Paris, 1959–95], 3:347–470, 468).

29. Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. Geoffrey Bennington and Brian Massumi (Minneapolis, 1984), 67.

30. Immanuel Kant, "What Is Enlightenment?" [1784], in *On History*, ed. Lewis White Beck, trans. Beck, Robert E. Anchor, and Emil L. Fackenheim (Indianapolis, 1963), 3–10, 5.

31. Jacques Derrida and Maurizio Ferraris, *A Taste for the Secret*, trans. Giacomo Donis (Cambridge, 2001), 26.

32. Julia Angwin makes a compelling case for this assertion in *Dragnet Nation: A Quest for Privacy, Security, and Freedom in a World of Relentless Surveillance* (New York, 2014).

33. Carol Blum, "Styles of Cognition as Moral Options in *La Nouvelle Héloïse* and *Les Liaisons dangereuses*," *PMLA* 88, no. 2 (1973): 289–98, 297.

34. Habermas's version of universal pragmatics attempts to establish the conditions for the possibility of intersubjective understanding in a theory derived from linguistic competence. A communicative ethic, predicated on a normative ideal like the ideal speech situation, enables the legitimate assertion of normative claims when these conditions obtain. It also establishes normative grounds for critique. See Habermas, "Toward a Theory of Communicative Competence," *Inquiry* 13 (1970): 360–75, and "What is Universal Pragmatics?," in *Communication and the Evolution of Society*, trans. Thomas McCarthy (Boston, 1979), 1–68.

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