

**UC DAVIS NOVEMBER 18, 2011  
“PEPPER SPRAY INCIDENT” TASK  
FORCE REPORT**

**“THE REYNOSO TASK FORCE REPORT”**

**MARCH 2012**

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## Introduction

Our overriding conclusion can be stated briefly and explicitly. **The pepper spraying incident that took place on November 18, 2011 should and could have been prevented.**

On November 18, 2011, University of California, Davis, police officers used pepper spray on students sitting in a line in the midst of a protest and “occupation” on the campus quad. Viral images of the incident triggered immediate and widespread condemnation of the police action.

To assist the Task Force with fact finding and the identification of best practices in policing, the University engaged Kroll, Inc., an internationally known risk management firm. Kroll completed the final draft of its report on Feb. 22, 2012 (the “Kroll Report”). The Kroll Report describes at length the events leading up to this incident. In brief, at approximately 3:00 p.m. on Thursday, November 17, 2011, tents were erected on the Quad at the Davis campus. The Administration decided to remove the tents, instructing police to do so at 3:00 p.m. on Friday, November 18, 2011. While attempting to remove tents, the police arrested several individuals. Subsequently, in the midst of a growing group of people, the police officers employed pepper spray to remove several students linking arms in a line across a walkway in the Quad.

The UC Davis protest focused on and drew strength from widespread discontent among students about the increase in tuition and fees at the University of California. The incident also took place against the backdrop of worldwide student protests, including demonstrations by the Occupy Wall Street movement, which triggered similar events across the nation. These protests presented challenges for all affected universities and municipalities in attempting to balance the goals of respecting freedom of speech, maintaining the safety of both protesters and non-protesters, and protecting the legitimate interests of government and the non-protesting public.

In the immediate aftermath of the UC Davis incident, University of California President Mark G. Yudof announced the appointment of former California Supreme Court Justice Cruz Reynoso to chair a Task Force to address the pepper spraying of UC Davis students. This was a result of a request from Chancellor Katehi for an independent investigation to review the incident and report findings and recommendations to enable peaceful and nonviolent protests. All Task Force members are either currently or were once affiliated with UC Davis and most were nominated by relevant campus organizations.

### *Charge from the President*

The President established the following charge to the Task Force:

- Receive and review the fact-finding report from Kroll concerning the events that took place on November 18, 2011;
- Based on that review, and subject to available information, issue findings regarding responsibility for the events of November 18;
- Provide recommendations to Chancellor Katehi and the President on improvements to police procedures, command protocols, and campus policies and oversight structures that will help ensure the rights and safety of nonviolent protesters and the entire campus community.

Kroll provided to the Task Force a lengthy description of the discussions and decisions leading up to the Nov. 18 incident. It also evaluated the decision-making process and substantive conduct of campus administrators and police in comparison to a best practices standard for dealing with situations involving the deployment of police in response to protests. To avoid redundancy and to make the analysis and conclusions of the Task Force more accessible to readers, the Task Force report incorporates by reference the description of the evidence described in the Kroll Report.

The Charge to the Task Force did not include requesting recommendations for disciplinary action. An Internal Affairs investigation is running concurrent with the work of the Task Force which would address disciplinary action for police officers. Subject officers (those directly subjected to the Internal Affairs investigation) declined to be interviewed by Kroll. As of the date of this report, the Yolo County District Attorney has declined to charge arrestees who were cited for unlawful assembly, failure to disperse, or illegal camping. The Task Force was directed to issue findings assigning responsibility for these events. This Report includes such findings as well as recommendations designed to ensure the rights and safety of nonviolent protesters and the entire campus community are protected.

Furthermore, the Task Force has not been asked to evaluate nor did we receive from Kroll any information regarding communications from UCOP to the campus.

## Background

### *The Leadership Team's Focus on the Occupy Movement Influenced its Perception of the Encampment at UC Davis*

According to Kroll, the UC Davis Leadership Team originated in 2009, in response to student protests over high and rising tuition costs at the University of California. As fees increased sharply so did the frequency and size of protests.

Demonstrations against fees drew sufficient support from a large number of students and came so often that by 2009 they began to overwhelm the ordinary capacity of the Office of Student Affairs to handle protests, which provided the occasion for the Office to create a force of volunteers, to stay in contact with demonstrators and to provide information about protests to the administration.

Concern over tuition inspired the numerous protests including the protests at Berkeley on November 9 and the occupation of Mrak Hall on November 15.

This existing discontent over tuition merged with the tactics of the national Occupy movement in the fall of 2011.

The decision of the Occupy movement, which originated in New York City in the fall of 2011, to use long term encampments as a primary protest strategy confronted municipalities, and later universities, with a new situation – one that they had seldom encountered in earlier protests. As the movement spread to over 100 cities, many municipal leaders became concerned that the movement's encampments created health and safety risks to the public. In many situations, city officials ordered the dismantling of the encampments. These events attracted national media attention. As municipal authorities challenged city encampments, encampments were increasingly located on university campuses.

The UC Davis administration was well aware of these developments. Indeed, a member of the campus Leadership Team sent an e-mail to Campus Police Chief Spicuzza in Nov. 2011 alerting her to a New York Times article describing the “growing concerns” of municipal authorities “over health and safety” issues involving the encampments and the fact that “protesters have begun to erect more tents on college campuses.”

An Occupy encampment in Central Park in the City of Davis was started on Oct. 15, 2011. City officials took no steps to take down the protesters' tents. The challenge to an Occupy encampment that probably received the most media attention in Northern California was the dismantling of the Occupy Oakland encampment by police on Oct. 25, 2011. Vice Chancellor Meyer sent an e-mail to Chancellor Katehi, Provost Hexter, and other administrative staff on that same day. Referring to a possible protest at the UC Davis campus, he wrote that if protesters attempted to camp on the Quad, “Camping is not allowed on the quad, however, the removal of occupants may create a scene with Police removing individuals and property that could be troublesome. We do worry that if camping persists it could attract individuals that have no affiliation with the campus which raises other security issues. We are assessing our legal options and are not inclined to allow tents or structures.”

Oakland authorities permitted the Occupy Oakland protesters to rebuild their encampment. Police dismantled the encampment a second time on Nov. 14. This second police action responded to media accounts reporting drug use and violence in the encampment including the shooting of an individual participating in the encampment nearby.

On Nov. 9, 2011, responding to an attempt to set up an encampment at UC Berkeley, police wearing riot gear used batons to clear protesters from the area and take down the few tents that had been erected. The police use of force at Berkeley drew substantial criticism. On Nov. 15 thousands of protesters held a rally at UC Berkeley and erected new tents in Sproul Hall Plaza. Newspapers reported that “Hundreds of occupiers displaced Monday from the Occupy Oakland Camp joined forces with a resurgent Occupy movement at UC Berkeley. “ Police in riot gear moved in to dismantle the UC Berkeley encampment at 3:30 a.m. on Nov. 17. Police raided and dismantled a similar Occupy encampment at UCLA at 5:15 a.m. on Nov. 18.

When tents went up on the Quad on Nov. 17, the longstanding protest against high and rising tuition and fees in the UC found expression through the tactics of the national Occupy movement. Campus administrators focused on the relation of this event to other Occupy movement encampments. Political demonstrations are not uncommon at Davis and the Quad occupies a unique status as the traditional location where protests occur. It is a central and highly visible location which makes it an ideal location for speakers to reach the audience they are addressing, the university community. It is also a location where robust expressive activity can occur without unreasonably interfering with the University’s ability to perform its duties of teaching and research or unduly burdening the interests of non-protesting students, staff, and faculty. The administration did not consider the Occupy movement encampment to be a conventional campus protest. The Leadership Team appeared to perceive it as a vehicle through which non-affiliates might enter the campus and endanger students.

During an interview conducted by Kroll staff with Chancellor Katehi on Dec. 20, 2011, about a month after the pepper spray incident, the Chancellor explained her concerns about the involvement of “non-affiliates” with the UC Davis Occupy movement and encampment. Chancellor Katehi stated, “We were worried at the time about that [non-affiliates] because the issues from Oakland were in the news and the use of drugs and sex and other things, and you know here we have very young students . . . we were worried especially about having very young girls and other students with older people who come from the outside without any knowledge of their record . . . if anything happens to any student while we’re in violation of policy, it’s a very tough thing to overcome.”

Vice Chancellor Meyer expressed similar concerns in an interview conducted on Dec. 7. He explained, “our context at the time was seeing what’s happening in the City of Oakland, seeing what’s happening in other municipalities across the country, and not being able to see a scenario where [a UC Davis Occupation] ends well . . . Do we lose control and have non-affiliates become part of an encampment? So my fear is a long-term occupation with a number of tents where we have an undergraduate student and a non-affiliate and there’s an incident. And then I’m reporting to a parent that a non-affiliate has done this unthinkable act with your daughter, and how could we let that happen?”

When explaining their decisions on Nov. 17 and 18, UC Davis administrators repeatedly referenced this concern about individuals not affiliated with the university at Occupy movement protests and encampments on campus, and the security risks created by their presence. Indeed, in Chancellor Katehi's letter distributed to campus protesters on Nov. 18, the day of the pepper spray incident, the Chancellor wrote "We are aware that many of those involved in the recent demonstrations on campus are not members of the UC Davis community. This requires us to be even more vigilant about the safety of our students, faculty and staff." As our report will indicate these concerns were not supported by any evidence obtained by Kroll.

## Section I – Deficiencies in the Decision- Making Process and Substantive Mistakes at the Administrative Level

### *A. There Was a Failure to Investigate Whether or Not “Non-Affiliates” in the UC Davis Occupy Encampment Were Present*

As detailed below, the Task Force concludes that the failure to conduct any additional investigation into the presence of non-affiliates in the encampment was a significant error in the Leadership Team’s decision-making process.

UC Davis campus administrators identified the security risks created by non-affiliates participating in the Occupy encampment as a critical factor influencing their decision to remove the tents erected in the Occupy UC Davis encampment. One source for their concern was the information reported by news media regarding drug use and violence at municipal encampments, particularly the Occupy Oakland encampment, and the presence of non-affiliates at protests and encampments at other universities, such as UC Berkeley.

Campus police reports supported the conclusion that a substantial number of the Occupy movement protesters on campus were not students. One UC Davis police officer who spent the night at a Mrak Hall protest on Nov. 15 wrote that “the majority (of protesters) were NOT affiliated with the University [but were] part of the ‘Occupy’ movement.” UC Davis Police Chief Spicuzza informed the Leadership Team that her officers suggested that 80% of the protesters participating in the encampment on the Quad were not students.

This information was directly challenged by Student Affairs staff and volunteers. One student volunteer suggested that all of the protesters at Mrak Hall on the night of Nov. 15 were either students or faculty. Assistant Vice Chancellor Castro informed the Leadership Team that based on her observations of the Occupy encampment on the Quad on Nov. 17, “the only non-affiliates I saw were people from the interfaith communities providing food . . . and they were not spending the night.” Assistant Vice Chancellor Castro explicitly challenged Chief Spicuzza’s report that a substantial number of the protesters at the encampment were non-affiliates and the Police Chief conceded that Castro’s information was more credible than the reports of her officers. The Chancellor addressed Castro’s report, asking if she could “prove” that the protesters were mostly students. Castro replied, “I didn’t ask for IDs. It’s just from my sense of what I know.” The Leadership Team did not discuss the matter further.

To date, the assertion that many non-affiliates were involved in the Occupy movement encampment on the Quad has not been substantiated. The status of the protesters arrested on Nov. 18 does not support the contention that many non-affiliates were involved in these events.

Because the presence of non-affiliates on campus in the encampment was the expressed foundation of the Leadership Team’s safety concerns, an accurate determination of the number of non-affiliates in the encampment would substantially support or undermine any immediate need to order the tents on the Quad to be taken down. Yet, notwithstanding the conflicting intelligence presented to the Leadership Team, the Task

Force has seen no evidence that any further inquiry was conducted to resolve this question. While the Leadership Team may have worried that the continued existence of the encampment would attract non-affiliates to the campus over time, this concern would not justify ordering the immediate dismantling of the encampment.

***B. The Administration Decided to Deploy Police to Remove the Tents on Nov. 18 before Considering Other Reasonable Alternatives***

As noted, the Leadership Team's conclusion that the presence of non-affiliates in the encampment posed a risk to students was challenged as to its accuracy. Still, one might reasonably decide that even when confronted with uncertainty as to the existence or extent of risks to students, the prudent course would be to intervene immediately to ensure student safety. That decision presupposes that there were no reasonable alternative means available to the administration other than ordering the tents to be removed immediately to adequately ameliorate the risk to students.

Possible alternatives for protecting students in the encampment seem almost self-evident. For example, police officers could have been posted to monitor and provide security for the encampment overnight, an alternative suggested by Vice Chancellor Castro. There is a financial cost to such arrangements, and providing security for the encampment might not be feasible as a long term solution to the problem. The question here, however, is not whether this approach is practical long term, but rather whether it could have been utilized at least for a few days.

Delaying the deployment of police to remove the tents for even a few days would have provided campus administrators more time to carefully evaluate the nature and scope of the problem, more time to carefully evaluate the costs and consequences of different university responses to the encampment and more time for discussion, negotiation, and mediation with the protesters to attempt to defuse the situation. Also, and importantly, it would have created the opportunity to expand the decision-making process by reaching out to the campus community more broadly. Conversely, requiring immediate action provided limited opportunities for consultation with other campus stakeholders and constrained decision-makers' opportunities to rigorously evaluate their reasoning and plans. The Task Force concludes that there was no immediate need to order the police to take down the tents on Friday, Nov. 18.

The Task Force has received no information describing the extent to which the Leadership Team considered alternatives to the immediate deployment of the police. It is difficult to avoid the conclusion that the Leadership Team's analysis of alternatives seems inconsistent and incomplete.

***C. The Scope of the Police Operation to Remove the Tents Was Ineffectively Communicated, Not Clearly Understood by Key Decision-Makers, and, Accordingly, Could Not Be Adequately Evaluated as to Its Costs and Consequences***

Chancellor Katehi explained in interviews after the fact that she envisioned the deployment of police on Nov. 18 to be a limited operation in which police would demand that the tents be taken down but would use no other force to accomplish their mission if the protesters resisted their efforts. The chancellor did not effectively communicate this expectation to other members of the Leadership Team. During a conference call on Nov. 17, Provost and Vice Chancellor Hexter stated that “We don’t want it [the police operation] to be like Berkeley.” Chancellor Katehi immediately agreed with that comment. We have no other explicit evidence of any other statement describing the scope of the police operation or the manner in which it was to be carried out by the Chancellor, Provost Hexter, or Vice Chancellors Meyer or Wood.

It is clear that different members of the Leadership Team understood the scope and conduct of the police operation differently. Vice Chancellor Meyer explained that “he did not understand that Chancellor Katehi believed that no force at all would be employed in taking down the tents until her comments following the November 18 police action.”

Police Chief Spicuzza, at least initially, argued to her officers that the police operation was to be limited in various respects. She attempted, unsuccessfully, to dissuade her officers from using batons and pepper spray or to prevent them from wearing “riot gear” during the operation. There is also evidence that she wanted her officers to withdraw if they encountered resistance. Because Chief Spicuzza was not available to be interviewed, we have no way to determine the basis for her concern that the police operation be carefully constrained.

The Police Department’s pre-event November 15 operations plan, however, stated that “the use of force is highly likely in this type of situation based on past events,” and it forecast the potential use of pepper ball guns and pepper spray (although not the MK 9 canister that they actually used in the event). Senior officers in the Department also believed that the use of physical force might well be required to conduct the operation.

No members of the Leadership Team took responsibility for ensuring that all the members of the Team including the Police Chief had a common understanding of the scope and conduct of the police operation to be executed on Nov. 18. We have no indication that members of the Leadership Team other than the Police Chief were aware of or reviewed the campus police department’s operations plan. The Police Chief never brought the concerns expressed by her officers to the attention of the Leadership Team. No attempt appears to have been made by either the Chief or Vice Chancellor Meyer, her most direct superior, to confirm that the understanding by the police as to how the operation was to proceed was consistent with the goals of the civilian administration of the University. As the Kroll Report concludes, there was a “significant gap between the instructions that Chancellor Katehi believed the Leadership Team had provided to

campus police ('no violence') and the police operation that was planned, mounted, and finally carried out by the campus police under her authority."

At no time in this process did the Leadership Team activate standardized emergency management planning protocols. There are both statewide and national emergency services standards for decision-making by governmental agencies, including university campuses, when dealing with extraordinary events. The National Incident Management System (NIMS) is modeled on California's Standardized Emergency Management System (SEMS) which includes within its scope the use of the Incident Command System (ICS) for managing actual events. NIMS/SEMS are designed "to give standard response and operation procedures to reduce the problems and potential for miscommunication on such incidents"

([http://www.calema.ca.gov/PlanningandPreparedness/Documents/SEMS\\_%20Foundation\\_ver\\_01-2010.pdf](http://www.calema.ca.gov/PlanningandPreparedness/Documents/SEMS_%20Foundation_ver_01-2010.pdf)) and are flexibly designed to be available for all forms of government including universities. NIMS/SEMS procedures are specifically designed to support pre-event planning. Elements addressed within NIMS/SEMS include a formal organizational structure and decision-making process, standardized processes for developing incident objectives to ensure uniform understanding, expectations for internal and external communication strategies and divisions specifically charged with gathering intelligence and planning for alternative scenarios. Failures identified within the Leadership Team's processes including miscommunication, ineffective communication with relevant stakeholders, inadequate intelligence regarding the actual event and an apparent failure to plan for alternative strategies are examples of the types of activities NIMS/SEMS is specifically designed to address.

Given the uncertainty as to the scope of the police operation to remove the tents and the manner in which it would be carried out, it is difficult to understand how the costs and risks of the operation could be meaningfully balanced against the goals the Leadership Team sought to accomplish. The Leadership Team clearly believed that the removal of the tents served the goal of maximizing safety. It is less clear how they could effectively evaluate the costs and risks of conducting the police operation when there was no common understanding of what that operation would entail. Similarly, comparisons between the costs of providing security to the encampment for a few nights and the risks associated with a confrontation between police and protesters would be difficult to evaluate when the scope and kind of police operation under consideration remained so ambiguous.

Again, the utilization of NIMS/SEMS protocols should have mitigated if not avoided these problems. A key unit within the NIMS/SEMS structure is a Planning Division. The Planning Division is charged with gathering intelligence. In a scenario such as November 18, the work of a Planning Division might have included accurately assessing the number of students versus non-affiliates, identifying potential health and safety risks and then working with the operations division to develop appropriate strategies to mitigate risks, such as temporary restroom facilities or enhanced policing to ensure student safety. The NIMS/SEMS structure was not activated for the November 18 event.

Instead, the Leadership Team as noted above was influenced by concerns derived from the Occupy incidents occurring elsewhere. There appeared to be a near universal assumption that not only would non-affiliates be a significant participant in any protests

at UC Davis but also that allowing tents would encourage additional non-affiliates and potential criminal activity such as seen at other Occupy events. These assumptions do not appear to be tested or validated. In addition, there is no evidence that the Leadership Team considered alternative strategies to mitigate the aforementioned risks and allow the protest and tents to continue.

***D. There Were No Clear Lines Delineating the Responsibility for Decision-Making between Civilian Administrators and Police***

As described above NIMS/SEMS is specifically designed to clarify roles and responsibilities in planning for and addressing extraordinary events. In the absence of NIMS/SEMS on November 18, however, the roles and responsibilities were not defined and not well understood. One significant example is the decision to remove the tents at 3:00 pm. This decision became a primary tactical event objective, yet the Leadership Team offered conflicting viewpoints on how it was determined. What is clear is, as Kroll notes, it was “a process where the police department failed to express its objections and concerns adequately, while the administration failed both to hear the police and to understand that they were ‘heard’ to be issuing an order.”

Kroll notes that “the evidence indicates that it was Chancellor Katehi who chose this time frame...and that police leadership opposed this time frame but failed to register a strong objection to it with the Leadership Team.” Furthermore, Kroll views the “timing of any police operation is a key tactical consideration” to be determined by the Police Chief. Chancellor Katehi did in fact make a tactical decision: that the tents would be removed during the day. Kroll notes, however, that there was no objection by the Police Chief to this tactical intrusion stating “Meyer stated that there was no ‘push back’ regarding the 3:00 pm Friday afternoon time from Chief Spicuzza or anyone else on the conference call” and that “Chief Spicuzza did not raise any strategic or tactical objections to the 3:00 pm operation.” There is conflicting evidence on this point, however. Dispatch Supervisor Garcia-Hernandez stated in an interview conducted on Feb. 1, 2012 that during a conference call on Nov. 18, 2011, Chief Spicuzza did raise objections to the 3:00 p.m. time of the operation and argued “we should go in at night.” No member of the Leadership Team recalls such concerns being communicated to them by Chief Spicuzza.

The above example is illuminating in that it showcases a process where a major incident objective was determined in an ad hoc setting and where the principal decision maker, Chancellor Katehi, did not realize her statement was both viewed as an “executive order” and a “tactical decision.” It is worth noting that in a NIMS/SEMS system, not only is there a clear delineation between policy objectives and tactical strategies but also event action plans and associated objectives are written and recorded.

***E. There Was Confusion as to the Legal Basis for the Police Operation***

As of the writing of its report, Kroll indicates that it has been “unable to identify the legal basis for the decision of the Leadership Team to act against the protesters and for the operation mounted by the UCDPD.” There is a record of continuing questions and

dialogue about the University's legal authority to support tent removal with police action. At different times, various statutes and administrative regulations have been cited to support the University's authority in this matter. Kroll notes "At the time the operation was mounted (and continuing until the present) it was not clear what legal authority existed for the campus police to remove the tents and arrest those who opposed them."

The police officers in charge of the police operation were uncertain as to the legal grounds for the action they were taking and consulted with University Counsel on the issue. Even on November 18, Police Department leadership continued to question their legal authority to remove tents during the day in order to implement legal prohibitions against overnight camping.

This confusion as to the legal basis for the police operation to remove the tents had several consequences. First, and most obviously, if there was no legal basis for deploying the police to take down the tents, the operation should never have taken place. Second, a clear understanding of the legal support for the operation might have helped to clarify (and possibly narrow) the scope of the operation and its mission. Third, without a clear understanding of the legal foundation for the operation, the University could not communicate effectively to the protesters. Protesters have a right to be told what laws they are alleged to be breaking. When there is ambiguity as to whether or not the police action is lawful or not, it is foreseeable that there will be an increased likelihood that protesters will resist police demands.

***F. The Leadership Team's Informal, Consensus-Based Decision-Making Process Was Ineffective for Supporting a Major Extraordinary Event***

As Kroll explains, "It was the systemic and repeated failures in the civilian, UC Davis Administration decision-making process that put the officers in the unfortunate situation in which they found themselves shortly after 3 p.m. [on Nov. 18, 2011]." The Leadership Team is described as operating under an informal, consensus based, decision-making process that is flexible in its configuration. As Kroll describes it, "The Leadership Team did not have a formal name or roster of members, met via conference call, and did not have an agreed upon method to communicate or record decisions." This structure failed to effectively support managing the events of November 18.

NIMS/SEMS calls for a formal organizational structure and decision-making process when preparing for or managing major events. The process by which incident objectives are determined is clearly defined and recorded. The very purpose of this formal structure is to ensure uniform understanding and reduce miscommunication. Failure to activate a NIMS/SEMS structure left the Leadership Team acting in their normal loose structure. As Kroll states, the outcome is that "key decision-makers on the Leadership Team held conflicting views on what decisions were made, when they were made and the basis on which they were made."

It is also true that even short of implementing NIMS/SEMS, campus organizations and governing bodies routinely keep records of decisions made. It would not be extraordinary to expect the same of the Leadership Team.

As noted above, the Leadership Team was providing guidance that the Police Department was interpreting as an “executive order.” Two significant decisions, the decision to remove the tents and the timing of tent removal, originate from the Leadership Team. The Leadership Team, however, appears to have made these decisions with incomplete information. Key sources of information, such as Student Affairs’ concerns that the encampment and protest were comprised primarily of students and that the use of police to remove the tents was premature and counterproductive, failed to generate robust or compelling discussion within the Team. Important decisions such as the afternoon timing of the operation were not rigorously vetted as to their consequences. In a NIMS/SEMS environment, the Planning Division would be specifically charged with gathering, verifying and reporting intelligence on issues such as the ratio of students to non-affiliates. Similarly, the Operations Division would be charged with discussing the advantages and disadvantages of operational strategies including timing. Unfortunately, in the absence of NIMS/SEMS these pivotal issues remained unaddressed.

Even as decisions were emerging from the Leadership Team, conflicts in understanding existed. As Kroll says, “When decisions were made, they were often not sufficiently articulated, and key decisions were often understood to mean different things to different people.” The picture that emerges is of a decision-making structure and process where, based on incomplete information, the Leadership Team made significant tactical and policy decisions that were not uniformly understood even among Leadership Team members. These poorly understood decisions were then communicated to the Police Department as “executive orders”.

## Section II – The Conduct of the Police Operation

The Kroll report provides substantial detail regarding the conduct of UCDPD leadership and officers related to this event. Needless to say, there were many breaches of protocol and procedures and a considerable lack of leadership. This section is intended to detail the most serious issues in this regard and not set forth all issues contained in the Kroll report.

Notwithstanding that the police had expressed reservations about a 3:00 pm action to remove the tents, they planned for and executed a plan to do so. They entered the Quad at 3:15 pm in a skirmish line. At 3:29 pm the first dispersal order was given. A total of six dispersal orders were given over the next several minutes. They advanced to remove the tents at approximately 3:35 and made several arrests in the process. At approximately 3:47 pm the crowd surrounded the police and arrestees as they waited for transportation for the arrestees. Sometime before 4:00 pm, the pepper spray was applied and all of the arrestees were transported from the Quad by 4:15 pm.

### *A. The UCDPD Failed to Plan for the Intended Action According to Standard Operating Procedures*

Once again, UC Davis police did not following national or state-mandated rules regarding incident/event planning (NIMS/SEMS). There are specific law enforcement rules and regulations about mutual aid and joint response to emergencies. The operations plans that were created by the UCDPD did not follow the appropriate and normal format. They lacked signature blocks for creation, review and approval. Large portions of the operations plans were left blank.

There were operational elements described that the police did not execute. The plan failed to account for prisoner transport from the scene of the event/operation to the site of prisoner processing. Kroll notes, “A key flaw of the police operations plan prepared by Lieutenants Swartwood and Pike is that the plan failed to address prisoner transport.” The Department Operations Center (which is referred to in the plan) was not set up in an appropriate fashion. Kroll notes as well the failure to pre-brief the Davis Police Department, the closest quick-reaction force in the event of a problem, was a significant oversight.

Perhaps most importantly, the operations plan did not clearly define or inappropriately defined the roles of the supervisors of the police in the field. For example, Lieutenant Pike was not given a role in the Operations Plan for November 18. Moreover, the assignment of the two lieutenants to the actual dismantling of the tents by the Chief of Police was an inappropriate role for supervisors, especially for the Incident Commander. As Kroll observes, “the roles of the supervisors were either unclear or inappropriate.”

***B. Notwithstanding the Deficiencies in the Operations Plan, the Incident Was Not Managed According to the Plan***

As Kroll reports, “The actions of the Chief of Police caused confusion during this operation. She was not present at the pre-event briefing and is not listed in any form on the operations plan. Her role in the field, where she was present on the Quad but not with the police, and was calling in directions via the command post, was problematic and added to the confusion already present in the operation. Indeed, at least one officer stated in his interview that during the most turbulent minutes of this operation, he observed the chief standing opposite him in the crowd filming the police actions with her cell phone.”

The Operations Plan identified Lt. Swartwood as the incident commander and defined no role for Lt. Pike. Yet Lt. Pike appears to have made the command decision to use pepper spray. No one in a command position was in the Department Operations Center, which impaired coordination and communication.

***C. The Decision to Use Pepper Spray Was Not Supported by Objective Evidence and Was Not Authorized by Policy***

The Kroll report states, “The video that went viral and sparked the international concern about this event was the pepper spraying of the seated line of protesters by Lieutenant Pike and then of a smaller portion of them by Officer Lee acting at Lieutenant Pike’s direction. This leads to the obvious question: Why did Lieutenant Pike deploy pepper spray?”

Interviews with officers involved in the incident indicate that they apparently felt that they were surrounded by a hostile mob and that the use of pepper spray was necessary to create a path for the officers and arrestees to leave the Quad. While there is some support for this conclusion, a detailed review of the objective evidence undermines this conclusion.

First, and foremost, the apparent reason for the officer and arrestees remaining on the Quad after the tents were down was because there had been no arrangements made to transport the arrestees from the Quad. The lack of timely decision-making by Lts. Pike and Swartwood to respond to this unplanned situation caused an escalation of an already volatile situation.

There are a number of other factors that undermine the belief that there was no alternative to use of pepper spray. Specifically, the following belie the conclusion:

- Sgt. Beermann was able to walk arrestees through the crowd to a waiting squad car for transport to the Police Station;
- Lt. Swartwood was able to step over the line of seated protesters and walk through the crowd to meet with the Davis PD who arrived to provide mutual aid.

He led the Davis PD contingent back through the crowd to the protesters without incident;

- Lt. Pike's actions and body language include stepping over the seated protesters to get to their faces, a move that would not generally be undertaken with a hostile crowd.
- Approximately 20 minutes after the pepper spray was used, Lt. Pike and one other officer returned to Quad without riot gear and asked protesters to remove additional tents that had been erected. The tents were removed without incident.

On balance, there is little factual basis supporting Lt. Pike's belief that he was trapped by the protesters or that his officers were prevented from leaving the Quad. Further, there is little evidence that any protesters attempted to use violence against the police. The Kroll report did note that Sgt. Sutera felt a protester was attempting to "attack" another officer and they had a brief altercation.

Kroll concludes, "Considering all the available evidence - while recognizing that Kroll investigators were not able to interview Lieutenant Pike to learn and report on his state of mind at the moment he used the pepper spray - the deployment of pepper spray does not appear to have been an objectively reasonable use of force." The Task Force agrees.

***D. The Pepper Spray Used, the MK-9, First Aerosol Projector, Was Not an Authorized Weapon for Use by the UCDPD***

UCDPD General Order No. 559 provides that pepper spray can be used, but specifically refers to the MK-4 (a smaller canister). Furthermore, the investigation found no evidence that any UCDPD officer had been trained in the use of the larger MK-9.

Kroll supported their conclusion that use of pepper spray was not reasonable use of force by stating, "This conclusion is buttressed by the facts that the MK-9 was not an authorized weapon under UCDPD guidelines and that UCDPD officers were not trained in its use." The Task Force agrees.

***E. There is a Breakdown of Leadership in the UCDPD***

The command and leadership structure of the UCDPD is very dysfunctional. Lieutenants refused to follow directives of the Chief. This breakdown is illustrated by the heated exchanges between the Chief and her Lieutenants as to the scope and conduct of the operation and the Chief's apparent concession that her officers will do things their own way and there is nothing she can do about it.

***F. Other Police Procedural and Tactical Irregularities***

"The actual crowd control formations used by UC Davis Police did not comport to contemporary policing practices", according to Kroll. The use of an inverse wedge as a skirmish line is very unorthodox. While Sgt. Beermann successfully removed arrestees from the site, there is no evidence that he communicated with the Incident Commander.

If Lts. Pike and Swartwood had been aware of Sgt. Beermann's success, they may have considered a different tactic.

There is no evidence that standard debriefings occurred after the incident or that after-incident reports were appropriately prepared. The lack of standard, after-incident reports impede a thorough review of what happened from the police perspective.

### Section III – Individual Responsibility

***A. The Chancellor Bears Primary Responsibility for the Decision to Deploy the Police at 3 p.m. Rather than During the Night or Early Morning, Which is a Tactical Decision Properly Reserved for Police Authorities***

Initially, the police operation to remove the tents on the quad was set to occur at 3 a.m. on the morning of Friday, Nov. 18, 2011. That plan remained in place until approximately 6 p.m. on Nov. 17, 2011, when Chief Spicuzza and Lt. Swartwood, the Incident Commander for the operation, called Vice Chancellor Meyer to tell him that there would be too few police officers available to implement the plan on Friday morning. Chief Spicuzza wanted to postpone the operation to 3 a.m. on Saturday, Nov. 19, 2011.

Later, either during a conference call at 10 p.m. on Nov. 17, 2011, or one the following morning, members of the Leadership Team (at least including the Chancellor, Vice Chancellors Meyer and Wood, and Chief Spicuzza) adjusted the timing of the operation – on the Chancellor’s proposal – from 3 a.m., Nov. 19, to 3 p.m., Nov. 18. Several reasons for changing the time of the police deployment from early morning to late afternoon were discussed. The Chancellor was concerned that Friday night was a “party night” and that the encampment might “become a place for fun [and] the use of alcohol and drugs and everything.” Leadership Team members on the call other than Chief Spicuzza worried that conducting the operation in the dark might be unsafe.

The initial suggestion to change the time of the police operation to 3 p.m. was presented by the Chancellor and it is clear that she expressed concerns about deploying police to take down the tents on a weekend night. Chancellor Katehi’s subordinates heard her suggestion of a 3 p.m. operation and concerns about a Saturday morning operation as an executive order. As noted in the Kroll Report, the timing of a police operation is an important tactical decision. Conducting the operation during the daytime may have jeopardized the legal basis for the operation. More importantly, it may well have contributed to the size of the crowd responding to the police action, a factor that increased the likelihood of a confrontation between the protesters and the police.

No one can know for certain what would have happened if the police operation had been conducted in the early morning on Saturday, or a day or two later on Sunday or Monday night. What is clear is that the timing of a police operation is a tactical decision that should be determined by police officers rather than civilian administrators.

***B. The Chancellor Bears Primary Responsibility for the Failure to Communicate Her Position that the Police Operation Should Avoid Physical Force***

On Nov. 17, 2011, at 8:30 a.m. and 1 p.m. respectively, the Chancellor held two conference calls with members of the Leadership Team to plan the campus’s response to the protest and encampment expected the next day. The decision to remove the tents before the weekend was clearly stated and understood during those calls. Indeed,

different members of the Leadership Team had been recommending as early as Oct. 25 that any tents that protesters might set up on the Quad should be taken down.

However, as noted previously, Chancellor Katehi failed to express in any meaningful way her expectation that the police operation was to be sharply limited so that no use of force would be employed by police officers other than their demand that the tents be taken down. The lack of effective communication by the Chancellor at this time not only contributed to misunderstandings that made it difficult to evaluate the decision to use police to take down the tents. This communication failure also substantially undermined the goal of avoiding a physical confrontation between the police and protesters. The decision to limit the conduct of the police to verbal demands that the tents be taken down and nothing more should have been stated explicitly. The Police Chief should have been required to acknowledge her understanding of those constraints and to evaluate their feasibility and consequences. Instead, the only message communicated to the police was the ambiguous suggestion that the Chancellor and the Provost did not want the police operation “to be like Berkeley.”

***C. Many Members of the Leadership Team, Including the Chancellor, Vice Chancellor Meyer, and Vice Chancellor Wood, Share Responsibility for the Decision to Remove the Tents on Friday and, as a Result, the Subsequent Police Action Against Protesters***

The members of the Leadership Team, including Chancellor Katehi, Vice Chancellor Meyer, Vice Chancellor Wood, Police Chief Spicuzza, and others, share responsibility for many of the decisions discussed and criticized in this report. Vice Chancellor Meyer, for example, was an early advocate for the position that tents on the quad would have to be taken down. He also understood that the deployment of police on Nov. 18 would require the use of physical force and supported this decision. Accordingly, he bears some significant responsibility for the decision to use the police and to risk a confrontation with protesters on Nov. 18. Vice Chancellor Meyer also exercised administrative responsibility over UCDPD. In that capacity, he, more than other members of the Leadership Team, should have taken steps to determine if police leadership had concerns about the contemplated operation and to ensure that those concerns were understood and evaluated by the Leadership Team.

Vice Chancellor Wood also bears substantial responsibility by failing to respond to Assistant Vice Chancellor Castro’s warnings about removing the tents and her report that few if any of the protesters were non-affiliates. On the 10 p.m. Leadership Team conference call of Nov. 17, 2011, Assistant Vice Chancellor (AVC) for Student Affairs Griselda Castro spoke for nearly forty minutes, detailing her conversations with protesters, counseling caution on the part of the Leadership Team, and advocating against removal of the tents. As Vice Chancellor for Student Affairs and AVC Castro’s immediate supervisor, Vice Chancellor Wood would be expected to ensure that AVC Castro’s concerns were carefully considered and evaluated. Instead, AVC Castro’s statement was met with silence.

***D. Chief Spicuzza Bears Individual Responsibility for Failing to Challenge the Leadership Team's Decision on the Time of the Police Operation and for Not Clarifying the Role the Police were Expected to Play During the Operation. She is also Responsible for Numerous Deviations from Best Police Practices Both Before and During the Operation as Detailed in the Kroll Report***

Many of Chief Spicuzza's actions both with regard to the Leadership Team (her superiors) and the Lieutenants in command of the operation (her subordinates) were critically flawed. In terms of the Leadership Team, those mistakes contributed to the imprudent decisions to deploy police at all, as well as to do so during the day. As Kroll explained and we discussed above, the decision to launch the operation in the afternoon "was a key factor in the growth of the crowd which resulted in the encirclement of police and the decision to use pepper spray." In terms of the police operations, the Chief's mistakes led to poor tactical decisions and, in Kroll's words, reflected a failure to "perform in the manner that police commanders during such an incident should . . . conduct[] themselves." For example, the Chief did not attend the department's operational briefing for its Nov. 18 response, and yet — without assuming actual command responsibility — "from the moment her officers were deployed on the Quad, [the Chief] began relaying orders to them via her cell phone."

At the Leadership Team level, the Chief failed to challenge effectively the Chancellor's proposal of a 3 p.m. operation instead of a 3 a.m. operation. Whether she voiced objections to the proposal is unclear; however, even if she had, "it appears that the objections were not clearly expressed to the . . . Leadership Team." As the highest ranking officer on UCDPD, she must have known of the tactical significance of the timing of the operation, and it was her duty to "affirmatively resist" the Chancellor's misguided tactical direction. Her Lieutenants, Pike and Swartwood, made sure she knew the timing was a problem — voicing concerns about the operation's timing from the moment they learned of the change to immediately before the operation began. None of the UC Davis administrators Kroll interviewed, however, recalled the Chief conveying those concerns to the Leadership Team. Had Chief Spicuzza objected forcefully to the timing of the police operation or the Chancellor making a tactical decision, the entire Leadership Team might have hesitated to go forward with a 3 p.m. operation.

Chief Spicuzza also failed to clarify the role police would play during the operation itself with the Leadership Team. The Chief neglected to insist that there be a valid legal basis for police involvement in the tent removal operation before its commencement. Apparently it was only "because of Lieutenant [Pike and Swartwood]'s continued concern over the legal basis for removing the tents" that the Chief sought legal advice on enforceability of the no camping policy just "[a] few hours before the operation commenced." She also failed to convey adequately to the Leadership Team the probability of escalating use of force in such an operation. The Chief's experience, "the recent events involving encampments at UC Berkeley and Oakland," Lieutenant Pike and Swartwood's insistence on wearing riot gear despite her contrary instructions, and the information in the related operations plans, all "suggested that the use of force would be difficult to avoid." Notably, the Department's Nov. 15, 2011, operation plan expressly stated that use of force was "highly likely" in a situation where police are removing tents

from the quad. In short, the Chief should have been well aware of the risk and made that risk clear to the policymakers to whom she reported.

***E. Lt. Swartwood Bears Individual Responsibility for Abdicating his Duties as Incident Commander***

Nominally at least, Lieutenant Swartwood was the designated Incident Commander for the Nov. 18 operation. As detailed above and by Kroll, Lt. Swartwood did not act “in the manner that [a] police commander should.” He failed to follow basic ICS/SEMS protocol from planning the incident to commanding it, resulting in unclear operational parameters and an unclear command structure, both of which contributed to his inability to command the operation effectively. His involvement with taking down the tents precluded him from obtaining an overview of the entire operation, a prerequisite to making informed command decisions.

***F. Lt. Pike Bears Primary Responsibility for the Objectively Unreasonable Decision to Use Pepper Spray on the Students Sitting in a Line and for the Manner in Which the Pepper Spray Was Used***

We agree with Kroll’s conclusion that Lieutenant Pike’s use of force in pepper spraying seated protesters was objectively unreasonable.

Some of the officers Kroll interviewed reported their subjective belief that, during the Nov. 18 incident, the crowd was hostile, they were surrounded, and they were at risk of losing their prisoners. On cursory review, the testimonial, photographic, and video evidence showing that in fact a crowd had partially encircled the police and was shouting chants like “If you let them go, we will let you leave” may appear to support that contention. However, a more careful review reveals several facts that conflict with that belief and which the commanders should have known. For instance, there were breaks in the circle around the officers. Where the circle was unbroken, the line was often still only one- or two-people deep, some of whom were seated, and many of whom may have been observers — crowding around to see what would happen — not protesters. Also, the more hostile chants were cut off by the majority of the crowd almost as quickly as they had started. Nor did they appear to reflect an actual intent by the crowd to prevent police from leaving with their prisoners. In fact, it was during one of the “If you let them go, we will let you leave” chants that Sgt. Beermann was able to leave, escorting an arrestee to an awaiting police car by simply walking him straight through the crowd, without incident or force escalation. Sgt. Beermann then returned and escorted another arrestee out through the crowd, again without incident. Both of the ranking officers in charge of the operation, Lt. Pike and Lt. Swartwood, were also able to move through the crowd freely, stepping over seated protesters on at least three occasions and just minutes before Lt. Pike sprayed those same protesters with pepper spray. Nor did Kroll identify objective evidence of any attempt by a protester to use violence. We agree with Kroll: on balance, the evidence does not provide an objective, factual basis for Lt. Pike’s purported

belief that he was trapped, that any of his officers were trapped, or that the safety of their arrestees was at issue.

Lt. Pike is also responsible for the specific pepper spray weapon he used, the MK-9, and the manner in which he used it. The MK-9 is not an authorized weapon under UCDPD guidelines. UCDPD officers were not trained in how to use it correctly. And Lt. Pike did not use it correctly. The MK-9 is a higher pressure type of pepper spray than what officers normally carry on their utility belts (MK-4). It is designed for crowd dispersal rather than field applications and “[t]he recommended minimum distance for . . . application of the MK-9 is six feet.” Lt. Pike appeared to be spraying protesters at a much closer distance than 6 feet.

## Section IV - Recommendations

The Task Force expects that the following recommendations will be implemented through a consultative process with various stakeholders throughout the campus community. Campus administration should develop interim actions until all stakeholder groups are consulted. All recommendations should be vigorously pursued and continually evaluated as to effectiveness and intended objective.

### *A. Recommendations for the Administration and Leadership Response*

#### *Administration and Leadership Response Recommendation No. 1*

The Task Force recommends the campus develop a broadly accepted agreement on rules and policies that regulate campus protests and instances of civil disobedience. This broadly accepted agreement should be grounded in our campus culture and regularly communicated to students. These rules and policies should be subject to regular review. Campus rules should:

- Be consistent with free speech doctrine;
- Recognize the unique circumstances of a university community and the importance of open and vigorous debate to our institutional function and identity;
- Respect the rights and interests of non-protesting students, faculty and staff;
- Respect the legitimate needs of the University to fulfill its educational function and operate its programs without undue interference;
- Recognize that the legitimate purpose of protest in a campus setting is to inform and persuade, not to coerce;
- Determine and define “non-violent” versus “active resistance” and “violent” protests and clarify the use of force and the force continuum as recommended by Kroll;
- Accurately identify and clearly describe and communicate the legal basis for the University’s response to any protest or instance of civil disobedience;
- Identify the consequences for breaches of the rules and policies.

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#### *Administration and Leadership Response Recommendation No. 2*

The Task Force recommends the Leadership Team engage in (1) proactive communication and consultation with the Academic Senate, Academic Federation, Staff Assembly, Graduate Student Association, Associated Students of UC Davis, and student governments of professional schools to build relationships and identify issues early; (2) invest in prevention through engagement in community dialogue and community-building; and (3) develop a structure for campus constituents to raise issues (such as holding regular office hours).

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*Administration and Leadership Response Recommendation No. 3*

The Task Force recommends that campus leadership develop NIMS/SEMS compliant procedures and protocols in order to achieve standardized procedures for planning, managing, communicating, and collaborating to manage a large scale event or incident. The procedures and protocols will include:

- Delineation of the appropriate engagement of University administrative procedures as opposed to law enforcement engagement, clearly defined thresholds for activating and leadership roles in ICS (Incident Command System), and regular meaningful rehearsals (outside of state mandated training) of emergency preparedness including rigorous after action analysis of ICS. In particular, all members of the Leadership Team, including the Chancellor, should become familiar with NIMS/SEMS standards;
- Designation by the Chancellor of a senior administration official who has explicit responsibility for managing all matters related to incidents of this nature. This management responsibility includes protocols and procedures for collecting and validating information on the nature of the incident and participants. The official should be the direct liaison with the police department and the portal through which other senior officials funnel information;
- Establishment by the Leadership Team of clear and concise procedures that delineate policy decision-making from tactical implementation. Related training for both administration and police leadership must be undertaken on this issue.

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*Administration and Leadership Response Recommendation No. 4*

The Task Force recommends the Leadership Team devote itself to healing processes for the university community, including steps to operationalize the Principles of Community, and that the administration consider Restorative Justice among other tools to address behavior that negatively impacts the campus climate.

***B. Recommendations for the UC Davis Police***

*UC Davis Police Recommendation No. 1*

The Task Force recommends the Chancellor employ outside assistance to review UC Davis police department protocols and procedures. Once the review is completed, specialized training should occur with all members of the PD to assure compliance with modern and contemporary practices for a campus-based police department. This review should include:

- Recommendations related to all manner of PD operations including appropriate levels of oversight and review;
- Recommendations related to an evaluation of how the police requirements for our campus can be fulfilled including an analysis of the number of officers needed and the ratio of sworn officers (authorized to carry weapons) to other personnel;
- Determination of the appropriate command structure, how incident command is managed, coordination related to mutual aid, and procedures and protocol for

- use of all manner of force consistent with our campus culture. The protocol for use of force should include provisions for conditions for which riot gear is used;
- A review of the job description of the Chief of Police to ensure that the scope of practice as defined reflects the current campus needs and that the qualifications and experience reflect campus acuity. In addition, there should be a review of staffing and skill mix, benchmarking with other UC campuses and national university benchmarks if available. Any officer recruitment should consider the skills necessary to fit with the campus culture;
  - Recommendations for annual competency trainings and annual performance evaluations.

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*UC Davis Police Recommendation No. 2*

The Task Force recommends the Chief of Police evaluate the appropriate role of student involvement in police functions such as increasing the size and utilization of the Aggie Hosts. The focus should be on fostering a deeper sense of community.

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*UC Davis Police Recommendation No. 3*

The Task Force recommends the UC Davis police department should strive to be a model of policing for a university campus and ensure best practices are followed.

***C. Recommendations for System-Wide Consideration***

*System-wide Recommendation No. 1*

The Task Force recommends the University of California study, evaluate, and adopt policies involving the training, organization, and the operation of UC Police Departments to ensure that they reflect the distinct needs of a university community and utilize best practices and policing adapted to the characteristics of university communities.

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*System-wide Recommendation No. 2*

The Task Force recommends the University of California adopt a system-wide policy for inter-agency support that requires responding agencies to respect the local campus' rules and procedures, including specifically those for the use of force.

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*System-wide Recommendation No. 3*

The Task Force recommends The Office of the President should review provisions of the Police Officers' Bill of Rights that appear to limit independent public review of police conduct and make appropriate recommendations to the Legislature. The Task Force did not have access to the subject officers. This limitation does not serve the police or the public. When information necessary to understand and evaluate police conduct is unavailable to the public, the public has less confidence in the police and the police cannot perform their duty without public confidence.

***D. Recommendation for the Campus Community***

*Campus Community Recommendation No. 1*

The Task Force recommends that all members of the campus community adhere to the Principles of Community, respecting members of the campus community and acting with civility towards others.

## Appendix 1 – Terminology and Nomenclature

Because they are central to the analysis and recommendations, the Task Force uses some phrases repeatedly in its report. In order to communicate clearly, we want to take a moment to clarify these phrases.

### *The Leadership Team*

Administrative decisions at UC Davis are made by an informal group of administrative and police officers, not all of whom participate in the discussion of every issue considered by the group. The Kroll Report describes this group as the “Leadership Team.” We have adopted that descriptive title for this report as well. The members of the Leadership Team are as follows:

- Linda P.B. Katehi, Chancellor
- Ralph J. Hexter, Provost and Executive Vice Chancellor
- John Meyer, Vice Chancellor – Administration and Resource Management
- Fred E. Wood, Vice Chancellor – Student Affairs
- Karl M. Engelbach, Associate Chancellor and Chief of Staff
- Michael F. Sweeney, Associate Campus Counsel
- Steven Drown, Campus Counsel
- Annette M. Spicuzza, Campus Police Chief
- Griselda Castro, Assistant Vice Chancellor – Student Affairs
- Cynthia Harrison Barbera, Executive Director of Strategic Communications
- Claudia Morain, News Service Director

### *NIMS/SEMS*

Both the Kroll Report and the Task Force Report make frequent references to the acronyms NIMS and SEMS. Indeed, a recurrent theme in both reports is that SEMS protocols were not activated or followed in this event.

Universities are placed in the local government organizational level of SEMS and are expected to employ SEMS for major events. SEMS can both be used to respond to unexpected disasters and to proactively plan for planned activities ranging from major sporting events, to parades, to protests such as the November 18 event.

SEMS stands for Standardized Emergency Management Systems. It is described in California Emergency Management Agency’s (CAL EMA) website, <http://www.calema.ca.gov/planningandpreparedness/pages/standardized-emergency-management-system.aspx>, as follows:

*“SEMS has been established to provide effective management of multi-agency and multijurisdictional emergencies in California. By standardizing key elements of the emergency management system, SEMS is intended to: facilitate the flow of information within and between levels of the system, and facilitate coordination among all responding agencies.*

*Use of SEMS will reduce the incidence of poor coordination and communications.*

*Local governments are required to use SEMS when their emergency operations center is activated or a local emergency is declared or proclaimed in order to be eligible for state funding of response-related personnel costs.”*

NIMS stands for The National Incident Management System (NIMS). It is a national model for emergency services management. NIMS was developed partly on the SEMS model and expanded upon SEMS to build a national framework for responding to emergency events. In California, the focus is generally on SEMS since it is specific to our state and includes the same principles.

ICS stands for the incident command system (ICS). It is a component of both SEMS and NIMS. ICS describes the structure and command system used for the field response. The Incident Commander in an ICS structure is usually the most qualified police or fire representative on site, in the field, at an event.

A key component of SEMS is written action plans for preparing for and responding to events. The CALEMA website describes the two standard types of action plans relevant to this Report.

*“Incident Action Plans: At the field response level, written or verbal incident action plans contain objectives reflecting the overall incident strategy and specific tactical action and supporting information for the next operational period. Incident action plans are essential and required element in achieving objectives under ICS.”*

*“EOC Action Plans: At local, operational area, regional and state levels, the use of EOC action plans provide designated personnel with knowledge of the objectives to be achieved and the steps required for achievement. Action plans not only provide direction, but they also serve to provide a basis for measuring achievement of objectives and overall system performance. Action plans can be extremely effective tools during all phases of a disaster.”*

## **Appendix 2 – The Kroll Report**