

The UC Davis administration distributed this “fact sheet” to all faculty and students (emailed as a “Message from the Chancellor”) and at a town hall meeting as part of their response to an incident in which campus police were videotaped pepper-spraying students. The annotations here were inspired by George Orwell's 1946 essay *Politics and the English Language* which analyzes the ways in which language can be used to deflect responsibility.

ANNOTATED

FACT SHEET ON RECENT CAMPUS DEMONSTRATIONS AT UC DAVIS

1. What happened?

During the week of November 14, the UC Davis campus experienced a series of **protest** demonstrations. One demonstration involved the occupation of Mrak Hall during the afternoon and evening of Tuesday, November 15. The protesters did not follow the direction of campus administrators to leave Mrak Hall at the close of business, 5:00 p.m., on November 15, in violation of university policies. Campus administrators elected not to engage the demonstrators further that evening. The demonstrators occupied Mrak Hall overnight Tuesday. The following day, Wednesday, the campus administration elected to close Mrak Hall at 2:30 p.m., to everyone except employees working in Mrak. At that time, the demonstrators were again directed to leave the building, and they peaceably complied.

On Thursday, November 17, demonstrators erected tents on the campus Quad, without obtaining a reservation or permit required of all users of the Quad. UC Davis officials informed the protesters of the relevant university policies, including the prohibition against overnight camping on campus. The **protesters** failed to comply with these policies. Again, the campus administration elected not to **engage** the camping protesters further regarding their refusal to comply with university policies. The **protesters** remained camped on the campus Quad overnight.

Similar protest encampments had occurred on the UC Berkeley and UCLA campuses earlier during the week of November 14. In response, UC Berkeley and UCLA campus police conducted early morning sweeps in which the tents were removed in **generally peaceful** fashion without **significant** camper resistance. On Friday, November 18, the UC Davis campus administration also **elected to enforce** the campus's prohibition against camping and the camping protesters were again asked to remove their tents. Many protesters complied, but several did not, and 10 were arrested.

The arrest of these 10 protesters and the subsequent **use of pepper spray** by officers against protesters are the subject of several pending fact-finding reviews. For the reasons discussed below, it would be inappropriate to discuss the pepper spray incident in more detail. Regardless of the outcome of these reviews, Chancellor Linda P.B. Katehi and the UC Davis campus leadership share the dismay of many regarding the use of pepper spray on the demonstrators.

Engage is used here as a euphemism for confront. This underscores the Chancellor's failure to engage the students in the usual sense of peaceful and constructive discussion. The only communication between the Chancellor and the protesters before the police were sent in was a written order to take down the encampment.

This is a stunning omission. While the UC Berkeley police actions on the week of November 14 could be described as generally peaceful, on November 9 the UC Berkeley police beat students with truncheons. Over one million people viewed videos of these events, such as

<http://www.youtube.com/watch?v=buovLQ9qyWQ>.

Chancellor Katehi has chosen to focus on the fact that not all police actions have resulted in brutality.

Framing this as an issue of enforcement suggests that the university administration had no other option. In fact, engaging with student protesters has proved to be a successful tactic at other universities. Is the administration unaware of these models?

The more indirect the language, the better for avoiding responsibility. The use of pepper spray **by officers** is about as indirect as it gets. Officers play a secondary or tertiary role in this way of looking at things.

There is no mention of what the student protests were about: diminishing access to quality education. This is a concern that the chancellor claims to share, but she made no effort to find common ground with the protesters before ordering in the police. There is also no mention here that students were protesting. Instead Katehi repeatedly claimed that “outside elements” were involved as part of the justification for sending in the police.

Indirect language and pretentious diction deflect responsibility. A decision to send in the police (as the Chancellor personally announced to the Executive Council the day of the action) might be viewed as a mistake. But who can argue with an electing to enforce a policy?

This single sentence is the only description of the pepper spraying of the protesters. It fails to mention the most important and indisputable fact about this incident: **police pepper-sprayed seated, cowering students**. Watch the videos* to judge for yourself how well the students conducted themselves according to the principles of nonviolent protest.

*A video search for “UC Davis” will return many such videos.

Somewhat it's appropriate to spend three paragraphs discussing the actions of the students in detail, but inappropriate to discuss what happened as a result of the actions of university police and officials.

These investigations are only part of the administration's official response to the pepper spray incident. In the days following the incident, the Chancellor issued official statements that blamed the student protesters and outside elements for the incident, and defended the police actions. Only after sustained outcry by the UC Davis community did she announce actions such as placing police officers on administrative leave and paying the injured students' medical expenses. She also apologized and announced that she takes full responsibility for the pepper spray incident. This "fact sheet" suggests otherwise.

Protecting "health and safety" has become a standard justification for leaders to send in police to break up protests, but there is no evidence that these protesters were engaging in unhealthful or unsafe conduct, and subsequent events prove otherwise. On November 19, students conducted a peaceful, silent protest of her press conference with no police present.* On November 21 up to 5000 students and faculty gathered on the Quad to protest the pepper-spraying; order was maintained despite the complete absence of police, and students have been safely camping since then. Health and safety issues were not forcing the Chancellor's hand, yet she repeatedly invoked this justification afterward.

*<http://www.youtube.com/watch?v=8775ZmNGFY8>

2. What investigations are being conducted?

a. Comprehensive investigation By UC Davis

Vice Chancellor John Meyer on Sunday, November 27, initiated an independent and comprehensive fact-finding investigation of the arrest of the protestors, and the subsequent use of pepper spray by officers against protestors, to inform the campus of the appropriate action it should take with respect to its employees. UC Davis has appointed a team of outside investigators who will have unrestricted access to all employees, witnesses, documents, videos, photographs, and evidence.

b. Yolo County District Attorney's Office and Yolo County Sheriff's Department Review

On Monday, November 21, Chancellor Katehi called on the Yolo County District Attorney's office to fully investigate the Police Department's use of force, and the District Attorney's office agreed to conduct a review in collaboration with the Yolo County Sheriff's Department.

c. UC Office of the President-Led Task Force

Also on November 21, Chancellor Katehi requested that UC President Mark Yudof oversee a task force to review the November 18 events and to develop recommendations to ensure the safety of peaceful protesters on campus. Yudof, in turn, named Professor Emeritus Cruz Reynoso, a former associate justice of the state Supreme Court, to chair the task force that will examine the use of pepper spray on protestors. Fact-finding has been assigned to William Bratton, who formerly led the New York, Los Angeles and Boston police departments.

[Descriptions of the UC systemwide review of campus police policies and of the UC Davis Academic Senate review are omitted here due to space limitations. The original is available at http://chancellor.ucdavis.edu/local_resources/pdfs/20111129_Fact%20Sheet-FINAL_crx.pdf.]

3. Who oversees the UC Davis Police Department?

Within the University of California system, campus police chiefs do not report to the Chancellor, but report to a Vice Chancellor. The UCDPD police actions are directed by the UCDPD Chief, in accordance with UCDPD policies, procedures and General Orders.

4. What is UC Davis' policy with regard to protecting Free Speech?

The UC Davis administration vigorously supports the free exchange of ideas as the lifeblood of a successful university community. To this end, campus policies liberally support free speech, but do include limited "time, place and manner" regulations to protect the health and safety of the campus community to protect the health and safety of the campus community and to ensure the ability of students, staff and faculty to accomplish the university's mission.

Protest demonstrations are permitted across the campus, and at nearly all hours, so long as they do not unduly interfere with the operation of the university. The limited regulations that have been developed concerning free speech are designed to ensure that such freedoms do not unduly infringe on the rights and freedoms of others. For this reason, there are policies requiring advance reservations and permits for the use of highly utilized areas (e.g. the UC Davis Quad),ⁱ and a prohibition against camping.ⁱⁱ Members of the campus community are provided greater freedoms in certain respects than individuals who are not affiliated with the campus.ⁱⁱⁱ For example, a curfew that applies to non-affiliates (7 CCR, Section 100007) does not apply to members of the campus community. However, both non-affiliates and members of the campus community are prohibited from camping on the Davis campus.

The university must apply these limited time, place and manner regulations in a fair and equal manner, regardless of the nature or content of the speech at issue. There is certain speech that will be found by the general community to be less objectionable than other speech. Fair application of these regulations to such less objectionable speech is needed to ensure that the regulations can be applied to all other speech as well.

Yudof initially appointed Bratton to lead the investigation. Bratton is known as an advocate for zero-tolerance policing and the "broken windows" theory that small infractions need to be strictly policed to prevent more serious crimes. After an immediate outcry from the university community that Bratton was an inappropriate choice, Yudof named Reynoso to chair a task force and reframed Bratton's role as "fact-finding."

Why does this description of the chain of command stop with the Vice Chancellor? It suggests that Chancellor Katehi was not directly involved in the police action. In fact, she personally announced her decision to send in police to remove the encampments to the Executive Council the day of the action. She has also stated that she had ordered the police not to use force unless protestors resisted.

Buried in the lawyerly language is a valid justification for the no-camping policy: if we allow these students to camp on the Quad freely, then we would have to allow the KKK or neo-Nazis to camp on the Quad freely. But set policy does not free leaders from the responsibility of carefully considering the appropriate response in each case. Katehi's evasions of responsibility in this "fact sheet" leave students and faculty demoralized.