



POLICE DEPARTMENT  
601 WESTWOOD PLAZA  
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LOS ANGELES, CALIFORNIA 90095-1364

March 15, 2012

To: Mitch Celaya, Chief of Police  
UC Berkeley Police Department

From: Jeff Young, Assistant Chief of Police  
UCLA Police Department

Subject: Operational Review of the Events of Police Actions  
Sproul Hall Protests – November 9, 2011

Attached is the final version of the Operational Review of the November 9, 2011 Protests at Sproul Hall. I hope that the University of California, Berkeley community finds it useful as a starting point in current and future efforts to move forward from these unfortunate events. I look forward to community and staff members applying the same passion I witnessed in my review process. If the same level of enthusiasm is committed by all groups represented in addressing the aftermath of this event, I think that success is more than likely.

In conducting this review, I found all your staff members to be open and cooperative in helping me to get the information and access I needed. I was especially aided by Captain Margo Bennett, who coordinated my contacts with community members, witnesses and the logistics of travel and providing work space. I commend Captain Bennett for the quality of her assistance to me and her commitment to the University.

If I can be of any additional service, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Jeff Young".

Jeff Young



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*JY* #301

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**Purpose**

The specific purpose of this operational review is to determine if the UC Berkeley Police Department followed its policies and procedures and generally accepted police and safety practices in dealing with the protests that occurred on the UC Berkeley campus on November 9, 2011. Other purposes that naturally flow this charge include determining:

1. If the actions of the UC Berkeley Police Department provided an appropriate level of preparation and pre-event planning for the protest.
2. If UC Berkeley Police Department command staff, including the Chief of Police, provided adequate leadership and command/control of the protest event.
3. If UC Berkeley campus administration provided adequate direction, guidance and the appropriate support of the indicated direction and guidance that they provided.
4. What actions of the protestors and crowd conditions contributed to the eventual outcomes of the event?
5. What recommendations for future consideration can be made?

Towards that end I have provided as thorough a review as possible based on the available information. It is an open and forthright review of the events that occurred on November 9, 2011. In the end, an individual and professional opinion must be provided. That is the charge of this review.

The findings and recommendations are those made possible, to the best of my ability, based on the review of numerous hours of videotapes of the events, interviews with witnesses, participants or other persons with special knowledge or concerns. These findings and recommendations are also based on my 35 years of experience, training and expertise. My perspective during this review has been especially informed by my six years of experience at UCLA. UCLA and UC Berkeley share many qualities and characteristics as flagship campuses within the UC system. They are the two largest UC campuses and have long histories of social activism on the part of students, faculty and staff. As important institutions and icons in large media markets, they are frequently the setting selected for major political and social events. In managing these large events, the respective campus police departments, at times, rely heavily upon systems of mutual aid, in the form of assistance from other UC police departments and neighboring municipal and county police agencies. These events all have their unique challenges for campus officials. They require skillful management that addresses the need for the participants to express their ideas and examine the issues at hand, while still providing a safe and secure environment for the University to carry on its regular activities and daily operations related to teaching and research. This is a tremendous challenge.

While the information provided by interviews of students, faculty and staff have influenced my findings and recommendations, they are not merged or blended among the opinions or inputs of a committee or task force. They are my own. They are not issued from a source with the special title of consultant. However, they are from someone who has been in the very similar situations many times, over the past three decades. These events occurred between members of an academic environment that must move on from the controversy and again focus on the core missions of teaching, research and community service.

These findings and recommendations are certainly subject to debate and doubt by those that will examine them. They will hopefully not be the last word on this matter, but the first of many. Their purpose is to serve as a beginning point for future discussions and, hopefully, lead to positive changes and reducing the potential for these types of events to be repeated in the future. This hope is partially based on the extreme passion and concern that I found in the people I talked with. They all want things to be better at UC Berkeley. Sharing a common goal is an

important building block for making change. Other learning communities have changed and improved their environments. As this result has been experienced at other venues, I am confident that the University of California, Berkeley, a university that changes lives around the world, can make the changes needed and expressed in this report

### **Need for Timely Review**

At the onset of this review, it was clear that it had to be completed in a timely manner. There were several sources for this sense of urgency:

1. The Police Review Board plans to hold public hearing regarding these events as soon as practical in 2012.
2. The last operational review of controversial police actions, the 2009 occupation of Wheeler Hall, was not issued in a timely manner. During the interviews of several campus constituents, it was clear that the lack of timeliness had a negative impact on how meaningful the report was to those interviewed.
3. Any delay in the operational review of this event would delay implementation of any recommendations from the review or further inquiry into finding solutions.

### **The Review Process**

This review involved numerous approaches. Approximately twenty interviews and follow-up interviews were conducted in person or by telephone. Many of these were tape-recorded. Those interviewed included protestors, some of whom were still facing criminal charges but were willing to provide their perspectives of what occurred. In all of these interviews, the interviewees and I tried to be very careful in our discussions so as not to jeopardize their pending legal proceedings. Also, I encouraged each person interviewed to talk to other protestors and encourage them to contact me by any manner possible and to provide their observations and opinions about what occurred. Some people made initial contact, stating that they would consider talking to me. Unfortunately, only a few more came forward. Other people interviewed were faculty and staff that either witnessed the events or received information they deemed reliable and important to share. I conducted multiple interviews; followed up by several sessions to clarify questions and gather additional information, with members of the UC Berkeley Police Department (UCBPD) command staff.

An important component of this review was the review of related UC BPD policies and procedures and the reports related to the arrest of protestors and the use of force reports submitted by the involved police personnel. Documents related to the review of police action during the 2009 Wheeler Hall occupation and subsequent actions taken to implement recommendations provided in these reports were also reviewed. I also reviewed numerous current and historical reports, news articles and other documents related to crowd management. In all, this extensive review helped me to better understand campus issues and the special problems involved in today's civil disturbances.

The most time-consuming portion of this review was the research for and viewing of videos captured during the protests. Much of the video, especially from Internet sources, such as YouTube<sup>®</sup>, were multiple versions of the same video. However, there were also multiple perspectives provided from different viewing positions of these same events and they were sometimes useful. I took these videos at face value, mindful that they could be edited before being posted on the Internet. I also reviewed videos recorded by police personnel specifically assigned to the protest event.

### **Special Considerations/Contributing Factors**

#### UC Berkeley History

UC Berkeley (UCB) takes a great deal of pride in being a home to the free speech movement from the 1960s. The location of this protest, Sproul Hall, was the site of the speech by Mario Savio in 1964 that is credited with being the beginning of the Free Speech Movement and is part of the legacy of UC Berkeley. This movement expressed the moral idealism of a generation of young Americans. UCB students, faculty and staff have a rich history of working and crusading for social justice. This serves as strong motivation for events such as the one that occurred on November 9, 2011. University of California President Mark Yudof recently supported this philosophy of advocacy, describing free speech as being “in the DNA of the University of California.”

## Recent Controversial Police Actions at UC Berkeley

The UCB campus has a history of controversial demonstrations and corresponding controversial police responses. A more recent notable incident occurred in November 2009 with the occupation of Wheeler Hall and was reviewed by the UCB Police Review Board (PRB). This review resulted in a report, frequently referred to as the Brazil Report, which was issued in June 2010. The Brazil Report studies the roles of the demonstrators, the police and the campus administration, stating that all three share significant and dysfunctional characteristics during the event. These groups are described as "centerless" for much of the day. The Brazil Report provides numerous recommendations for the police department and campus administration, although it does not address recommendations focusing on the roles of demonstrators or the general UC Berkeley community.

A recent event occurred September 2011 at Tolman Hall on the UC Berkeley campus. During this event protestors, who may not have been affiliated with the university developed substantial "shields" disguised as placards in the shape of books. Constructed of wood and styrofoam with special handles, these shields were used as a blocking force against the police officers. A later review of Internet footage showed that this tactic was being taught to anarchist groups throughout the country via the Internet and YouTube<sup>®</sup> videos. During the January 2012 UC Regents Meeting at UC Riverside, there was a substantial physical confrontation with protestors using these same types of devices.

## The Occupy Movement

The Occupy Movement started as Occupy Wall Street in September 2011 and was primarily directed against economic disparities. It has now grown to an international movement directed against a wide variety of societal inequalities. Typical signage at these rallies reflects a variety of topics, from college fees, affirmative action, international politics, taxes, and rights for special constituency groups. There are also the usual mix of counter-protests that represent opposing viewpoints on their own variety of issues. The issue-diverse nature of these groups of demonstrators often make it difficult for police to identify leaders that they can talk to for planning and information-sharing purposes. The Occupy Movement developed a new "general assembly" approach to decision-making. This approach does not lend itself to identifying

leaders who can represent or negotiate for the entire group. This creates communications problems for public officials seeking more familiar types of interactions.

Occupy protests have now occurred in over 95 cities across 82 countries, and over 600 communities in the United States. Many Occupy demonstrations involve encampments or “tent cities” that draw criticism for a wide variety of problems. Occupy encampments have experienced increased levels of crime. The activities associated with these encampments have caused damage to public and private property. These gatherings, at locations not structured to support long-term occupation by large crowds, have resulted in unsanitary living conditions and restricted access, in and out of these areas. Local businesses in the areas of Occupy encampments have reported financial losses. Addressing these poor conditions and public safety concerns has consumed tremendous resources from public agencies. Many of these encampments require a 24/7 police presence, additional traffic control, portable sanitation facilities and frequent cleanup activities by public works departments.

#### Police and Protestor Tactics in the Past

In the past several years, we have witnessed major changes in the way that mass demonstrations and civil disturbances operate. During the 1960’s and the tumultuous Vietnam era, for better or worse, police agencies became well practiced and proficient in handling mass demonstrations. In these demonstrations, like those celebrated in UC Berkeley’s history, the issues in question were usually limited. Demonstrators were committed to drawing attention to their cause and were fairly consistent in their composition and membership. There have always been issues or concerns about radical elements of a movement taking extreme action or using the dynamics of a crowd to create dangerous results. Except in cases of spontaneous eruptions, most demonstrations had identifiable organizations and people leading them. It took time to make the necessary arrangements and advanced announcements were issued in order to generate enough attendance. Many protests, while very demanding challenges for all involved, were conducted without violence. All sides of the issues worked together to prevent violence. Police departments focused on maintaining public safety without adding any volatility to the situation.

Unfortunately, there were also several sensational examples of events that did not go well. In these events, the actions of the police became the focus of protestors and the centerpiece of media coverage of the event. Police agencies learned many valuable lessons during this time. New tactics were developed, shared, trained and applied at demonstrations. The abilities of police agencies to effectively handle civil disturbances improved. However, priorities changed for society and the police. Beginning in the 1980's, there were almost two decades of relative calm related to public demonstrations, protest marches and civil disturbances. The memories of Civil Rights marches, the 1968 Democratic National Convention and Kent State faded. Generally speaking, as a profession, many police agencies across the country were not well practiced in responding to civil disturbances. Crowd control tactics were still taught in police academies but not often used. For the most part, these tactics worked and there was no need for them to change. They did not have to be updated or practiced often. All that changed in Seattle, Washington in 1999.

According to the Police Executive Research Forum's (PERF) 2006 publication, "Police Management of Mass Demonstrations", "Perhaps there is no greater challenge for police officers in a democracy than that of managing mass demonstrations. It is here, after all, where the competing goals of maintaining order and protecting the freedoms of speech and assembly meet. In the historical review contained in this publication, the World Trade Organization (WTO) protest in Seattle is described as a "defining moment in how local law enforcement manages mass demonstrations." There were two key aspects of this event that shocked the country. The first was the intent of the protestors, best demonstrated by their tactics and actions. This group of anti-globalization protestors "conducted a determined program of property destruction and violence against law enforcement officers." The other shocking aspect was the response of the Seattle Police Department. "City residents, media and civil liberty groups heavily criticized the Seattle Police Department for its management of the demonstration". Key parts of the criticism that followed focused on police planning prior to the event (lack of proper police action) and police tactics used against protestors once the chaos and destruction began (police over reaction).

### Police and Protestor Tactics Today

Today's mass demonstrations and civil disturbances are anything but typical. As previously



mentioned, at any given event there will be numerous causes represented in the crowd. Since the events in Seattle, police agencies have updated and improved their tactics. They have placed high priorities on pre-planning for the events and in training their personnel. This planning and training must allow for worst-case scenarios. Police leadership is expected to plan for contingencies within a single event that will address seemingly peaceful events but that can also manage the event if it changes and erupts into serious violence. There are also several special considerations that police agencies must make in today's political and social environment. These include:

- The special considerations required in a post 9/11 society. Besides the actions of demonstrators and onlookers, police have to also be concerned about the opportunity that these events may represent or provide for terrorists to carry out their own agenda.
- Determining if there will be an anarchist or extremist element in the crowd of the event. These types of groups can be opportunistic and join the demonstration with the sole intent of disrupting government or commerce. These groups provide information and training about how to attack police lines and defeat crowd control tactics. Unfortunately, police have to assume that this unprincipled component may be a real possibility.
- Take into account that today's protestors will use today's technology as part of their operations. Smartphones and social media sites such as Facebook© and Twitter© have transformed the way protestors conduct their events. Just like police use their radio systems for communications, protestors use social media as their own command and control system. With a few "tweets", crowd organizers can gather and increase the crowd, change directions and the timing of crowd activities. This technology provides crowd coordination not experienced in the past.
- Allow for real-time media distribution of events as they unfold. Besides the traditional media outlets, scrutiny and criticism will come from new age journalists such as bloggers.

## **Review of the Events of November 9, 2011**

### **Prior Information and Pre-planning**

Campus and police officials became aware of a possible protest in the months prior to November 9, 2011. They frequently checked open sources of information including social networks and websites and talked to affiliated groups and neighboring public agencies. According to these sources the "Day of Action for Public Education" protest, also called "Occupy Cal", would be conducted in a manner similar to other "Occupy Wall Street" protests. There was no one group or organization identified as organizers of the planned demonstration. Protestors were to include

a coalition of student groups and university employee unions, graduate students and representatives from the Occupy Berkeley demonstration in a downtown area less than five miles from the campus. Possible activities under consideration included teach-ins, a campus strike, a rally and a march to protest banks and budget cuts to higher education. There was also information that the protestors planned to erect tents and establish an encampment on campus. The exact location of the encampment could not be determined from the information that was being distributed. Police command staff and University administration exchanged information and conducted meetings to plan for the demonstration.

In advance of the event, Chancellor Robert Birgeneau issued a “Message to Campus Community”. In this message Chancellor Birgeneau warned students that camping would not be tolerated. Birgeneau’s statement reminded “community members of some of the basic expectations for our campus.” He specifically mentioned, “encampments or occupations of buildings are not allowed on our campus. This means that members of our community are free to meet, discuss, debate, and protest, but will not be allowed to set up tents or encampment structures.” The Chancellor stressed support for “our campus community in leading the collegiate movement in a way that is productive, dignified and consequential.” Birgeneau also noted that “in these challenging times, we simply cannot afford to spend our precious resources and, in particular, student tuition on costly and avoidable expenses associated with violence or vandalism. Rather, these funds should be spent on urgent needs such as financial aid for low-income students including those who are undocumented, increased numbers of GSI’s, increased library hours etc.” It is clear that knowledge of Chancellor Birgeneau’s warning was widely known in the community as it was referred to in subsequent news reports, website discussions and communications.

In the pre-planning stage, it was anticipated that several UC campuses would also have protests on their campuses during the same timeframe. This contingency reflected a continuation of a pattern of coordinated protests on several UC campuses at the same time. This is important since UCPD departments frequently provide mutual aid to each other. This allows UC events to be staffed by officers familiar with the campuses and the sensitivities of a campus environment. However, these coordinated protests strain the resources of UC Police Departments throughout the system. Campuses that would normally be able to provide assistance have to keep their

officers on campus in order to deal with their own protests. Anticipating this the UC Berkeley Police Department (UCBPD) had an arrangement with the Alameda County Sherriff's Office (ACSO) to provide squad-sized groups of officers to assist them with significant events. As part of this management arrangement Alameda County Sherriff's Office personnel are equipped in a manner similar to the UC Police Department, not usually wearing the riot gear associated with their own police department. Also Alameda County Sherriff's Office personnel are under the command of UCBPD command staff. This is an important point.

While ACSO personnel still respond according to their own policies and procedures, this arrangement with UCBPD helps ensure that ACSO personnel will respond with the same philosophy and level of tolerance followed by UCBPD. Prior to the operations of these events UCB Police Department command staff conducted a briefing of all personnel including Alameda County Sherriff's personnel and made arrangements for UCBPD personnel to be blended into the ACSO squads in order to improve command and control and to facilitate better communications.

#### Initial Police Deployment

In preparation for the main portion of the protest the UC Berkeley Police Department, with assistance from the Alameda County Sherriff's Office squads, divided the campus up into four general areas of patrol. Teams of officers frequently checked possible protest locations and updated the command post. This plan was initiated because there were several possible locations that could be the venue for demonstrations and the anticipated effort to establish an encampment. The general plan of the UC Police Department was to have proactive patrols of the four quadrants of the campus. These officers were in their routine uniforms and were not wearing riot gear. They were instructed to keep a low-key approach in their public contacts. Officers were instructed to contact anyone they saw that was walking with signs that did not meet campus regulations or who were carrying tents or other types of camping equipment. One such contact was made prior to the noon rally in which a student was seen carrying signage. The student refused to identify herself and was arrested. She was eventually cited for 148 PC, Obstructing a Peace Officer. The objective of this low-key approach was to contact these individuals, establish their intentions, inform them of campus regulations and attempt to gain compliance. Non-compliance by any non-affiliates would result in the confiscation of tents and lodging materials.

## The Noon Rally

The first event that occurred on November 9, 2011 was a rally around the noon hour. According to people interviewed, a group of 300 to 500 students and other protestors gathered in the Sproul Plaza area and began chanting and listening to speakers. The size of the crowd increased during this time. An estimated 800 protesters, some chanting and drumming, left the rally at Sproul Plaza moving toward Telegraph Avenue, marching through the immediate Berkeley business district surrounding the campus. Marchers wrapped yellow caution tape around the Bank of America building on the corner of Telegraph and Durant avenues. Protestors were away from campus for at least an hour. This portion of the day's activities was without any controversy or conflict.

## Protestors Return to Sproul Plaza

Protestors returned to Sproul Plaza to conduct more demonstrations and to hold a "general assembly" to determine what their next steps would be. The crowd was estimated at several hundred. Sometime around the 3:00 hour some type of general assembly vote was conducted. In the general assembly format, groups of protestors formed smaller subgroups and discuss the issues at hand. The main issue at hand in this particular case was whether or not to set up tents or an encampment in the Sproul Plaza area. The votes of all the groups are tallied and the results are broadcast to the group. Of interest is the fact that there was a high percentage of approval required by the general assembly for this vote. According to one witness interviewed, the group required an 80% vote to support an encampment. The general assembly vote eventually did approve the formation of an encampment. Through monitoring social networks, police personnel learned that the group had decided they were going to set up an encampment. This information was relayed from the Operations Center to police personnel at the event.

## Early Encampment Efforts

Police personnel began to be more attentive to anything that looked like an effort to set up an encampment. [REDACTED], who was commanding the field personnel for this event, and was in full police uniform, was the first officer to see people setting up tents. According to [REDACTED], he looked over to the steps of Sproul Hall and saw "people carrying large items." He contacted the first several people that were there and said, "you know,

camping's not authorized on campus, you're well aware of the fact that the Chancellor and the administration told you this, you know, several times over the last week or two.” ██████ describes the response of the protestors as “they basically said screw you, we don't care, we're setting up camp.” The protestors began unpacking their camping gear and started the early stages of erecting tents. As he was alone, ██████ called for assistance. After a few additional officers, in full uniforms, arrived there was “a little bit of a standoff.” Officers grabbed a couple of tents but were “quickly surrounded” by demonstrators. ██████ sensed that an unsafe situation was developing. He noted that the small numbers of officers were being surrounded by a growing number of demonstrators. The demonstrators were shouting insults and trying to pull the tents from the grasp of the officers. At ██████’s direction, the officers grabbed as many tents as possible and quickly left the area. The Operations Center received information that demonstrators brought additional tents and erected up to seven or eight. The encampment was erected, probably within about thirty minutes of the initial incident.

### The 3:30 Confrontation

Once the encampment was established the crowd continued to grow in size, with a large number of them concentrated near the encampment and the front of Sproul Hall. At some point, a designated member of the UC Police Department command staff used a bullhorn device in order to issue warnings to the crowd. These warnings advised protestors that camping and encampments were strictly prohibited and that they would not be allowed to remain. The official also warned the crowd against interfering with any actions by police officers in the performance of their duties. There was at least one advisement that used the standard Unlawful Assembly language that is standard procedures. At times, the crowd attempted to shout over the police official as the announcements were made. These notifications were made several times via the bullhorn. The official also broadcast the warnings by a system where the crowd repeats what the speaker is saying. This is called “mic check” and is a common practice in demonstrations that use the general assembly approach to communications. It did not appear that any demonstrators intended to leave the protest location.

At around 3:30 p.m., police department personnel formed into squads, some on the north side of Sproul Hall and in view of some of the protestors. Upon commands, the squads deployed into

formations and took action to remove the tents from Sproul Hall. The squads were approaching the tent area encampment from two different directions (north and south). The plan was for the two squads to meet in the middle of the grassy area and then move the crowd away from the tents. Once a suitable perimeter was set between the crowd and the encampment, the plan was to remove all tents and lodging/camping items. The police plans did not call for the arrest of any protestors as long as there was no serious interference from the crowd. The main objective of the police plan was to remove the encampment.

As this operation started, the police officers immediately encountered significant resistance in the form of protestors locking their arms and refusing to move. Protestors failed to follow the directions from the police officers. As the police line pushed against the line of protestors, the protestors held their positions or pushed back against the officers. In response to the officers approaching from the north side of Sproul, protestors moved to block the officers' movement. The officers were trying to move in a column around the protestors, between the crowd and the bushes bordering Sproul Hall. As a result of this blocking move by the crowd of protestors, the line of officers from the north was halted in their forward motion. As a result of this resistance, this column of officers flattened into a line across the lawn area in front of the protestors. Members of the crowd can be heard chanting, "hold the line".

For some time there was a stalemate in this action while the officers were attempting to form a solid line and link with the group of officers that had approached from the south. Officers tried to go around the tip of the crowd by going behind a hedgerow of large bushes. Members of the crowd pushed themselves into the hedge and blocked the movement of these officers. When the line of officers was eventually established they were delayed in their position for several minutes. At one point this squad of officers began to attempt to move the crowd by using their batons. In doing this, the officers used a form of baton strike that is meant to move a member of the crowd backwards. As officers make the strike, they are, at the same time, giving orders to "back up" or "move". Many protestors used backpacks and a few used skateboards to block the baton jabs by the police officers by placing them in front of their bodies. In some of the videos reviewed, protestors are seen trying to grab the police batons, pushing back against the line of officers and also moved in a lateral manner in order to block officers trying to go around the crowd by going behind a hedge of bushes. This was the point of the greatest conflict between

the crowd and police officers. Several protestors were physically pulled out of the bushes and removed from the officers' path. These protestors were taken into custody.

During this same time, the squad of officers coming from the south side of Sproul Hall encountered some resistance during their initial contact with protestors. In spite of this, this squad of officers reached the encampment area fairly quickly. A few protestors were arrested in the initial contact. The officers established a partial perimeter around the encampment, but could not link with the squad of officers from the north. In order to keep protestors from returning to the encampment, this squad had to focus their attention on maintaining the separation between protestors and the tents. They were cut off from the officers to the north and surrounded by part of the crowd. This created a sense of urgency by officers in the squad from the north. This was the point at which the officers from the north used their batons to move the protestors. The two squads of officers needed to join and establish a stable perimeter. At one point, the crowd near the encampment can be heard chanting, "watch your back" to the police officers.

Eventually the crowd was moved to a position far enough away for the police officers to control the area of the encampment. As a line of officers restrained the crowd, a team of officers broke down the tents and removed them from the scene. Once this was accomplished the officers left the area, returning to their previous staging locations. This was a tactical decision based on the limited number of police officers available to maintain control of this location. Command staff also believed that maintaining a police presence, in riot gear, at the scene would agitate the crowd, causing it to grow in size and hostility. Leaving the location allowed protestors to, once again, populate the grassy area of Sproul Plaza. Within a few minutes of this occurring at least one or two tents reappeared in the grassy area in front of Sproul Hall. During the confrontation, six protestors were arrested. Those arrested during this incident were transported to the City of Berkeley jail and later processed.

#### The 9:30 Confrontation

The demonstration continued for the next several hours. Crowd estimates vary from 600 to over 1000 protestors. The protestors continued with chanting and shouting throughout most of this time. Campus officials held discussions with the police and student leadership and developed a proposal to present to the crowd. The proposal was a result of a meeting between the campus

administration, leaders of student organizations and the police chief. The proposal was to allow the crowd to stay in Sproul Plaza as long as they wanted. Protestors were told they could stay 24/7. Included in the proposal was a provision for allowing a symbolic tent. However, continuation of the encampment was not going to be allowed. Student Affairs Vice Chancellor Harry Le Grande presented the campus administration's proposal to the crowd at around 6:30 p.m. The crowd was very loud and hostile to the speaker throughout Le Grande's announcement. It was clear that the crowd had no intention to voluntarily dismantle and remove the encampment. The proposal was rejected immediately.

Police then developed a plan similar to the one used earlier in the day. Prior to taking any action, a designated police official made several announcements declaring the event an unlawful assembly and warning protestors that they would be subject to arrest if they did not leave the immediate area. In this case, police used the more formal and standardized unlawful assembly advisement. Few, if any of the crowd left the area

At approximately 9:30 p.m., squads of police officers were deployed into skirmish lines and moved the crowd away from the area of the encampment. The police were much more effective than they had been in the earlier confrontation. They fairly quickly gained control of the grassy area in front of Sproul Hall and the plaza area at the steps of the building.

There are several reasons why this action was more effective. Command staff had arranged for more ACSO personnel to come to the campus. They also called for more mutual aid personnel from other police departments. This increased number of police officers was more appropriate for taking this kind of action. Unlike the earlier conflict, the crowd did not become aware of the police formations until just before deployment. Also, the police moved more decisively and had contingencies in place for arresting protestors. During this confrontation 32 protestors were arrested. The encampment was dismantled and removed from the scene. The police established a solid perimeter around most of the front of Sproul Hall and remained in place throughout the rest of the night. Over the next several hours the crowd size diminished. During this time the arrested protestors were processed and transported to jail. The police presence was discontinued at approximately 7:00 a.m.



## **Aggravating Factors on November 9, 2011**

### **Extreme Frustration and Lack of Trust Regarding Past Events**

It was clear from my interviews and discussions with members from students, faculty, staff and the police that all parties are extremely frustrated with each other and the administration of the campus. This frustration has created a situation in which most parties have little confidence that meaningful change can come from this or any other review. These low expectations make it important that positive change, probably by several different definitions, does occur.

Frustrations expressed included the lack of any meaningful changes after the 2009 Wheeler Hall occupation, lack of consistency in the prosecutions for criminal offenses and administrative sanctions. Administrative staff voiced frustration with blanket amnesty for students before any proceedings or review of past and present student conduct.

### **No Clear Protestor Leadership**

As previously discussed, the general assembly approach and Occupy format makes identifying leaders or event organizers very difficult. This creates special problems for members of the police department and campus administration. A basic tenet of pre-event planning is to establish lines of communications with the organizers of demonstrations. This allows officials to learn the goals of the organizers and assist them in making their event as successful as possible, while still ensuring public safety and normal business operations for non-participants and businesses. Even if agreements cannot be reached, basic ground rules and expectations can be expressed. In the event things become too disruptive or turn violent, officials can readily make contact with these leaders and work with them to reduce problems and eventually end the event in a peaceful and lawful manner. This leaderless concept creates a huge obstacle to effectively coordinating the efforts of all community members involved. It is especially troublesome for a university setting in which so much depends on high-quality communications and understanding.

No leaders emerged or identified themselves at the November 9, 2011 demonstrations. Formal leaders of students groups, such as Associated Students and Graduate Assembly, were involved in meetings with administration but had no influence on the demonstrator side of planning for this event. [REDACTED], had made tentative arrangements with some of the leaders to meet with campus administration on Monday,

November 7, 2011. However, at the last minute, these leaders pulled out of the meeting. The reasons cited were that they had not had good experiences in trying to meet with campus officials in the past and that there were no real leaders to send to the meeting. They also expressed concern that anyone identified as a leader could be retaliated against by campus administration.

#### Concerns About Involvement by Occupy Oakland

Immediately prior to the planned demonstrations there was information that the Occupy Oakland protest was likely to be closed down by the police. The Occupy Oakland camp, like many other camps in major cities were draining city resources, disrupting and threatening nearby businesses and presenting real dangers to public safety. It has been the scene of criminal activities, including drug violations, repeated violence and a murder. There were also issues of public health that involved garbage, human waste and other unsanitary conditions.

Among the UC Berkeley police and administration there was a real concern about a large contingent from a closed Occupy Oakland moving to the Occupy Cal location at Sproul Plaza. Affiliations between the two groups were indicated by previous Internet communications on social networks. Campus officials were rightly concerned that even the relocation of a small group of Occupy Oakland would provide the foothold for a larger and long-term problem at one of the most important gateways to the UC Berkeley campus.

#### Lack of Support by the City of Berkeley

While UC Berkeley officials were building their plans for addressing the demonstrations, City of Berkeley officials told them that officers from the Berkeley Police Department would not be provided for any mutual aid request. News reports stated that city officials “citing excessive force and free speech violations by police during protests in Oakland and at UC Berkeley, refused a mutual aid agreement with university police and nixed agreements with other police agencies on regional domestic surveillance.” The renewals of these agreements “usually are approved each year without fanfare.” This was an unfortunate matter as it removed a valuable resource for UC Berkeley officials and the UCBPD command staff. The City of Berkeley officers are more familiar with the campus and dealing with the campus population.

## **Community Member Perspectives**

I have chosen to use the term “community member” to describe perspectives and beliefs expressed by people that I held discussions or with whom I conducted interviews. Those with specific roles in these events are identified.

## **Student Community Members**

I interviewed several current and former students some that were members of student leadership groups representing undergraduate and graduate students.

It was clear that many students thought that they were there to commit acts of civil disobedience and, at some point, would be arrested by the police. They did not anticipate being approached by such a large number of officers. Some pushing with the batons was to be expected but they were totally surprised when the officers began striking them with the batons. In the words of one student, “I was part of that front line – and when an officer was able to pull someone out of the front line, they would be arrested. And I found it strange because, personally I felt that, you know, as part of the protest I was ready to be arrested because that’s part of the process... However, I wasn’t really given the offer or chance to be arrested... So that’s what surprised me.”

Most students that I talked with thought that the officers used too much force. One stated, “I certainly didn't see any, any immediate threat ... from any of the students and, and faculty and other protestors gathered. Uh, was actually quite, uh, peaceful and celebratory... I didn't see anybody ... fight back. I saw no aggression from protestors, only from police.” Other students stated that they saw no need to use baton strikes against people on the front line. They said that they had been told that police would use “the least intrusive means possible” and expected some dialogue to start off. Some believe that the baton strikes were too forceful and did “lot of the damage” to protestors. Several students also voiced concern that mutual aid officers were much more forceful and “aggressive” in the tactics they used. One student suggested that the police may have been surprised by the level of resistance they encountered and the “kinds of ... bludgeoning that people were facing in parts of the, in locations where ... it’s not clear ... what essentially tactical ... purpose ... the police officers were trying to accomplish.” By some witness accounts some police officers were hitting protestors in the head area or were beating

them with batons while they were on the ground. (Note: my review of the videos did not display any such police actions, but these witnesses are adamant about what they saw.)

An issue that was raised by several students was the lack of any meaningful changes after the 2009 incident at Wheeler Hall. They were disappointed that the Brazil report “took almost two years to be issued.” (Note: The Brazil report was actually issued in seven months, on June 14, 2010). There is also widespread belief that no action had been taken to make the changes recommended in the report. (Note: An status report updating the progress made on implementing the recommendations of the Brazil Report was issued just a few months prior to this event.) There was a commitment to establishing on-going dialogue that, to many, has not yet occurred. They point to a lack of dialogue, “condescending e-mails”, before these events and the “ultimatum” by Vice Chancellor Le Grande presented to the protestors during the evening protest as prime examples. Students were also very offended by post-protest statements by police and campus officials about the student actions. These students were interpreting these comments as saying “linking arms as a form of violence.”

Several student concerns expressed about the effectiveness of the Police Review Board meetings. It is a “source of frustration that only one student is a part of that board”. (Note: there are actually two students positions on the PRB, one graduate and one undergraduate) Some students thought the PRB needed more authority as they can only make recommendations and not actually change policies. “It’s very challenging for many of the students to believe that any real changes will happen when the police review board only has power to really make a recommendation and not an actual decision about any sort of policy.” Some believed that the PRB should invite students to come tell their stories rather than just review the reports on incidents that occur.

Some students expressed concerns about having extreme distrust of the police department. They point to either their personal experiences or incidents they have heard about happening to other students. For example, one student believes that “between four to five something like that, students who were actually visited at their homes by the police who weren’t, hadn’t been arrested, ... police came to see them at their homes and it wasn’t clear why basically like when, uh, um, there wasn’t, it wasn’t apparent like what, like the authority or what the purpose?” They

also pointed to prior incidents where signs and leaflets posted by students had been removed by police officers or people were being prevented from chalking sidewalks. These students think that these kinds actions don't seem to draw much official attention unless they are just before a big event. They are treated as minor issues. They point to this inconsistent enforcement, as proof of a pattern of action taken by the police and administration that they believe is "politically motivated."

Two very politically active students raised questions as to why protestors, when arrested, are processed in a way that adds more time and inconvenience to the process. One described an incident some time before this incident. She was arrested on a warrant and taken to the Berkeley jail. Jail personnel suggested that she be released pending a hearing. However, the arresting UCBPD officer stated, "he'd rather have me in jail over the weekend." A protestor arrested on November 9, 2011, was adamant in his belief that the police purposely inconvenienced the protestors arrested at the evening protest. They were all transported to the Alameda County Jail rather than the Berkeley jail or simply cited and released. These students believe this was a punitive decision by police personnel.

All this demonstrates that there is a high level of distrust between some students and the campus administration and UCBPD. This ranges from mild discomfort to concern that police officials are conducting surveillances of student activist and reading their e-mails. Some students reported that police made remarks saying, "you have no rights", and "being able to come to their homes, whenever they needed to", and made reference to how the students' behavior would be viewed by the student disciplinary hearing, doing the pre-booking activity at Sproul Hall. Several of the issues, such as why bookings are done at different locations, are related to logistics and the capacity of the local jail. These issues could be easily explained; if there were effective lines of communications were in place. One student reported that when he came in to file a complaint that the officer he contacted was "extremely disrespectful and dismissive."

While the incidents on November 9, 2011 did damage to relationships with some students, there are some that are hopeful that this will provide an opportunity to improve relationships and look for creative "looking outside the box" ways to handle future demonstrations.

## **Faculty and Staff**

I talked with faculty members, who, by the nature of their position, hear the opinions of many other faculty members. Several faculty members did attend some portions of the events of November 9, 2011. Some talked with students and tried to diffuse some of the anger and frustration that they sensed from the students. One faculty member recalls suggesting that they stop “pushing” or quit “crowding” the police. They tried to “engage them (protestors) in conversations to express their concern”. They also talked about “civil disobedience, resisting arrest and obstructing justice.” Some of their comments were not well received by some of these students and non-student protestors. One faculty member advised the protestors, “that if they really felt they needed to get arrested that they should do so cooperatively and not confrontationally.”

A telling follow up comment was that this faculty member felt “sad that that's not the dynamic that this group of students could produce.” This was partially due to the fact that “it was a pretty mixed group of students ... and/or protestors” ... “which is to say that I think there were students there who were very, you know, had peaceful intentions and I think there were clearly people there who did not have peaceful intentions.” She added, “ some of these protestors... was a people who were looking for a fight ...” This faculty member stated that she understood the concern for the establishment of an encampment. These were related to safety concerns, violent or self-destructive behavior and the cost associated with an encampment. She was aware that “they were calling in reinforcements from, from Occupy Oakland and I think we were aware of the fact that that was going on.” All of this was discussed at several meetings of groups of Deans and Vice Chancellors. Academic administrators were encouraged to attend the protest, “to either witness or to help diffuse confrontation.” In her opinion, except for a few dissenters, there was a widespread belief that permitting an encampment to be established was a bad idea for the campus. This message was broadly distributed through the deans’ offices to their faculty. Faculty members were encouraged to have discussions with their students about these issues.

One faculty member offered a different view. It was clear to him that the prohibition against an encampment had been widely publicized. However, “as a faculty member I have to say, ... it was never made clear... in any public statement by the administration for the event, ... why the

tents were... so deeply unacceptable and no, no statements were made to... prepare the ground for the kind of force that was used to clear the protestors guarding the tents and to clear the tents.” In his opinion, the campus has been in turmoil since the summer of 2009. The budget cuts have created “deep concern” and “distress” that has all parts of the campus agitated. The protestors and the tents were certainly a “provocation”. However it was, in his opinion, “deeply unfortunate that the provocation was responded to in the way it was responded to”. He was troubled by “the spectacle of that number of police in full riot gear, ... causing physical harm to students and faculty.” This faculty member was very concerned when he stated, “this was a... university protest, um, that was greeted with a kind of force you imagine would be used in an urban riot for hostage taking or a bank robbery and the spectacle of that ... has so shaken undergraduates, graduates and some faculty ... damaging the mission of the university which is to make, uh, those who are in it, staff, students, faculty, um, feel safe and secure.” He also described these incidents as a “tragedy and shame for which many sides are responsible ... that the spectacle of the university going at itself seems to be so unfortunate in a time of, um, diminishing resources,”

I talked with the [REDACTED]. He watched parts of the daytime protest from an upstairs meeting room window. He did not think that he had the expertise to offer an opinion about the level of force used by the police. In his opinion, this was an individual decision that officers have to make based on their training and the situation.

[REDACTED] is very concerned about how low the level of dignity and respect has diminished on campus. He described a real lack of civility at these kinds of demonstrations. He added that there is a “real warped sense” of what freedom of speech means at UC Berkeley. [REDACTED] confirmed that there was a great deal of concern about the Occupy Oakland crowd coming to the UC Berkeley protest. He recalled hearing that flyers were being distributed at the Occupy Oakland site inviting people to the Berkeley event. He viewed the crowd several times and thought that there were a fair number of non-student protestors. He described a “pronounced outside influence coming in with the group.”

[REDACTED] was very complimentary of the UCBPD. Having worked with five different campus police departments, in his 25-year career, he stated that UCBPD was the most

professional police agency with which he has worked. According to [REDACTED], there are good communications and working relationships between the police and other campus entities. However, [REDACTED] thinks that these situations are made more difficult by inconsistency on the part of campus administration. He added “The issue is that we, we consistently change our mind, so we tell Mitch and the gang (UCBPD) to do one thing, and then we change our mind, and then we change our mind again. So it is both the level of consistency that we, that we do what we mean and we mean what we do, and we cannot keep changing our minds at the whim when things could become difficult.” [REDACTED] also had issues with the blanket amnesties that have already been issued for student protestors at this event, “now you’ve given amnesty to everybody. So now student conduct, [REDACTED], is hampered because you have moved the bar that as long as you are peaceable. I’m sorry, when you link arms and you say “hold the line”, that is not peaceable.”

### **The Police**

I talked with or interviewed several members of the UCBPD. These police personnel all believed that they are properly trained in the subject of Crowd Control. Many of them have responded to several mutual aid calls in their time at UCB. They also believe that the Alameda County Sheriff’s Office personnel work well with them at campus protests. All the officers I interviewed believed that they and their fellow officers used the necessary force to overcome the resistance they were facing from the crowd. They did not use the force for the purposes of intentionally inflicting damage or harm. They did what they were asked to do, remove the tents.

Several officers expressed disappointment in the reaction of the campus administration after this event. Since this type of operation was likely to result in confrontation, the university should realize the implications of what they had asked the police to do. This is especially true since the use of any chemical agents or OC spray was strictly prohibited. One officer interviewed recalled explicitly asking for clarification on this point as they “went over the rules of engagement.” He wanted the command staff to confirm that, “that only leaves us with our batons. I said so I need to hear it. You’re saying that we use our batons because there’s nothing left?” In this officer’s opinion, the use of OC spray could have been a “tremendous” help and would have likely reduced the number of people injured.



Throughout the process of this review, I had contact with many members of the UCBPD. A consistent theme that I heard in their comments was that they were tired of being cast as “the bad guy”. They provide a high level of service and work hard daily to make the campus as safe as possible. Many feel that all their good work gets overlooked when these kinds of conflicts occur.

### **Summary of the Operational Review**

This review involved an extensive review of the UCBPD operations on handling the protests of November 9, 2011. This included a review of the level of pre-planning, the sufficiency of the plan developed and how the plan was executed and adapted as the situation evolved. I reviewed all documents related to the operational plan and the use of the Incident Command System (ICS). Use of the ICS is the standardized and accepted practice in handling these types of events. I reviewed all the arrest reports and use of force reports submitted by UCBPD personnel. I also reviewed several citizens’ complaints submitted to UCBPD after this event occurred. I also reviewed all the UCBPD policies and procedures related to Use of Force, Crowd Management and any other related to issues concerning how UCBPD personnel acted in handling this incident.

As part of this review, I conducted over twenty interviews and follow-up interviews of members of the student, staff and faculty of UC Berkeley that were actively involved in the protests of November 9, 2011. This included actual participants, witnesses, faculty members with information that they had obtained by the nature of their positions and command staff and supervisors of the UCBPD.

In examining how UCBPD conducted their operations related to this event, I also reviewed a wide variety of manuals and publications from law enforcement and police professional organizations that set forth or provide guidance related to the standard and recommended practice of police agencies in conducting operations related to mass demonstrations. This included information related to best practices and police training in crowd management and handling planned and spontaneous demonstrations, protests and riots. These publications are included in the list of references at the end of this report.

## **Discussion of the Findings**

First, it is important to note that some of these findings will be controversial from the start. This is unavoidable. This is based on the fact there is no way to reconcile the divergent and passionately held beliefs of the groups of the UC Berkeley community representative of the people I interviewed. Parties on different sides of the conflict experienced the events through their own filters and belief systems. Each side had unmet expectations about how things would go during the event. When the event did not go as expected, disappointment and even rage were added to the belief systems that shape the participants' perceptions. Few, if any, will yield on these issues. It is my hope that these beliefs can be set aside for a time and the concerned community groups can begin to work together towards better relationships and communications. Otherwise, these types of unfortunate events will occur again.

All parties involved in this event have a share of the responsibility in how tragically it ended and the devastation to the relationships that still linger to this day. There were misjudgments on all sides. Many were inevitable due to the built-in lack of communications between key organizers and the officials from campus administration and the police department. Protestors, beginning at the 3:00 demonstration, expected to commit their acts of civil disobedience and then be arrested. The police had no intention of making mass arrests. Their goal was to prevent the establishment of an encampment or to dismantle any tents that were erected. Neither party knew the others' intentions. The traditional relationships and information-sharing systems were not in play for this event. This fact alone probably doomed it for tragedy.

### **A word about terms such as “Passive Resistance” and “Non-Violent”**

“Passive Resistance” and “Non-Violent” are controversial terms that mean different things to many different groups. The UC Berkeley Police Department “Crowd Management Policy” provides definitions for three categories of demonstrator response to police orders:

1. Compliant – behavior consistent with submitting to lawful police orders without resistance.
2. Non-Compliant – non-violent opposition to the lawful directions of law enforcement during an arrest situation (sometimes referred to as “passive resistance”).
3. Active Resistance – intentionally & unlawfully opposing the lawful order of a peace

officer in a physical manner (i.e. tensed muscles, interlock arms/legs, pushing, kicking, etc.).

Viewed under these definitions, the actions of the crowd on November 9, 2011 were “active resistance.” However, it was clear to me during my interviews of several protestors and witnesses said that they did not see protestors interlocking their arms and pushing back against the line of police officers as anything other than “passive resistance.” This is a misconception held by many. In most cases, the police have a very different definition of passive resistance. Any action other than a protestor passively sitting or standing and going limp is usually considered more than passive resistance.

For example, the UCLA Police Department Policy 300, “Use of Force” provides specific detailed definitions of active and passive resistance:

**Actively Resisting** - Evasive physical movements to defeat an officer's attempt at control, including bracing, tensing, pushing, linking arms or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

**Passive Resistance** - Actions that do not prevent the officer's attempt to control a subject. For example, a subject who remains in a sitting, standing, limp or prone position with no physical contact (e.g., locked arms) with other individuals. A subject in handcuffs meets the definition of passive resistance if: (a) the subject is in a sitting, standing or prone position as directed by the officer and is not engaged in any motion reasonably likely to injure, resist or remove the handcuffs; or (b) the subject is walking accompanied by and following the directions of an officer.

A subject who, while sitting or standing, has locked arms with another subject is not engaged in passive resistance but is engaged in active resistance to obstruct. A subject who has previously engaged in passive resistance but who subsequently engages in behavior such as flailing, kicking, elbowing, head butting, biting, shoving, jerking, pulling away, twisting or other action that an officer interprets as a threat or actual act of active resistance is no longer considered to be engaging in passive resistance.

Clearly, protestors standing with linked arms are not engaged in “violent” acts. However, that is not an accurate description of what occurred in many instances viewed on the videos. Some large segments of the protestors with linked arms pushed back against the police line. At some points, the crowd surged, forcing the police officers to stop or lose ground. Part of the line of protestors moved laterally to block officers from going around them. In the minds of many who viewed the videos of what occurred, the only violence was committed by the police officers. But police officers are authorized by law to use force (violence, in the mind of the protestors) when

faced with overcoming resistance while engaged in the performance of their duties. The use of this force is limited. Officers shall use only that amount of force that is objectively reasonable, and will be judged by the standard of a reasonable officer in similar circumstances. (*Graham v. Connor*, 490 U.S. 386 (1989)). Reasonableness of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation. The events of November 9, 2011 certainly meet the criteria of “tense, uncertain and rapidly evolving”.

There are some uses of force that are especially difficult to view. I am specifically referring to three instances where protestors are pulled by their hair as a control technique. Pulling the hair is an approved and very effective technique when justified by what the officer is facing. In all but one case, the pulling of the hair seemed reasonable. One protestor appeared to be clinging to some bushes. In the other case, an officer already handcuffing one protestor has to reach up and grab a protestor passed to his location by front-line officers. Trying to control two prisoners, while in a kneeling position is very difficult. The officer likely just grabbed what he could to move the second subject while not losing control of the first. In one case, not involving a UC Berkeley officer, the justification for using this technique does not readily present itself. However, it must be reviewed in light of the circumstances the officer was dealing with and his perceptions at the time.

## **Findings**

### **1. Prohibiting a traditional “Occupy” encampment was appropriate.**

Allowing an encampment to be erected anywhere in Sproul Plaza or any other location on campus would have had dire consequences. Almost without exception, every Occupy encampment across the country has associated crime, violence and unsanitary health conditions. Once established, these encampments can last for several months and take aggressive police action to close down. This would have been costly for UC Berkeley to manage and taken valuable resources away from routine operations. UC Berkeley has a long history of dealing with encampment events and these experiences created great difficulties for campus operations.

In pre-planning events, a review of past experiences and similar events is always important. Sproul Plaza is a major gateway into and out of the campus. An encampment could have disrupted operations at major student services centers, classrooms and administrative offices. Prohibiting such encampments is a long-standing practice at all UC campuses and camping is strictly prohibited by the California Education Code.

It is most important to point out the potential risk that this encampment would create for the UC Berkeley student population. Even if one believes that public officials exaggerate the reports of blight and crime at other Occupy camps, allowing any level of risk for a vulnerable community would be unacceptable. The encampment would have been an attractive event for some members of the UC Berkeley student body. This is especially true of freshman and transfer students. Many parts of Occupy encampments are hidden from routine viewing, especially inside tents and makeshift structures. This would have exposed a very vulnerable part of the UC Berkeley community to undue and preventable risk.

## **2. Pre-Planning for the event was adequate.**

Police command staff and campus administration completed an adequate amount of pre-event planning for this event. They monitored the usual open sources of information and held discussions with the typical campus groups and organizations. The level of planning was hampered due to lack of credible information about the plans of the protestors. Also, the uncertainty about the exact location of where the encampment would be attempted made planning more difficult. This was mainly due to their inability to identify and contact bona fide leaders and organizers. This lack of open lines of communications had a negative impact on all aspects of the events that occurred. This communications issue limited the amount of dependable information that the police and campus administration could gain about the protestor's plans and intentions. This will likely hinder on-going attempts to resolve issues regarding what occurred. While there are additional pre-planning actions that could have been taken, discussed below, there is no certainty that these actions would have significantly changed what eventually happened.

**3. The level of command and control by UCB Police Command Staff was appropriate.**

The Chief of Police and his command staff exercised an appropriate level of command and control over the police response and their staff. Before the first deployment of the blended squads (UCPD and ACSO officers) personnel were briefed by Command staff, a Captain and two Lieutenants were at the scene directing police activities. A Captain was in the Emergency Operations Center (EOC). Chief Mitch Celaya was with the Executive Policy Group and in constant communications with the EOC and monitoring police communications. For example, through the Police Department chain of command, a request to use OC spray from front-line supervisors was routed to Chief Celaya, who denied approval of the use of OC spray. This was a difficult decision that was influenced by the previous discussions with campus administration. The use of OC may have been very effective if used at the main point of conflict at the first confrontation.

**4. Police Actions were generally in compliance with policies and procedures**

Generally speaking, the University of California, Berkeley Police Department acted within the provisions of its policies and procedures in responding to the actions of demonstrators at the November 9, 2011 event. The images captured on Internet broadcasts and police videographers were indeed graphic and hard to watch. Additionally, many of the nighttime videos were poor in quality and distorted by flashes of light. However, the videos that I reviewed did not confirm any allegations of excessive uses of force on the part of UCPD personnel. The crowd control techniques used, specifically the use of baton strikes and jabs, were within current UCPD policies. The protestors can be seen with interlocked arms, tensing their muscle (granted, a natural reaction to a baton strike), grabbing at officers' batons and moving to block officers from going around the crowd. By definitions previously discussed, these actions are active resistance. The videos viewed do not show any intentional baton blows to prohibited parts of the protestors' body. For the most part, officers appear to use a jabbing motion. In some cases, the protestors are grabbing the batons and officers are using retention techniques. In some instances, protestors and witnesses allege they were purposely struck in prohibited areas of their body. To this point, videos that support these allegations have not surfaced. Shouts from the crowd, such as "hold the line", make it clear that they do not intend to comply with officers' orders or willingly leave the area of the tents.

Some of the “warnings” issued by police officials at the 3:00 protest may not strictly comply with applicable laws related to unlawful assembly. However, the police had no plans to arrest cooperative protestors. There was at least one standardized Unlawful Assembly admonishment made via bullhorn by a Police Lieutenant. The warnings given at the 9:00 protests were much more clear and concise and they followed standard procedures.

**5. UC Berkeley Police Department followed standard procedures in the processing of arrested protestors.**

The protestors arrested at the 3:30 protest event were taken to the City of Berkeley jail for processing. The protestors arrested at the nighttime event were transported to a jail facility of the Alameda County Sheriff’s Office. There are complaints that this different booking process was done intentionally to inconvenience protestors. This is not the case. Thirty-two protestors were arrested at the nighttime event. This is well beyond the capacity of the local city jail. In planning the police operations for the 9:30 p.m. event, UCPBD planned for a mass arrest contingency and arranged for buses to transport prisoners to the Alameda County Jail. With such a large group of arrestees, this was appropriate.

Six protestors were arrested during the 3:30 protest. They were eventually transported to the local, City of Berkeley jail facility. Few, if any arrests were anticipated by UCBPD for this event. The plan was to dismantle and remove the encampment. The City of Berkeley jail has the capacity to handle this number of arrestees; so processing them at this facility was appropriate.

Some protestors and some of the people I interviewed believe that the booking process or cite and release process was intentionally delayed to purposely inconvenience protestors. Some believe protestors were facing actual booking and overnight (or longer) custody. This review did not determine that any specific instructions were given to City of Berkeley jail staff by UCBPD to apply any unusual procedures in processing these protestors. Regarding any purposeful delays in the cite and release process, while not specifically requested by UCBPD, this is allowed by California law and would be appropriate while active protesting was still occurring on campus. While there were still active protest activities underway at the UC Berkeley campus, it was not unreasonable to expect that any released arrestees would return to campus to resume their protests. If there is “a reasonable likelihood that the offense or offenses would continue or

resume” (California Penal Code 856.3 (a)(4)), the arrested person should not be cited and released. If protestors were cited and held additional time until the protest activities had diminished, this would allow them to still be released, rather than face overnight custody, and still address public safety concerns on campus.

There has also been an issue raised about the timeliness of arrestees obtaining personal property from UCBPD after their release. Again, it is believed that this is also done by UCBPD to inconvenience arrested protestors. The UCBPD has established set times at which property can be retrieved. These established schedules are set, not to inconvenience arrestees, but to meet the multiple demands of very limited staff resources related to the handling of Property and Evidence.

**6. UC Berkeley Police Department Staff is adequately trained in Crowd Control and Defensive Tactics.**

UC Berkeley police officers, except those out for medical or workman’s compensation leaves, receive 16 hours of Defensive Tactics training each year. This includes four hours of Crowd Control and four hours of Impact Weapons training. They have a Special Response Unit (SRU) that trains specifically in Crowd Control. They train several more times each year. UCBPD officers have responded to several mutual aid calls for crowd control in cities of the Bay Area in the past year.

**7. UC Berkeley Police Department Command Staff and the campus administration used the Incident Command System (ICS) appropriately.**

Though some members of the command staff involved in this event need to complete the recommended training in the use of the Incident Command System (ICS), UCBPD used the ICS system well during this event. UCBPD uses the ICS system for all major events and home football games. Each Command System is scaled to handle the size and complexity of each event. Through this system, the command staff and Chief of Police actively managed their resources and the tactics used by their personnel.



**8. Removing any available force options that officers are equipped for and trained to use, prior to deployment, limited the police response options and was inappropriate.**

A discussion of the variety and effectiveness of non-deadly force options will follow in a subsequent section. However, by receiving an outright ban on the use of OC spray, officers were limited to few force options. They could have stood there and done nothing, retreated or use their batons, the action taken. Having such a limited number of options is inappropriate for crowd management and takes away several very effective options that most of the officers are trained to use. Probably, the most appropriate for this situation was the use of OC spray. This would have been especially effective at the most contentious point of conflict during the afternoon protest. A few focused applications on the crowd that blocked the officers near the row of bushes would likely have cleared that area very quickly, with few additional baton strikes. This would have allowed officers to link the two squads and complete the perimeter in short order.

**9. The University Administration, specifically Student Affairs should have played a more active role in managing this event.**

By all accounts the UC Berkeley Police Department and Division of Student Affairs have good, effective relationships. However, in recent months the Dean of Students has been forced to curtail the use of his staff at these kinds of events. This was the result of several acts of harassment of a staff member by students. This staff member was personally harassed and had personal information posted on the Internet. The employee and the Dean of Students was rightfully concerned for the employee's safety.

This issue needs to be resolved so that Student Affairs personnel can feel safe in performing their duties at these kinds of events. On most campuses, especially the University of California campuses, advisements and warnings about student conduct and the conduct of non-affiliates come first from a representative of Student Affairs. Once this resource is applied, the next step is that of a warning by the police representatives. This is the most effective way to deal with these matters. Student Affairs has much deeper relationships with students and their leadership groups. It is very helpful when students see the Police Department and Student Affairs as a team with the same message. Typically, this first contact by Student Affairs employees can help de-escalate the situation and open up dialogues that seek solutions. The least effective approach is

that which puts the Police Department out front with no intermediate steps available between contact and enforcement. This makes it easy for the police to be cast predominantly in the role of the enforcer of the rules, rather than a service organization.

**10. The issuing of blanket amnesty for protestors that violate campus rules or the Student Code of Conduct was premature and reduces the effectiveness of Judicial Affairs.**

Blanket amnesties, like blanket condemnations, eliminate consequences for those who truly deserve some form of accountability for their actions. They also take away an excellent opportunity to have open and informative discussions about how events unfolded, what could have been done to reduce tensions and take this knowledge forward in planning future events. Indignation about the type of police action taken does not change the fact that the police were responding to resistance to their lawful orders or taking action to stop criminal acts or quell civil disobedience. The situation had been deemed unsafe and disruptive for the community. Where Student Code of Conduct violations are involved, Student Affairs needs to be allowed to do its job. Through this process, Student Affairs can make its inquiries and take action for both the good of the campus environment and individualized for the students involved. This cannot be done when they have been precluded from taking any action, even with repeat offenders.

**Considering Use of Force Options in Crowd Management**

The following is a brief discussion of the types of force that police departments generally use in Crowd Management exercises. It is not meant to be exhaustive and is explained in lay terms in order to improve understanding of the intent of their use, not how it may appear on a brief video, regardless of the source. In fact, it is almost a certainty, without the proper context, that no use of force by police officers will be positively perceived on video. I have included my comments on the special issues that each type presents, all of which are subject to debate. In my comments, I am not trying to suggest that in the history of their use, police officers have never made mistakes, been poorly trained or committed abuse. Some of these unfortunate instances have been well documented.

### Low Key Presence

This method is simply deploying officers to assigned post in their regular uniform. Special equipment, such as helmets may be with the officers, but not worn. This low-key approach is intended to exhibit a presence, while not producing any unnecessary anxiety with the crowd. While it can be effective, if more aggressive action on the part of the crowd is encountered, the first officers may be less effective in handling the action and may be subject to more risk. Once the lag time of donning protective gear is overcome, the situations can be resolved or at least kept manageable until additional resources are gathered. Campus police have traditionally been more willing than traditional police forces to try this approach in the early stages of demonstrations. However, with the advent of more serious confrontations, this is more difficult to consider. UCBPD personnel initially were deployed in this manner during this event.

### High Key Presence (Riot Gear)

In this approach, the police begin their deployment in full riot gear. This has the advantage of having the police fully ready to deal with a resistant or aggressive crowd. However, it can also raise the anxiety of the crowd. This can either accelerate or diminish any tendencies the crowd may have to become more resistant to any action taken by the police. The police become more of a focal point for the crowd and the cameras. But officer safety is enhanced and flare-ups of disruptive behavior or actual criminal acts can be dealt with quickly.

### Baton

This type of force requires little explanation, but deserves a good discussion when compared to other types. Officers are trained to use batons to move crowds in a planned manner. Officers are well trained and know which parts of the body are prohibited targets. Several techniques, if the crowd complies, require little force. These are usually pushing motions or short jabs and strikes. Beyond that, higher levels of force are needed to move a crowd. These are harder jabs and strikes. These higher levels of force usually elicit the crowd responses of grabbing at the batons and physical actions by protestors, such as punches and kicks. All of this was seen on videos of the events of November 9, 2011. These become very dynamic confrontations and can result in injuries to the protestors and officers. As officers employ baton retention techniques and apply strikes in defense of physical assaults, the risks of injury increases for all parties. This is especially true regarding unintended strikes to prohibited areas on protestors. Officers, while delivering a proper technique, cannot predict if a protestor will be pushed from behind, fall or

make a defensive/aggressive action that results in a blow to a dangerous or prohibited area. These strikes can result in injuries to the head, bones and soft tissues in the surrounding areas.

### OC Spray

Oleoresin Capsicum Spray, also known as OC or Pepper Spray is a controversial type of force. This is especially true in light of recent events at campus demonstrations. Controversies aside, OC Spray can be a very effective tool for crowd control. Its chemical compound instantly irritates the eyes to cause tears, pain, and a natural reflex to close one's eyes and move away from the source (the police). It also instantly reduces any motivation to be aggressive. It can be deployed at a specific target or a wider area of conflict, if needed. The affected protestors can then be taken into custody usually with little or no resistance.

The possible deployment of OC also requires plans for treating the affected people and decontamination of those with only minor exposure and officers. First aid and decontamination is usually accomplished with flushing the affected areas with large quantities of water. Most of the serious irritation subsides within 20 minutes. In a few rare cases this can take 45 minutes to one hour. Beyond that, medical attention should be provided.

Once the irritation is overcome, the affected person rarely has any residual injury for the OC spray itself.

### Projectiles

Police use a variety of hard projectiles in crowd control situations. Those most familiar to the public are rubber balls. Other types include beanbag projectiles and rubber batons. Recently, the paintball gun has been converted for use of hard plastic projectiles. It can also be used to deploy OC and paint. These too can be very controversial in their use. The use of rubber balls is usually very effective, but there is less certainty with who and what the projectiles will hit. The paintball devices are much more accurate.

### Electronic Control Devices

The use of Electronic Control Devices (ECD), commonly referred to as Tasers<sup>®</sup> in crowd control is a fairly new crowd management tactic for police. They have proven to be very effective. ECD were used at the November 2009 Regents Meeting, as was OC spray. A special panel of the Chancellor of UCLA rigorously reviewed the use of these devices. While they recommended

improvements in coordination and communications, the panel found the use of this level of force within applicable law and police policy.

In this setting, the use of ECD should almost always be limited to the “drive stun” mode, which is the direct contact with the intended target and not the deployment of probes. Used in this manner, the ECD creates momentary pain at the point of contact. ECD, used in any setting, are controversial. However, the effect of the ECD is instantaneously over once contact with the intended target is discontinued. Except in rare cases, there is no residual effect. Just the display and “sparking” of the ECD usually has the desired effect of moving a crowd back from a protected area or police skirmish line.

### **Force Options Summary**

All these force options have their pros and cons and none of them look very good on video, professional quality or not. But each type of current and future police equipment and tactical options should be considered for use. The decisions about which types should be used cannot be made in a vacuum. This is especially true in the special setting that a campus police department functions. But limiting the police to a narrow range, physical presence to batons is not appropriate. Each of the options discussed, in the hands of well-trained and professional police officers, can be a valuable tool.

It might be useful to look at each of these options from the perspective of the protestor. What would be their preference? Obviously, “none of the above” is the easy answer, but probably not realistic if one chooses to engage in demonstrations that can turn riotous. Of the options listed above, and considering the possible injuries, being hit by a stick (baton) seems more serious than an hour of eye irritation or a momentary shock. This may sound simplistic and probably biased since it comes from a police perspective. But somehow, these options need to be reviewed with the UC Berkeley community input. The Police Department should have all possible force options available and community members should know how and why they can be used.

## **Recommendations**

The following recommendations are made with the knowledge that each one has special considerations attached. There are also financial costs that must be taken into account in these difficult budgetary times.

I have made some operational recommendations that contain tactical suggestions that would not be appropriate to include in this report. These recommendations have been directed to the Chief of Police. They are not related to matters that would have had any influence on the events of November 9, 2011.

### **For the Police Department**

#### **1. Higher Viewing Observation Points**

Most of the viewing positions for police or staff were at ground level or on nearby stairs. Whenever possible, planning for these events should include establishing observation points at a much higher level. This could be a great resource for command center staff to have an overview of key locations and to see how effective the officers and their tactics are working. Observation points that are staffed by specially trained personnel or by existing or additional video camera systems camera systems that do not require additional staffing can accomplish this. The use of temporary cameras may be preferable for these events. However, due to the lack of trust that exist on campus, the use of additional cameras needs to be fully disclosed and explained to the community. The campus has an existing observer program that could possibly be used in the program. An observer could be placed in the command center to see what the command staff experienced. Confidentiality issues would need to be agreed upon.

#### **2. Increase Use of Barricades**

The use of barricades at the scene of demonstrations can be a tremendous tool. This tool is a force multiplier that allows the control of a large area by smaller number of staff members. In some cases security officers could be used in locations where confrontations are not likely. Security staff dressed in much less provocative but identifiable uniforms can staff the area enclosed by barricades. This “low-key” approach can be very useful in keeping crowd emotions in check. Barricades were not used in the events of November 9, 2011 mainly because no

specific location could be identified for the site installations. However on the Berkeley campus Sproul Hall and the adjoining plaza seem to be the most likely locations for these types of events. The pre-staging barricades could have allowed for more control of this space.

In considering this option it is important for planners to have the equipment in place well in advance. Also the setup work needs to be completed by staff other than police officers. During discussions with some of the UCPD staff they recalled instances where barricades were placed nearby and officers were taken from their line positions to set up the barricades during the event. Inevitably demonstrators interfered with this process and the barricades were actually used against the police officers. This crowd tactic occurred at the recent Regents meeting at UC Riverside. Once the decision to use barricades is made all construction and set up activities need to be completed well in advance by non-police staff.

### **3. Issue Clear Declarations Regarding Unlawful Assembly**

In reviewing the numerous hours of videos provided, I became aware that there were inconsistent uses of the bullhorn system in making declarations and warnings to the crowd of demonstrators. In the earlier confrontation, at around 3 PM, I viewed only one instance of a police official making the standard declarations for unlawful assemblies. The police officials did frequently advise students that camping was in violation of campus policies. There were also admonishments advising the demonstrators not to interfere with any police officers of the performance of their duties. I recommend that a more standardized declaration be used for future demonstrations.

Police officials at the scene of demonstrations such as these should use the standardized unlawful assembly admonishments used throughout the state. These admonishments should also include exit routes that the protestors can use to comply with the police orders to leave the area. It is also appropriate to give the crowd appropriate time to respond to the orders to leave the area. Once these actions have been taken, the police are in a much better position to enforce the statutes associated with unlawful assemblies. Police warnings should be made periodically throughout these events. However, if declarations are made too frequently they can desensitize the crowd

into believing there will be no consequences for not leaving. This needs to be considered on a case-by-case basis.

#### **4. Emergency Medical Services (EMS) should be staged for protest events**

By some accounts there were several injured protestors at this event. The extent of these injuries is not well known, but there was at least one described as a serious injury. It is difficult for emergency medical services to gain access to the area once the demonstrations are underway. The staging of EMS should be a regular part of the planning process for these events.

#### **5. Improve Sound Equipment**

Related to the previous recommendation the police department needs to have better quality public address systems. At this time they rely on standard bullhorns that are not consistently useful in these types of events. Conditions related to a very large crowd where the ambient noises, loud crowd responses and the acoustics of the surrounding area can make old-style bullhorns ineffective. There are newer types of public address systems that are much more effective and should be purchased and maintained for the exclusive use in these types of situations.

#### **6. Avoid Staging Police Formations in View of Protestors**

At the 3:00 protests some of the squads of police officers were gathered and staged nearby. This was done in plain view of a portion of the crowd. Also passerbies could see the police formation and warn protestors. When possible, the staging of the police personnel should be done out of sight of the crowd. This consideration is always subject to the logistics and space availability of the situation. However, it should be avoided if at all possible. The police presence in special formations raised the anxiety level of the crowd. The anticipation of a conflict was natural and gave an early warning to the protestors. This allows the crowd to prepare for police contact. Any agitators in the crowd can use this as an opportunity to motivate the crowd in a negative way. Some of this can be seen by the linking of arms by protestors, the use of backpack as shields and the shouting of "hold the line".



## **7. High-quality Videography is a Must**

UCBPD needs to improve the quality of the videos they produce for documenting these special events. This is especially true for nighttime events. They should purchase high-quality equipment for videotaping. They also need to train specific personnel in the best methods for videotaping large demonstrations process. Videotapes provided by UCPD for viewing this event were useful but not high quality. This best approach to addressing this situation may be to use civilian employees to perform these duties and send them to specialized training. Another alternative is to consider is the use of private companies that specialize in this service. This is likely a very expensive option.

## **8. Publish Force-Related Police Policies on the Department Web Site**

The department currently has complaint procedures and forms on their website. This should be expanded. Publishing important police policies on the department website can be a very useful tool for communicating with the campus community. This is especially true when you're dealing with terms such as passive resistance, noncompliance and active resistance. Many other policies that may be of interest to the community can also be published on the website. This approach demonstrates to the community that the police department is open and transparent in its operations. If any of the policies published contain tactical or officer safety related information these can be redacted and still provide important information to the public.

## **9. Increase Community Outreach Efforts by Selecting a Director of Police-Community Services**

First, it is important to note that there was significant community outreach prior to the events of November 9, 2011. As previously noted the Chancellor had issued a widely distributed message to the community. There was also a press release issued and the same information provided in the Chancellor's message. There are clear indications that these messages were well know to community members and the protestors. On that day the staff members were distributing 3 x 5 information cards containing the same information. During the 9 PM protest assistant Vice Chancellor Harry Le Grande was actively involved in discussing proposals with student leadership and members assigned to handle the protest. At one point Vice Chancellor Le Grande address the crowd of protesters and made a proposal that would allow them to still use the area

for the protests but reiterated the prohibition against camping and overnight sleeping. Vice Chancellor Le Grande's proposal was not well received and the crowd of protesters treated him in a disrespectful manner.

Another important point is that, on an ongoing basis, the UCBPD is already engaged in meaningful outreach efforts to the UC Berkeley community and the immediate areas surrounding the campus. Southside bicycle patrol officers work extensively in the area of residential halls in the Clark Kerr area and University Village. One police sergeant position is completely dedicated to student housing safety and security efforts. Administrative sergeants with the UCPD routinely attend meetings of associated students on Wednesday nights to discuss crime statistics and provide any other additional information requested by the audience. A Police Captain is a member of the merchant's association that represents the local business district that adjoins the campus. UCBPD also has a Community Service Officer (CSO) program that is a student-run program that provides security services, such as the nighttime patrol of the residential halls and operation of the "BearWALK Night Safety Service".

While being mindful of all these effective efforts, I am suggesting that UCBPD must do more to increase their level of community outreach to the UC Berkeley community. My recommendation is to add the position of Director of Police-Community Services (or other appropriate title) to the department. I make this recommendation cautiously because of the success of the programs described above, the cost associated with this recommendation and how difficult it may be to find and hire the "right" person for this position. At the UCLA campus, we have such a position. Based on the UCLA experience, I offer suggestions on the special knowledge, skills and abilities needed for this position.

The person in this position must have a unique mix of experience and talent. They will need to know how universities and police departments work and operate. They have to develop good relations and open lines of communications with a wide variety of campus administrators, and the leadership of groups that represent students, faculty, affinity groups and labor unions. They will need to be an effective problem-solver that works behind the scenes to reach consensus among competing interests on difficult issues. This person will be responsible for developing community policing programs and strategies that bring together diverse groups and agencies to

address problems and issues. To be most effective, the Director should have personal knowledge of Berkeley and UC Berkeley or experience in a similar setting. For the expertise needed for dealing with community groups, local governmental agencies, law enforcement and campus media and governmental affairs, it is not likely that this would be a sworn position within the UCBPD. It would likely be a civilian management position with authority commensurate with police managers (MSP).

**10. UCBPD Command Staff need to complete all required ICS classes.**

Some of staff involved in this incident have not completed all required incident command system classes. However nothing in this review indicated that this lack of training contributed to in the negative aspects of the event. UCBPD command staff used the ICS system effectively and actively managed this event.

**For Student Affairs (SA)**

**11. Re-establish the protocols that have SA staff as active participants in these types of events.**

The situation that created a possible unsafe environment for Student Affairs could not be taken lightly. However, Student Affairs is a tremendous resource to the Police Department and student groups in handling events such as this demonstration. They have the needed line of communications built upon their daily relationships with students and recognized campus organizations. They also have a strong and effective relationship with the UCBPD. Student Affairs can be in the best position to share information between involved parties and the police. As an active party from start to finish, Student Affairs can help play a key role in making these events a success. When controversies do arise, they will be in a good position to help resolve them.

**For Student Leadership Groups**

**12. Student leadership organizations should be used to find a way to establish lines of communications with the leaders of “leaderless” groups or groups managed by the General Assembly approach.**

This recommendation sounds counter-intuitive at first. Occupy-type groups claim to be organic and spontaneous in their creation. The General Assembly approach is reportedly leaderless and

governed by majority and consensus. However, large events such as this “Day of Action for Public Education” do not happen without effort and logistics. There are various groups that join together and generate interest among students and community members. A fairly high level of planning has to occur for these events to draw the crowds needed and to coordinate actions such as speaker appearances, teach-ins and marches. Natural or positional leadership does emerge to some degree. This leadership and the public safety information they can provide have to be tapped into. Representatives of some form can be used to facilitate information sharing without fear of a higher level of accountability than any other protestor.

This important role, as facilitators, is especially true for the group of unionized graduate students on campus. This will likely be a difficult process in light of how contentious the unionization issue was in its early history. There are extremely strained relationships with this group of students. Many of them have positions that can influence undergraduate students. Somehow, more trust needs to be established with this group of influential students. This could be one of the important goals for the Director of Police-Community Services described above.

### **For the Police Review Board**

#### **13. Review the Police Review Board charter and membership composition.**

Making changes to the authority or oversight power of the PRB may not be appropriate, as it has served a meaningful function for many years. However consideration for increasing the number of student positions could yield important changes. Adding one or more student positions may provide more and varied input from the student body. This review may provide an opportunity to review the procedures for the PRB and share the work done by the PRB to the UCB campus through the use of campus media. This will help in making sure that important PRB activities, such as the Brazil report, are shared with the campus community.

### **Closing Comments**

The review of these incidents was a challenging project. As I went through the process, I was astounded by the antagonistic campus climate described to me at UC Berkeley. Several people commented on how the level of civility had been diminished in recent years. A good illustration of this is the harassment of the Student Affairs employee discussed earlier. This is a troubling

example that is inconsistent with the expressed values of key groups of the UC Berkeley community. I reflected on how difficult this environment must be for the different groups on campus and how especially challenging the environment for the members of the UCBPD. As a world-class learning institution UC Berkeley can overcome the obstacles currently preventing meaningful communications and cooperation.

It is my hope that the subsequent discussions and review of the events of November 9, 2011 are used as an opportunity for community building. There are important relationships that need to be repaired and improved in their effectiveness, which require a concerted effort by the entire UC Berkeley community. All involved community groups (students, administration and the police), can best serve each other by committing to building a supportive infrastructure of trust, more open communications and a sense of community teamwork. This team environment, philosophy and effort will allow the UC Berkeley community to guide the direction and, to some extent, control the nature of these special events. This approach will greatly diminish the possibility for future events to proceed to such an unfortunate result.

## References Used

This section refers to “references” in a general sense. These are sources of information that I consulted, people I interviewed, videos I reviewed and other sources that were reviewed as part of this process. The listing does not conform to any form citation style.

### Witnesses Interviewed

[Redacted]  
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YouTube® Videos of Nov. 9, 2011 Protest

DISK 1

1. Occupy Cal 11\_9\_11 Part 1 (28.8 MB)
2. Occupy Cal Berkeley Protest - Raw Footage (44.1 MB)
3. Occupy Cal Video\_Police Brutally Beat, Arrest Berkeley Students (34.7 MB)
4. Occupy Cal Protest @ UC Berkeley (9.94 MB)
5. Shocking Police Brutality at Berkeley 11/9/11 Occupy Wall Street (26.2 MB)
6. Cal TV News: Occupy Cal and Police, Student Violence Highlights (55.5 MB)
7. Olbermann Covers Occupy Cal! "Cops Were Not Provoked" (71.3 MB)
8. November 9, Occupy Cal Raw Footage: Riot Police March In To Take Down Tents (39.6 MB)
9. Occupy Berkeley: 'Cops hit us with batons in stomachs' (18.5 MB)
10. November 9th Occupy Cal Rally (37.1 MB)
11. Occupy Cal Berkeley - Cops beating protesters - Even little women! (21 MB)
12. November 9, Occupy Cal Raw Footage: Part 2 (46.5 MB)
13. Occupy Cal (48.8 MB)
14. Occupy Cal: 39 Arrested in Forceful Crackdown on Massive Protest at UC Berkeley (20.2 MB)
15. November 9, Occupy Cal, Students Speak Out (36.3 MB)
16. November 9, Occupy Cal, Raw Footage Part 3: Police Remove Tents (61.9 MB)
17. November 9, Occupy Cal: Setting Up The Encampment (22.9 MB)

DISK 2

18. Berkeley Protest - Occupy Cal 11\_9J 1 Part 1 (125 MB)
19. CalConnect: Occupy Cal, 11/09/11 (35.1 MB)
20. Occupy Cal 11\_9\_11 Part 2 (72 MB)
21. Occupy Cal: UC-Berkeley Students Rally for Public Education, Are Attacked by Riot Police (42.1 MB)
22. "Waterstrider" Brings Music and Vibes to Occupy Cal (18.4 MB)
23. Berkeley Protest - Occupy Cal 11\_9\_11 Part 2 (118 MB)
24. Occupy Cal Police Violence (7.72 MB)
25. UCPD Takes Action Against Occupy Cal #2 (73.7 MB)
26. Occupy Cal: Berkeley Police Beat Cal Students!!! (26.7 MB)
27. Berkeley Protest - Occupy Cal 11 9 11 Part 1 (118 MB)

DISK 3

28. Berkeley Protest - Occupy Cal 11 9 11 Part 2 (112 MB)
29. Occupy Cal 1 (5.32 MB)
30. Occupy Cal 1 - 11/09/2011 (12.3 MB)
31. Berkeley Police Yank Hair of Female Professor and Students at Occupy Cal (74.6 MB)
32. Occupy Cal Berkeley Protest Police Clash (42.8 MB)
33. Occupy Cal (60.5 MB)
34. Occupy Cal Video Police Brutally Beat, Arrest Berkeley Students.avi (35.7 MB)
35. Pumped Up Fists ("Pumped Up Kicks", Occupy Cal Version) - ULAP (22.2 MB)
36. UCPD Takes Action Against Occupy Cal #1 (43.2 MB)
37. Occupy Cal - UC Police Confrontation (19.7 MB)
38. Occupy Cal - Cop Singles Out Protester and Repeatedly Rams His Baton into Him (3.12 MB)
39. Occupy Cal Police Action (111 MB)
40. Police Brutality Occupy Berkeley Protest (16.6 MB)

41. Occupy Cal\_Police Brutality (19.1 MB)
42. Occupy Cal - Raw Footage (44.1 MB)
43. Officer Garcia Threatens a Sitting Protester and a Woman Defends Him Occupy Cal 9 Nov 2011 (11.7 MB)

#### DISK 4

44. Occupy Cal - Nov 09 2011 - Second Group (45 MB)
45. Occupy Cal (70 MB)
46. Occupy Cal - Nov 09 2011 - Slow Motion (42.2 MB)
47. Occupy Cal 3 (4.54 MB)
48. Riot Police v Occupy Cal (11.7 MB)
49. Occupy Cal - More Raw Footage (19.7 MB)
50. Occupy Cal-Nov 09 2011 (15.1 MB)
51. Police Brutality @ Occupy UC Berkeley, California - (Nov 9, 2011) (34.5 MB)
52. Occupy Cal Berkeley Student Injured by Baton (24.4 MB)
53. Occupy Cal 2 - 11\_09\_2011 (2.19 MB)
54. Occupy Cal (30.1 MB)
55. Occupy Cal Student Targeted (67.1 MB)
56. Occupy Cal Police Attack Daytime.mov (6.50 MB)
57. Dramatic Arrest After 2nd Police Attack on Occupy Cal 9 Nov 2011 (4.18 MB)
58. Occupy Cal Berkeley Student Arrested Protecting Last Tent (11.9 MB)
59. Occupy Cal Police (2.15 MB)
60. Occupy UC Berkeley Cal Riot Cops 1st Day (18.8 MB)
61. Police Beat Protesters at Occupy Cal (56.1 MB)
62. Riot Police Beat Students at UC Berkeley Nov 9 (20.2 MB)
63. Occupy Berkeley - Police Beating Students (34.5 MB)
64. Police Beat Occupy Protesters at UC Berkeley (8.54 MB)
65. Occupy Berkeley - Police Arresting Students (7.31 MB)
66. OWS - Occupy Cal Berkeley Police Brutality (58.3 MB)
67. Police Brutality Occupy Cal 9 Nov (14.7 MB)
68. Brutal Police Violence Berkeley 11/9/11 (13.1 MB)
69. UCPD Beating Students 11\_9\_11 (24.2 MB)
70. 'Ocupa California': Policias Golpean Brutalmente y Detienen a Estudiantes De Berkeley (28.5 MB)

#### DISK 5

71. 71. Police Violently Clashed with 1000s of Peaceful Students at Occupy UC Berkeley - Abe 7 reports (22.9 MB)
72. Occupy Cal Assembly (54.6 MB)
73. 11-9-2011 KTVU NEWS - Occupy Showdown UC N Oakland

#### DISK 6

74. Occupy Cal Nov. 9lh ON THE FRONT LINE (33.2 MB)
75. Occupy Berkeley 11/09/2011 - student-police conflict (58.4 MB)
76. Occupy Cal Berkeley - 11\_9\_11 (190 MB)
77. Police\_nudge\_protesters at Occupy Cal - 11.9.11 (5.03MB)



“Crowd Management Policy”. University of California, Berkeley. December 15, 2000

“Field Force Operations” FEMA, Center for Domestic Preparedness. April 2007

“November 20, 2009 Review, Reflection & Recommendations”. A Report by the Police Review Board University of California, Berkeley. June 14, 2010

“Response Team Report, Analysis/Recommendations/Updates”. September 30, 2011

General Order F-1, “Use of Less Lethal Force”. University of California, Berkeley Police Department. October 22, 2008

General Order F-4, “Special Response Unit and High Risk Entry Team”. University of California, Berkeley Police Department. December 1, 1995

General Order F-6, “Use of Impact Weapons”. University of California, Berkeley Police Department. March 28, 2000

General Order F9, “Use of OC”. University of California, Berkeley Police Department. March 28, 2000

In *Graham v. Connor*, the United States Supreme Court stated that an individual officer’s use of force will be judged by the standard of a reasonable officer in similar circumstances. *Graham v. Connor*, 490 U.S. 386 (1989).

“Mass Demonstrations and Civil Disturbances”. Training Key #588. International Association of Chiefs of Police. 2005

“Recommendations for First Amendment-Protected Events for State and Local Law Agencies”. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. December 2011.

^ Derek Thompson (Oct 15 2011). "Occupy the World: The '99 Percent' Movement Goes Global". *The Atlantic*. Retrieved October 15, 2011.

^ Shaila Dewan (October 11, 2011). "99 Percenters and 53 Percenters Face Off". *The New York Times*. Retrieved October 15, 2011.

^ Karla Adam (October 15, 2011). "Occupy Wall Street protests go global". *The Washington Post*. Retrieved November 8, 2011

John Rudolph Police Tactics In Occupy Protests Vary From Crackdowns To 'Peaceful Coexistence'

[http://www.huffingtonpost.com/2011/11/23/occupy-movement-police-tactics\\_n\\_1111163.html](http://www.huffingtonpost.com/2011/11/23/occupy-movement-police-tactics_n_1111163.html)

**San Francisco News**

**Occupy movement changing how police operate**

[http://abclocal.go.com/kgo/story?section=news/local/san\\_francisco&id=8496786](http://abclocal.go.com/kgo/story?section=news/local/san_francisco&id=8496786)

<http://newscenter.berkeley.edu/2011/11/09/chancellor-birgeneaus-message-on-the-day-of-action/>

Cities struggle to deal with occupy movement

November 14, 2011|By the CNN Wire Staff

[http://articles.cnn.com/2011-11-14/us/us\\_occupy-movement\\_1\\_peaceful-protest-public-safety-encampment?s=PM:US](http://articles.cnn.com/2011-11-14/us/us_occupy-movement_1_peaceful-protest-public-safety-encampment?s=PM:US)

<http://lib.post.ca.gov/Publications/CrowdMgtGuidelines.pdf>

<https://www.ncjrs.gov/pdffiles1/nij/206089.pdf>

**California Emergency Management Agency, *Law Enforcement Guide for Emergency Operations, 2011 Edition,***

<http://www.calema.ca.gov/LawEnforcement/Pages/Redbook%20Revision%20Sep%202009.dy.pdf>

**California Emergency Management Agency *Law Enforcement Mutual Aid Plan, 2009 Edition***

<http://www.calema.ca.gov/LawEnforcement/Pages/BlueBook%20%20Revision%20dy.2009.pdf>

**Police Executive Research Forum *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches, Washington, D.C. 2006***

<http://www.policeforum.org/library/critical-issues-in-policing-series/MassDemonstrations.pdf>

**Police Executive Research Forum *Critical Issues in Policing Series - Managing Major Events: Best Practices from the Field, Washington, D.C. June 2011***

[http://www.policeforum.org/library/critical-issues-in-policing-series/MajorEvents\\_full.pdf](http://www.policeforum.org/library/critical-issues-in-policing-series/MajorEvents_full.pdf)

**U.S. Department of Justice *Law Enforcement Guidelines for First Amendment-Protected Events, Global Justice Information Sharing Initiative, October, 2011***

[http://it.ojp.gov/documents/First\\_Amendment\\_Guidance.pdf](http://it.ojp.gov/documents/First_Amendment_Guidance.pdf)

**Los Angeles Police Department *An Examination of May Day 2007, Report to the Board of Police Commissioners, October 9, 2007*** [http://www.lapdonline.org/assets/pdf/Final\\_Report.pdf](http://www.lapdonline.org/assets/pdf/Final_Report.pdf)