Review Committee on Post-Incident Reforms

Final Report
June 14, 2013

Table of Contents

Executive Summary

The Review Committee on Post-Incident Reforms has conducted a general overview of progress made to date on recommendations related to the pepper spray incident of November 18, 2011.

The sheer volume of recommendations (over 100 in all) issued by a variety of groups for the most part without coordination or a central strategy, made a detailed analysis of recommendations challenging. Regardless, the committee grouped issues by category to facilitate consideration of progress within those areas from a generalized perspective.

It is important to recognize those recommendations that are either under the purview of a different group (for instance, the Academic Senate's Freedom of Expression Committee and subsequently the Blue Ribbon Committee on Freedom of Expression) or undergoing a different process of analysis (Robinson-Edley.) With that caveat, the Review Committee on Post-Incident Reforms finds that UC Davis has made commendable progress on a number of fronts in response to the Nov. 18 incident and, based on our review, appears to be determined to make progress in the remaining policy areas.

The Committee wants particularly to call attention to the efforts of Police Chief Matt Carmichael. Under his leadership, the UC Davis Police Department is well on its way to becoming a model of modern police operations and policy. In addition, the areas of Administrative Leadership and Community Engagement have seen considerable progress in improving the organizational climate and operational policies around the manner in which campus demonstrations and emergencies are viewed and managed. Ongoing training and familiarization of campus executives with contemporary emergency response protocols is reassuring, as is the broadening of the decision-making structure to include Academic Senate representatives.

Formation of the Campus Community Council also represents real progress. The orientation toward listening to and learning from the campus community is an important one. The presence of students, faculty, staff, retirees, etc. on the Council provides for a healthy mixture of perspectives and experiences. The Council's monthly meetings serve as an important forum where campus executives can test reactions from a variety of viewpoints and can, in turn, also inform members of the wider campus community about policy changes, emerging trends, and areas of concern on campus.

It is evident that the administration has invested a great deal of time, effort, and resources in improving the campus' ability to anticipate, respond to, and manage potential demonstrations and emergency events. As a result, UC Davis is better positioned to respond to and deal with emerging issues in a positive, professional and pro-active manner. This marks impressive progress, and the campus deserves credit for the vigor and vigilance of its efforts.

However, the task is not done, and there is still work to be completed. We encourage the campus, for example, to remain committed to ensuring progress on those items listed in the Robinson-Edley recommendations and to work closely with the campus community on realizing meaningful and substantive progress on Freedom of Expression issues and protest policies articulated by the Academic Senate and others through an open and transparent public process.

Similarly, we encourage the campus to address the lack of student and/or Academic Federation representatives on the Emergency Crisis Management Team. Their absence undercuts what could be a more broadly inclusive effort, and we encourage the administration to correct this oversight. We also hope and advocate that an institutionalized means of communicating beyond the current list-serve be developed.

The potential reflected in creation of a Police Oversight Board should also be nurtured and developed in concert with the campus community. We advocate an open process for determining what the appropriate model of police oversight is for the UC Davis campus. We encourage the administration to exercise bold leadership in developing an oversight mechanism that is transparent, responsive, and effective in order to enhance police/campus relations and address complaints of police misconduct. Members were curious about progress on the initiative, whether a timeline for completion existed and who would be empowered to make the final decision on the Board's structure and purview. Including all relevant stakeholders in these deliberative processes will prove vital to ensuring the success of these efforts for the entire campus community. The Committee expressed an avid interest in seeing the final report by consultant Barbara Attard when it becomes public.

Finally, we want to make clear that while progress and completion of individual recommendations will make the University more able to respond to and manage crises, changes should be ensconced in policy and operational protocols to make their impact lasting. In addition, periodic training and evaluation of these policies/protocols must be maintained.

We encourage the administration to continue work on the remaining recommendations and to continue cultivating change that will ensure the campus is safe, open, and accommodating to differences of opinion and points of view.

Background

On November 1, 2012, Chancellor Linda Katehi announced the formation of a Review Committee on Post-Incident Reforms to review and report on progress of a series of recommendations made by a number of organizations in the wake of the pepper spray incident of November 18, 2011. The committee, comprised of students, faculty, staff, elected officials and other interested parties, was charged by the Chancellor with the task of reviewing documents, requesting presentations from pertinent staff and faculty and determining whether additional work was needed. The Chancellor asked the committee to conduct "a rigorous and independent evaluation of our progress on recommendations…" The Chancellor also directed that a draft report be issued in March to be followed by a final report by June 30, 2013.

The Committee reviewed recommendations made in the Reynoso, Kroll, UC Davis Academic Senate and Graduate Student Association reports. The Committee also examined a number of the recommendations made in the "Response to Protests on UC Campuses" (also known as the Robinson-Edley recommendations). However, given that many of the recommendations in that report are system-wide recommendations, and that a separate body operating on a separate timeline is charged with the task of reviewing those recommendations, the Committee spent less time discussing them. The Committee did hear a brief and helpful status report on progress made on the "Response to Protests on UC Campuses" from Lynn Tierney, a fellow committee member and person in charge of the review, who described the process and timeline with the group.

The Review Committee on Post-Incident Reforms held five separate meetings, an initial introductory meeting followed by four study sessions. The first meeting of the group took place on January 25, 2013, and was followed by meetings on February 22, March 28, and April 16. Each of the meetings was dedicated to specific topic areas. Members of the campus administration and members of the Academic Senate were invited to testify about the extent of their work, challenges they encountered, and how they addressed them. Committee members were able to question presenters and explore topics of interest to them. In addition, a number of reports and documents were made available to the Committee for its review. (A complete list of the documents comprises the appendix of this report.)

An initial draft report was submitted to the Chancellor on March 28th. It is important to note that the sheer number of recommendations, over a hundred in total, precluded an item-by-item, detailed examination of each recommendation. Recognizing this, the committee chose to focus on a general overview of each of the selected areas:

- Administrative Leadership and Decision Making
- Freedom of Speech and Protest Policies
- Community Engagement
- Police Operations

Task Force members reviewed the recommendations by asking:

- Were the responses / actions taken consistent with the recommendation?
- Were the issues resolved in their entirety? Which issues remain unresolved?
- Are the responses / actions institutionalized in the policies, procedures, and functioning of the University?
- How will present and future students, faculty, staff, administrative leaders, police officers, etc., be oriented to the newly established policies and procedures?

The Committee decided to use a modified SWOT (Strengths – Weaknesses – Opportunities – Threats) analysis by assessing strengths and areas for improvement to assess performance in each of the four categories.

Administrative Leadership and Decision Making

Strengths:

The organization of disparate units and representatives into the Emergency Crisis Management Team (ECMT) was seen as a step forward by the committee, as was the creation and adoption of the Davis Campus Emergency Operations Plan. Among other things the plan:

- Clarifies the role of the Campus ECMT.
- Establishes procedures for activating the Emergency Operations Center (EOC).
- Clarifies the need for coordination and communication between field operations and policy makers.

In addition, the ECMT has the flexibility to expand to accommodate additional points of view, areas of expertise, etc., depending on situation or need. Similarly, staff training and follow-up tabletop exercises in National Incident Management Systems/Standardized Emergency Management Systems (NIMS/SIMS) for ECMT members were also reassuring.

Areas for Improvement:

On multiple occasions a majority of the Committee questioned, amidst the rather robust representation of campus entities on the ECMT, the lack of student and Academic Federation representatives. The Committee maintained that the absence was a correctable oversight and advocated that student and Academic Federation members be placed on the ECMT Staff Support Team. A few members of the committee maintained that the ECMT was already large enough and that informational conference calls to the Campus Community Council had sufficiently expanded outreach. In addition, some members expressed concern that the current means of communicating with key stakeholder groups via a list-serve was not sufficiently adequate for stakeholders to be informed as decisions were occurring or to be able to participate in that decision process.

The group also affirmed the need to ensure that alternative and dissenting voices were accommodated and recognized that it was vital for the ECMT to cultivate an environment where deliberation and discussion were fostered and valued.

Police Operations

Obviously, the group maintained an active interest in police operations and how the department is currently functioning. Some of the questions that arose probed:

- Interest in staffing levels versus need.
- Alignment between campus police policy and procedures and best practices.
- Concern over whether police might now be less able/inclined to engage in a time of need.

The Committee was strongly supportive of the hiring of new Police Chief Matt Carmichael and expressed appreciation for his responsiveness to the recommendations.

Strengths:

The Committee viewed favorably the increased use of students for public safety functions, including use as security for door checks and public events. In addition, the Committee was supportive of the establishment of a student-based police academy as a means of encouraging diversity and greater familiarity with police operations and procedures. The use of increased bike and foot patrols by officers was also lauded by the committee.

Areas for Improvement:

The committee encouraged the Chief to move to an account management model as a basis for re-organizing "beat assignments" within the department. An account management model is a structure in which all officers are assigned as liaisons and are directly accountable for developing and maintaining ongoing relationships within the university community. (http://www.provost.harvard.edu/reports/Committee_Report_on_Improved_University_Policing.pdf)
The Chief agreed with the recommendation but cautioned that it would take time to implement and evaluate.

Other areas of concern were:

- The degree to which new police policies could be enforced and adhered to over time.
- The need to have police policies readily available on-line.
- How police officers might be reacting to the imposition of new policies.
- How could the Committee be sure that cultural changes within the department would remain in place once new administrators took over? The Committee recognized the importance of institutionalizing policies to prevent situations where organizational culture prevails over policy.
- The degree to which the campus interacts and works closely and collaboratively with the City of Davis Police Department seemed unclear and may need improvement in the view of some committee members.

Community Engagement

The Committee was interested in how events/demonstrations are monitored for possible response or intervention, particularly where a group refuses to identify a leader or to engage in communications with administration.

Strengths:

In general, the Committee seemed comfortable with the use of the Engagement Response Team (ERT) as a model for working with demonstrators, particularly on issues of communications and negotiations. The appointment of a campus ombudsman was seen as positive and helpful, as was development of an on-line “Principles of Community” tutorial for students, although there was some question of whether the “Principles” should be considered policy and if so, whether there could be repercussions for failing to adhere to them. Despite this discussion, most members of the Committee seemed comfortable with the notion that the Principles were in fact aspirational and not meant to be interpreted as policy. The administration also sponsored a series of public forums on “Building a Stronger University” to elicit the campus community’s views on how to improve the university. In addition, a number of workshops on “Crucial Conversations” were held to provide training and skill development in fostering constructive dialogues on campus. These outreach efforts on dialogue and deliberation should continue.

Areas for Improvement:

The Committee expressed concern over staffing levels in Student Affairs and whether the unit possessed sufficient staff to handle large or prolonged demonstrations. In addition, the Committee expressed concern over the rapid pace of some demonstrations and whether current preparations could be mobilized in sufficient time to adequately respond.

The topic of a Police Review Board received a fair amount of scrutiny from the Committee. Members asked about progress on the initiative, whether a timeline for completion existed and who would be empowered to make the final decision on civilian oversight structure and purview. The Committee expressed an avid interest in seeing the final report by consultant Barbara Attard when the report becomes public.

Freedom of Speech and Protest Policies

Although the Committee evinced an obvious interest in topics related to Freedom of Expression, it is important to note that this is an area where the UC Davis Academic Senate asked to provide initial input to the administration. The administration received a report from the Executive Council of the Academic Senate's Freedom of Expression Committee on February 15, 2013. The report contained a total of eight recommendations pertaining to freedom of expression and related areas. An overview of the recommendations included:

- Consolidation of freedom of expression policies in one place.
- Specific, graduated responses to violations.
- Reasonable warnings of applicable rules and penalties prior to action being taken.
- Greater education on the First Amendment and what constitutes protected speech and what does not.

Chairman of the Freedom of Expression group, Dr. Randy Siverson, met with the Post-Incident Reform Committee to provide members with an overview of the group's recommendations and to answer questions.

Following receipt of the Academic Senate report, Chancellor Linda Katehi had announced the formation of a Blue Ribbon Committee on Freedom of Expression to consider the Academic Senate's recommendations and to convene campus-wide forums on freedom of speech prior to moving forward. The Blue Ribbon Committee has begun its initial steps toward moving forward.

The Post-Incident Reform Committee appeared comfortable with most of the Academic Senate's recommendations. Two areas that attracted additional scrutiny concerned proposed changes in the campus "Principles of Community" language and a recommendation to examine the degree to which campus security should be provided by armed, sworn officers and how much should be provided under alternative models.

The Freedom of Expression Committee's recommendation No. 7 suggests that the "Principles of Community" requirement to follow a given set of beliefs should be removed. Revising the document to make it explicitly clear that it is a statement of campus aspirations as opposed to requirements would also be helpful, according to the Academic Senate Committee.

The second area that resulted in a more in-depth exploration was the notion of examining the degree to which campus security might be provided through different means than armed officers. Chairman Siverson acknowledged that his own committee had been split on this recommendation. While the Committee was open to promoting campus security through the expanded use of non-armed officers, it also recognized that armed officers remain a necessity, particularly given the recent history of violence on other college and university campuses.

<u>Strengths</u>:

While the group would have welcomed the opportunity to delve more deeply into Freedom of Expression, it seemed, as previously noted, comfortable with and accepting of most of the Academic Senate's recommendations.

The group seems to implicitly understand and appreciate the Principles of Community but also appeared sympathetic toward minor word changes within the document that would clarify its aspirational values over it being misinterpreted as a requirement.

Areas for Improvement:

There was concern among at least some of the committee members over the mandatory nature of the “Principles of Community” online training.

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Members of the Review Committee on Post-Incident Reform

Gloria Alvarado – President, UC Davis Retirees' Association (Chair of the Review Committee)

Robert "R.C." Smith – Senior Law Enforcement Consultant, California Commission on Peace Officer Standards and Training (Vice Chair of the Review Committee)

Ellen Bonnel – Chair, UC Davis Academic Federation

Nathan Brostrom – Executive Vice President for Business Operations, University of California, Office of the President

Dianne Gregory – Chair, UCDHS Staff Assembly Executive Committee

Rob Kerner – Chair, UC Davis Staff Assembly

Joe Krovoza – Mayor, City of Davis

Bruno Nachtergaele – Chair, UC Davis Division of the Academic Senate

Meredith Niles – External Affairs Chair, UC Davis Graduate Student Association

Bob Powell – Chair, University of California Systemwide Academic Senate

Michael Risher, Staff Attorney at the American Civil Liberties Union of Northern California

Rebecca Sterling – President (2012-2013), Associated Students, University of California, Davis

Carly Sandstrom – President (2012-2013), Associated Students, University of California, Davis

Lynn Tierney – Associate Vice President, University of California, Office of the President

Lois Wolk – California State Senator

Mariko Yamada – California State Assemblymember

<u>Delegates</u>

Will Arnold – Field Representative for Senator Lois Wolk

Bradley Bottom – Vice President, Associated Students, University of California, Davis

Tara Lewis – Field Representative for Senator Lois Wolk

Cat Nou – Capitol Director for Assemblymember Mariko Yamada

<u>UC Davis Staff</u>

Gary Sandy, Senior Executive Director, Office of the Chancellor, UC Davis

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Acknowledgement:

As Chair of the Review Committee on Post-Incident Reform, I want to acknowledge the tremendous contributions of Gary Sandy, Senior Executive Director, Office of the Chancellor, and Jen Hester, Program Associate, both of whom, throughout the process, provided great support and research. I am deeply grateful for their work.

Documents Supplied to the Post-Incident Reform Review Committee

1. 2011 Study: Establishing Appropriate Staffing Levels for Campus Public Safety Departments (http://cops.usdoj.gov/files/RIC/Publications/e061122378_Est-Approp-Stfg-Levels_FIN.pdf)

2. CDT Soft-Hands Training Materials (http://www.cdt-training.com/default.htm)

3. The Kroll Report (http://demonstrationreviews.ucdavis.edu/reynoso/index.html)

4. The Post-Incident Reform Review Committee Matrix

5. Commission on Peace Officer Standards and Training (POST) Guidelines for Crowd Management, Intervention and Control (http://lib.post.ca.gov/Publications/CrowdMgtGuidelines.pdf)

6. The Reynoso Task Force Report (http://demonstrationreviews.ucdavis.edu/reynoso/index.html)

7. The Robinson-Edley Report (http://campusprotestreport.universityofcalifornia.edu)

8. UC Davis Academic Senate's Freedom of Expression Recommendations (http://academicsenate.ucdavis.edu/documents/Executive-Council-Spec-Comm-on-Freedom-of-Expression-Report.pdf)

9. UC Davis Academic Senate's Special Committee Report (http://academicsenate.ucdavis.edu/documents/Executive-Council-Motion-and-Letter-including-Nov-18.pdf)

10. UC Davis Event and Crisis Management Team Guide, including:
    - ECMT Organizational Chart
    - ECMT Membership List
    - ECMT Structure Overview and Flow Chart

    (http://safetyservices.ucdavis.edu/ps/ecp/ep/copy_of_UCDEventandCrisisMgmtTeamGuide103012.pdf)

11. UC Davis "Strengthening Campus Community" Forums and "Crucial Conversations" Workshop Handout

12. UC Davis Graduate Students Association Recommendations

13. UC Davis Graduate Students Association Resolutions Passed

14. UC Davis Graduate Students Association Censure Statement

15. UC Davis Police Department Citizen Complaint Form

16. UC Davis Police Department Policy Manual – Draft

17. UC Davis Police Department Video: Student Cadet Academy (http://youtu.be/mP08vDIGbHM)

18. UC Police Department System-wide Policy: Crowd Management, Intervention, and Control