Task Force on Speech and Assembly
University of California, Riverside
Meeting Notes
June 4, 2012

Task Force Members Attending: Chancellor Tim White, Susan Allen-Ortega, Michele Coyle, Steve Cullenberg, John Freese, Mary Gauvain, Cindy Giorgio, James Grant, Dan Hare, Peter Hayashida, Stephanie Kay, Mike Lane, Jodie Lee, Dallas Rabenstein, Jim Sandoval, John Terrill

Task Force Members Absent: Gary Coyne, Tom Lutz, Patricia Morton, James Phillips

Other participants: Approximately 20 students, faculty, and staff.

Introduction

Task force members and participants in the audience were asked to introduce themselves. The Chancellor opened the meeting by introducing two agenda items: a discussion of a set of principles to help guide the campus community on issues of free speech and assembly and a review of the Robinson/Edley report, “Response to Protests on UC Campuses.”

Principles of Speech and Assembly

Three documents were distributed for consideration by the task force: a draft entitled “Principles guiding Speech and Assembly at UCR,” a statement from UC Berkeley called “How to Protest Safely,” and “Principles of Community at UC Santa Barbara.” Stephanie Kay requested that the task force also consider a resolution on free speech recently passed by the Riverside Division of the Academic Senate and a document from the ACLU entitled, “Establishing Principles to Guide University Responses to Protest.” Copies of these were also circulated.

Chancellor White led off the discussion by saying that he has received feedback representing both ends of the spectrum – one extreme being that no such guidelines or principles are necessary, the other suggesting that we have a tight set of highly prescriptive rules. Others share the view that, with thousands of new students coming to campus each year, we need to have some mission- and value-based guidelines.

Task Force Discussion:

Task force members were asked to share their thoughts about what would be in the best interest of UCR. A great deal of discussion centered around the issue of accountability.
There was general agreement that this concept is central to any principles surrounding free speech and assembly, not just for students but for community members, police, and campus administration.

Many task force members liked the UC Santa Barbara model because it holds both students and administrators accountable for their actions. The model is set up so that leadership of both the senior administration and undergraduate student body commit to upholding specific actions and principles.

Other task force members argued for a statement more akin to that of UC Berkeley, which provides more explicit guidelines outlining to the “dos and don’ts” of safe protest behavior. The Berkeley model is more action-oriented and includes possible consequences of those actions.

Mike Lane and John Freese indicated that students sometimes want to get arrested, but also want to ensure that they do not get hurt in the process. These students want to clearly understand the boundaries that may lead to arrest. The chancellor pointed out, however, that it is not always possible to do so with provision because behaviors are always contextual. He gave the example of linking arms while seated peacefully versus linking arms to block passage or gain entrance to a building. It was agreed that guidelines should not be over-simplified because that allows more room for misunderstanding.

Task force members also made it clear, however, that any proposed actions should be value-based. A consensus seemed to emerge that UCR should develop a statement of core mission and values, with links to a more clearly spelled out set of guidelines of what is acceptable behavior and what is not.

ACTION: Task force members should e-mail Cindy Giorgio at cynthia.giorgio@ucr.edu to indicate anything they find particularly compelling or particularly troubling about the 18 principles identified in the UC Santa Barbara model.

Audience Discussion:

Several in the audience brought up the notion of civil disobedience. A faculty member indicated it is problematic to lead with the presumption that it will have consequences, which implies a moral judgment. Often civil disobedience is carried out to shed light on the unfairness of the very law it is breaking. The chancellor responded by stating that civil disobedience per se does not lead to possible punishment, but that behaviors can cross a line, thus resulting in consequences. The concept of civil disobedience should not be preemptively punitive.
Another faculty member stated that civil disobedience is a choice. Students/protestors should know what the boundaries are and engage in voluntary and intelligent risk.

While first amendment principles are simple, their application is complicated. Many students (and others) are confused as to whether civil disobedience is protected speech. As indicated clearly in the Robinson/Edley report, “The First Amendment does not guarantee any right to engage in civil disobedience – which, by its very definition, involves the violation of laws or regulations to communicate a political message – without incurring consequences.”

Yet the case was made that, even though laws may be broken, it does not necessarily mean that arrests must be made. It was pointed out that this has often been the case at UCR, as when students and non-affiliates were allowed to pitch tents as part of the Occupy movement, when in fact this was a violation of policy. Through Student Affairs and UCPD, the campus makes an effort to communicate with students before, during, and after an event. This has been made more difficult because of recent “leaderless” protests.

Several audience members pointed out that a university is a special sort of community. A student made the case that, rather than blindly arresting or otherwise confronting students during protests, administrators should make an effort to understand their issues and to engage in critical thinking with the students. A faculty member brought up the concept of “in loco parentis.” The university no longer has a legal basis for serving in this capacity, but may have a moral basis on which to do so.

A question was raised about whether our response to the exercise of free speech may depend to some extent on the moral underpinnings – whether or not we view the action as morally right or repugnant. The example was used of the anti-abortion displays that appeared on campus last week. Many people were troubled by this, but one faculty member pointed out that this is the price we pay for freedom of speech.

**Additional Points by Task Force Members:**

Chancellor White invited task force members to go around the table for a last opportunity to comment:

- UCR administrators and law enforcement should be willing to look the other way when students/protestors engage in civil disobedience.
- Whatever principles are developed should have both an abstract, value-based component and a more practical application, not necessarily in the same document.
• Guidelines, decision making processes, and actions taken by administration and law enforcement need to be completely transparent. This includes the process for declaring a protest to be an unlawful assembly, as proposed in the ACLU guidelines.
• The principle of reasonableness should be part of the discussion, as should the principle of mutual trust and respect.
• A university is a unique community that should encourage free expression. If civil disobedience takes place anywhere, it should be allowed on campus.
• The greatest strides in civil rights have been because people were willing to take action and risks.
• Any guidelines/principles that are developed should take into account not only student activity, but also the collective bargaining perspective.
• The principles and their enforcement should also be alert to issues of academic freedom.
• Both a priori and real-time communication are essential.

Response to Protests on UC Campuses (Robinson/Edley report)

The Campus Response to Protests on UC Campuses, written by General Counsel Charles Robinson and Berkeley Law School Dean Chris Edley, is available on-line at http://campusprotestreport.universityofcalifornia.edu/. Comments are due by Friday, June 8. Chancellor White indicated that fewer than 40 responses have been received so far from the entire UC system. He does not anticipate a wholesale rewrite based on these responses. Rather, the more important discussion will take place once President Yudof accepts the report and campuses begin discussing the policy implications. This will take place over the summer and fall.

Chancellor White will write his own response, which will focus on two primary issues: (1) that each campus should have the flexibility to respond to protests in a manner consistent with its own culture and context, and (2) that it is inadvisable for a single reviewer at UCOP to be given the authority to conduct post-incident reviews throughout the entire UC system.

The chancellor also encouraged members of the campus community to provide their own feedback by Friday's deadline.

Task Force Discussion:

Much of the task force discussion centered around the need for transparency. This pertains to decision making by the chancellor and other senior leaders, the threshold for intervention in protest activity, and police use of force. A critical component of
transparency is communications before, during, and after protests. Some felt the Robinson/Edley report did not go far enough in emphasizing the importance of transparency.

Mike Lane talked about the importance of transparency in police operations. He praised the Robinson/Edley report for its emphasis on relationship building. He also likes the idea of a special event response team. For the most part, he feels UCR is ahead of the curve in terms of implementing many of the recommendations of the report. Nevertheless, he feels it is important to have a better understanding of both the triggering event for students and the triggering event for police response. It would be helpful to have more guidance about how to handle the dynamics of leaderless groups.

Jim Sandoval spoke about the work being done by the Dean of Students to help ensure that student protest events are successful, as the students define success. They will use the Robinson/Edley report to help develop additional protocols to facilitate safe protests on our campus. It is important to engage in conversation early and often, as the less known, the greater the risk of problems.

Stephanie Kay pointed out that democracy is messy. Principles are needed for the tough cases, not the easy ones. She was disappointed that the Robinson/Edley report did not say that administration must be held to a high standard of proof before interfering or using force during protests. It is important to understand what the threshold for tolerance is.

**Audience Discussion:**

A faculty member expressed the view that the Robinson/Edley report plays lip service to the ACLU report. She asked where the task force goes from here and whether or not students, faculty, and staff will have the opportunity to have more of a voice on these issues and the principles laid forth by the ACLU.

Some discussion took place around the Regents meetings, which is where much of the student protest behavior takes place. It is unclear how accountability works on inter-campus events such as these. Chancellor White explained that Regents meetings historically have a strong police presence, and that decision is made by UCOP and the Regents, not by the host venue. Law enforcement is made up of law enforcement representatives from other UC campuses. Local law enforcement is brought in only if the situation arises.

It was pointed out that many UCR students are first generation, and some come from neighborhoods were the police are feared. This means we need new and better ways of doing policing, such as community policing, to encourage better relationships.
The campus ombudsperson raised concerns about recommendations #32 and #33, having to do with mediation. These concerns have been expressed to Robinson and Edley.

**Conclusion**

Chancellor White summarized the meeting and said the next step will be to take the various documents that were discussed and merge them into a value-based draft that connects to practical consequences. The draft will be circulated electronically to task force members during the summer, with the opportunity for feedback. The task force will not meet again until the fall. Input will also be sought through student organizations, the Academic Senate, Staff Assembly, and others. Brown bags or other discussion sessions may be held. The document will not be finalized without further discussion by the campus community.