MEETING NOTES
TASK FORCE ON SPEECH AND ASSEMBLY
JANUARY 6, 2012

Task Force Members Present: Chancellor Tim White, chair; Dean of Students Susan Allen-Ortega; GSA Representative Gary Coyne; Dean Stephen Cullenberg; Assistant Police Chief John Freese; Academic Senate Chair Mary Gauvain; Associate Chancellor Cindy Giorgio; Assistant Vice Chancellor James Grant, Strategic Communications; Professor Dan Hare, Member of UCR Faculty Welfare Committee and Vice Chair, UC Systemwide Committee on Faculty Welfare; Vice Chancellor Peter Hayashida, Advancement; Police Chief Mike Lane; Director of Labor Relations Jadie Lee; ASUCR President Stephen Lee; Staff Assembly President Steven Lerer; Professor Tom Lutz, Creative Writing Associate Professor Patricia Morton, History; Undergraduate Student James Phillips; Provost Dallas Rabenstein; Vice Chancellor Jim Sandoval, Student Affairs

Task Force Members Absent: Coalition of Unions Representative Stephanie Kay; Graduate Student John Terrill

Guests: Campus Counsel Michele Coyle; Dean of Law, UC Berkeley, Chris Edley; Vice President and General Counsel Charlie Robinson

Opening Remarks

Chancellor White opened the meeting by asking task force members to introduce themselves. Approximately 20 individuals who were not members of the task force – most of them UCR students – were present at the meeting. Chancellor White asked them to also introduce themselves. Professor Morton read a statement presented to the task force by this group of individuals, who object to the protest guidelines and the way in which the task force was formed, and ask that the issue be considered in a public forum. The statement criticized the lack of transparency in the Chancellor’s announcement to the campus community about its first meeting. It asked that the Chancellor and administration be held accountable.

General Counsel Robinson and Dean Edley described the role they are playing on behalf of the UC Office of the President to conduct a systemwide evaluation of police response in demonstration situations. They have reviewed existing policies at each campus location and will also review policies at other institutions. The goal is to identify best practices on how to engage in free speech and assembly. They hope to have a first draft in early
February, with time for public comment prior to submitting their recommendations on March 1, 2012.

Chancellor White spoke briefly about the underlying UC and UCR policies related to time, place, and manner that govern assemblies. He made a clear distinction between activities that are planned and spontaneous events. In both cases, it is important to balance the rights of those participating in the assembly with the rights of those who wish to carry on the University mission of teaching, research, and service as well as day-to-day business operations. He raised the question of whether we need guidelines or principles, or whether we could simply rely on the underlying, relevant policies. Some of our students are well informed about protest behavior; others are not and need some guidance. The chancellor drew an analogy between guidelines or principles and a course syllabus that provides a framework for instruction. He stressed that we are first and foremost an institution of education.

**Dean Edley’s Remarks**

Dean Edley identified 12 issues that the task force may want to explore:

1. **Legal framework:** As a public institution, the constraints of the Constitution and the first amendment apply to us. The University has the right to establish reasonable restrictions as to time/place/manner of speech. Any such restrictions must be content neutral. He also suggested it is important that they be consonant with UCR’s academic values. We need to define our community and the values we want to elevate and celebrate as a community. Safety and our mission of teaching, research, and service are paramount.

2. **How police and administrators interact with protestors:** It is important to understand that, when the institution draws a line for unacceptable behavior, there may come a point when force is needed to enforce that line. Therefore, it is critical to ensure the “line” reflects principles that we want to defend.

3. **Police training:** Training for UC police is different than for police officers in the city because of the community for which they are responsible. Because disruptive protests are infrequent, however, police may have training but little actual experience. This emphasizes the importance of supervision in the moment and ensuring that training is refreshed.

4. **Difficulty of working with mutual aid:** Other agencies that may be called upon to assist in a large and disruptive protest are not sensitive to campus values and the nuances of campus policing.

5. **Training for civilians:** It is equally important that the campus offer training for administrators and others who will be working with police during protest situations. This training needs to take place prior to events.
6. Academic values: Tactical decisions should be in the hands of someone imbued with academic values. This may be a faculty member or someone who has a full appreciation of the academic perspective. This individual will have an ear to the ground and at the same time be an effective partner in crafting the police response. He or she will also require extensive training.

7. Campus vs. legal processes: The relationship between existing faculty and student disciplinary processes and the criminal and civil justice system is vague and ad hoc. It is advisable to think these things through in advance and to communicate with members of the campus community.

8. Effective notice: The application of policy is often contextual, meaning you cannot legislate for every eventuality. Yet it is unfair for students and others to have no information about what is permissible. Therefore, it is not just important what is codified, but how it is communicated.

9. Responsibilities of faculty: As members of an educational institution, faculty are expected to take an active role in working with students about both permissible protest/speech and about the substance of their concerns.

10. Educational mission: The traditional legal response to hate speech is more speech. The campus should consider a more affirmative undertaking, consonant with our academic values, to work with students to create opportunities for learning.

11. Context: Communication needs to be more than a codification of principles. Some principles may make sense tactically, but appear offensive if no context or further explanation is provided.

12. Need for repetition: Faces, particularly of students, change on an annual basis. Communications need to be repeated frequently.

**Task Force Input**

Prior to the meeting, Chancellor White asked each task force member to come prepared to spend 2-3 minutes responding to the question: “What would a successful outcome for the campus of the task force’s deliberations ‘look’ like for you?” Comments are summarized as follows.

Agreement was strong among members of the task force that the previously posted guidelines were seriously flawed. The guidelines were characterized by some as “parental,” “authoritarian,” “dismissive,” and part of a pattern of restricting free speech. Others argued that the guidelines did not reflect actual practice at UCR, in that previous spontaneous demonstrations have been allowed. Several task force members deplored the erosion of trust caused by publication of the guidelines, and spoke of the need to rebuild that trust through transparency and communications.
The consensus among the group was that these guidelines could not be rewritten and should, in fact, be discarded entirely. Vice Chancellor Sandoval acknowledged that the guidelines had been drafted by the Division of Student Affairs. He said he took full responsibility for their publication, and apologized to members of the task force and the campus community.

A few task force members argued that there is no need for guidelines for free speech and assembly since these activities are already covered by the U.S. Constitution and Bill of Rights, state and federal law, and existing UC and UCR policies. They believe that students already know how to protest peacefully, in the tradition of Thoreau, Ghandi, and King. A distinction was made between political action that attempts to operate within the law and that which intentionally sets out to break the law (civil disobedience). At least one task force member pointed out that protests are, by nature, disruptive and boundary-breaking.

A couple of task force members spoke in favor of developing guidelines that would govern police behavior and response to protest situations. The Police Chief and Assistant Chief pointed out that they are servants to the UCR community and that their role is to protect the first amendment rights to speech and assembly and to ensure safety.

Many, although not all, of the task force members supported the concept of identifying underlying, shared values that define UCR and the community we want to be. Many also liked the idea of developing a set of principles (as opposed to guidelines) that provide a basis for free speech and assembly. These principles would be based upon the identified values as well as our core academic mission. They would also be content-neutral, so that they are applied evenly regardless of the nature or topic of an assembly or protest.

Values that were mentioned included:
- The right to free speech and assembly
- UCR as a safe and nurturing environment for freedom of expression
- The obligation not to impinge upon the rights of others
- The expectation that protests would not prevent the University community from engaging in its core mission of teaching, research, and public service, as well as its core business functions
- Protestors should not feel threatened when they are peacefully expressing their views

Whatever guidelines or principles may developed should apply equally to students, faculty, staff, and community members. Many task force members felt the previous guidelines unfairly targeted students. Others pointed out that any guidelines or principles will also
impact faculty and 2,500 staff. A large number of rallies and demonstrations held on
campus are organized by one or more of the 13 collective bargaining units that represent
UCR employees. They need to be at the table as well. It was noted that a representative of
the UCR Coalition of Unions was invited to serve on the task force; she accepted but was
unable to attend the first meeting.

Some discussion took place around the dual role of faculty. They serve as both teachers
and administrators, and must strive to strike a balance between pedagogy and
management. Some task force members suggested that, when protests occur, faculty have
a unique opportunity to both teach and learn from our students by engaging them in
discussions about the issues at hand. It was stressed that the campus community should
not lose sight of the underlying context of state disinvestment in higher education.

Several task force members actively encouraged students to get involved in world issues.
One suggested the idea of a speaker’s corner at which any UCR community member(s)
could conduct a public forum at any time. Others held up the university as a public space
that should be a model for freedom of expression.

A recurring theme throughout the discussion was the need for transparency and openness
of communications. This need was discussed in terms of both communicating expectations
(what are the boundaries for protest behavior?) and preventing misunderstandings that
could lead to disruption. In the spirit of openness, many members of the task force agreed
that some, if not all, of the task force meetings should be conducted in a public forum and
that other mechanisms of communication should also be put in place to allow for
widespread input into both the process and outcome.

**Comments of Visitors**

After each member of the task force had spoken, Chancellor White invited the students and
other members of the public to speak. Their comments are summarized as follows.

Students and other visitors expressed a strong belief that the task force discussions should
be held in public forum. Some felt the task force should be disbanded. Others argued for
more student representation. One view was that the task force’s role should be to enable
free speech.

Visitors strongly condemned the content and tone of the guidelines. Some favored the
development of principles rather than guidelines. Others argued for neither, saying they
were unnecessary because of existing law and policy that cover free speech and assembly.
One visitor asked the constitutional basis for the guidelines. Dean Edley replied that, as a government institution, the University has the right to establish reasonable restrictions as to time, place, and manner.

Some students felt the University is keeping them under surveillance. Student Affairs staff often follow marches or protests, but do not engage. As another an example, students cited the fact that the UCR ombudsperson was at the Bell Tower at 8:00 that morning when they gathered, and that he could only have known this by monitoring their Facebook conversations. The visitors were also upset that he had not earlier shared with the chancellor a copy of the open letter they had written to him. The ombudsperson, saying he did not wish to exacerbate the situation.

One student mentioned that he received a “Dean’s Advisory” for participating in a small protest during which there were apparent violations of UCR policy. He was cited after being identified on a photo. The student felt this action was disciplinary.

Another student gave an example of a confrontation by Minutemen when he attended an AB540 event. He felt threatened and did not feel he was adequately supported by UC police who observed the incident.

In response to a question from visitors about how the guidelines were developed, Vice Chancellor Sandoval provided a brief chronology:

- The guidelines were the result of 7-8 years of evolution.
- During that time, the campus had grown, as had the number of events, which sometimes competed for time and space.
- In association with assemblies, protests and demonstrations during this period the University observed an increase in hurtful exchanges and conflict between individuals and groups, increased disruption of University business and University sponsored programs, heightened awareness of the need for risk management, increased reports of fear and intimidation and erosion of campus climate.
- The intent was to assemble all of the applicable guidelines and standing policies related to time/place/manner.
- A matrix was released in 2005-06 that attempted to bring these policies together, but it was heavily policy laden and difficult to understand.
- Roughly one year ago, it was decided to refine this document and make it more understandable.
- The result was the guidelines, which were not intended to stifle speech and assembly, but rather to clarify rights and responsibilities.
Some visitors said they feel as though they are receiving conflicting messages from campus administration. On one hand they are being encouraged to engage in world issues and express their views. On the other, they are being followed and restricted by guidelines. Students liked the idea of a speaker’s corner, but that its purpose should be to keep the police out, not to keep protestors in. The purpose of such a venue should be to enable free speech.

Visitors also suggested that the campus could use techniques of assembly – a consensus model – to conduct the business of the task force in an open forum that would allow all members of the community to participate and have a voice in the outcome.

**Wrap-up**

Chancellor White concluded the meeting by asking Dean Edley for his reflections and offering his own summary of what he heard.

Dean Edley observed that he does not understand who visitors in the room think is responsible for figuring out what the community values are. He said he found it alarming that so many people think values should be identified only by those who are most active or vocal. He did not get a sense that the interests and perspectives of all were being respected. UCR’s challenge will be to obtain fair representation of all points of view.

Chancellor White summarized as follows:

- The group consensus is that we need fuller participation by students, faculty, and staff.
- The task force business should be conducted in open session.
- The task force has lots of work to do.
- We should not lose sight of the disinvestment in higher education.
- We need to ground ourselves in values.
- Being provocative can push the limits; some of the best ideas come from tensions.
- It is premature to disband the task force. We need a core group to do the work and seek broad input.

In closing, task force members who put their comments in writing were invited to submit them. The conversation will be captured in a narrative, distributed for review, then posted on the web.

The meeting adjourned at noon.