

13 January 2014

Report of the Ad Hoc Committee on Protest and Dissent

I. Background

The Provost established this committee in Winter Quarter, 2013. His charge to the Committee is reproduced in Appendix I. The committee was established in the aftermath of demonstrations at the Center for Care and Discovery that led to arrests and disciplinary actions against demonstrators and allegations of misconduct against the University of Chicago Police Department. The events surrounding those demonstrations were addressed by a separate investigation and report, and those specific events are not the subject of this Committee's work. The Provost directed us instead to make recommendations about the principles that should govern protests and demonstrations on campus in the future.

In addition to charging the Committee to make general recommendations about policies and practices related to dissent, the Provost identified three specific issues. First, he asked us to consider whether protests and demonstrations at especially sensitive University facilities, such as health care and research facilities, should be treated differently from demonstrations at other University buildings. Second, he asked how rules and guidelines about protests and demonstrations should apply when the group engaged in the demonstration includes both people affiliated with the University and people, perhaps from nearby communities, who do not have a University affiliation. Third, he asked what expectations there should be about communications among protesters, University police, and other University officials and staff members, and what responsibilities those groups should have toward each other.

The Committee met with University administrators, students, and representatives of the Hyde Park community. Members of the Committee invited comments from colleagues, and the Committee held an open meeting for the entire University community on 13 May 2013. A list of these various meetings is Appendix II. In addition, the Committee established an email address to which any interested person could send comments.

This report reflects the unanimous view of the members of the Committee. We will first offer some general thoughts about the relationship of protest, dissent, and demonstrations to the University's mission. Then we will make some observations on the University's existing policies governing protest and dissent and some specific recommendations.

II. General Principles

In our view, dissent and protest are integral to the life of the University. Dissent and protest should be affirmatively welcomed, not merely tolerated, by the University. Especially in a university community, the absence of dissent and protest – not its presence – is a cause for concern. The passionate expression of non-conforming ideas is

both a cause and an effect of the intellectual climate that defines this University in particular. In addition, dissent and protest – and public demonstrations by groups and individuals – play a role in the University’s educational mission: being a member of an educational community that values dissent and protest is, in part, how people develop as citizens of a democracy.

But maintaining this kind of university community imposes obligations of mutual respect on everyone involved. University administrators have a responsibility to act with restraint and flexibility and not to insist on the enforcement of rules for its own sake. Beyond that, University administrators have an obligation to listen and to engage: to recognize the concerns of dissenters and to address those concerns to the extent they can.

People engaged in protests and demonstrations have reciprocal obligations of respect and constructive engagement. They have a responsibility not to jeopardize the University’s ability to meet its commitments and obligations. A university like ours is a complex institution that is engaged in a wide range of activities, including some highly sensitive activities the disruption of which would have very harmful consequences for members of the University community. Protesters have a responsibility to recognize that and to act accordingly.

III. Current Policies

The University’s existing policies on dissent and protest (attached as Appendix III) are, for the most part, less specific than those of many comparable universities. This University does not, for example, have a detailed code of conduct that regulates demonstrations and other activities related to protest. Instead, the University’s policies rely on more general standards.

We believe this is a virtue, and we do not recommend a substantial revision of the University’s existing written policies. The existing policies allow for flexibility and for the exercise of discretion, and that is how it should be. We will suggest some relatively minor revisions in the next part of this report.

The existing policies contemplate that demonstrations will be planned in advance, with cooperation between University administrators and protesters; that is one of the reasons that our policies can be flexible rather than rule-bound. There is a record of successful cooperation in the past: protesters have been able to engage in the kinds of demonstrations they wanted, without excessive disruption of University activities. This kind of antecedent cooperation between protesters and University administrators is very important, and we believe the organizers of protests have a responsibility to engage in this process. It enables the University not just to permit but to welcome and facilitate and, if necessary, to protect the people demonstrating. That is the attitude

University administrators should take toward protest, and it is the attitude they have expressed in their meetings with us.

At the same time, spontaneous demonstrations that have not been previously coordinated with the University cannot, and should not, be ruled out. The University should, to the maximum extent it can, adopt the same approach of restraint when spontaneous demonstrations happen; if possible, the University should facilitate those protests as well. But people engaged in a spontaneous demonstration have an absolute obligation to respect the University's legitimate interests in protecting its facilities and its operations. The University has not just the right but the responsibility to protect those interests if they are jeopardized.

IV. Specific Recommendations

1. Whenever possible, problems that arise in connection with protest activity should be handled with a minimum of police involvement. If this requires that additional resources be devoted to the Dean-on-Call program, then we recommend that those resources be provided.

In addition, a decision that the University Police be called in should be made, if at all possible, by high-ranking University officials. University Police should be trained in techniques adapted to providing the necessary security during demonstrations in order to protect protesters and bystanders as well as the University's vital interests. Our understanding is that policies along these lines have been implemented, or are being implemented, already.

2. The University is entitled to impose strict limits on protest activity that threatens especially sensitive facilities and to enforce those limits if they are breached. We do not think it is possible to specify, acontextually, what these limits might be. That may depend on the specific uses being made of a facility, on the nature of the protest activity that is contemplated, and on other factors. The University should, however, give clear notice of the limits it is imposing. It should accommodate protest activity to the extent possible, and it should, as always, act with restraint to the extent compatible with the protection of its vital interests.

3. The University should expect that members of the community outside the University will engage in protest near or on University property, often in concert with members of the University community. The University should minimize differences in treatment between University affiliates and non-affiliates, in order to avoid seeming to adopt an unwelcoming attitude toward members of the outside community.

Having said that, however, the University has special responsibilities toward members of the University community. The University can also insist on certain standards of behavior (and impose discipline accordingly) in its relationship with members of the

University community. For those reasons, in some circumstances it will be entirely appropriate for the University to treat members of its community differently from people who are not members of the University community.

4. In dealing with matters that might give rise to protests, the University should be alert to the benefits of collaborating with representatives of the neighboring communities and other stakeholders. Particularly when these matters affect people who are not affiliated with the University, representatives of other communities can help the University communicate the reasons for its decisions in a more effective way. Our neighboring communities, by identifying and articulating their interests, can also help protect against the exploitation of members of the University community by groups that have an agenda that is not compatible with the University's values or with the interests of either the University or its neighbors.

5. Because an atmosphere that welcomes protest and dissent is, as we have said, a component of the University's educational mission, the University should consider introducing students more explicitly to the specific policies governing protest and dissent and, perhaps more importantly, to the University's general principles about protest and dissent. This could take place during orientation; it should also be a subject addressed with the leadership of student groups on an ongoing basis, as appropriate.

6. The University's policies should, to the extent possible, make clear what discipline will be imposed for violations of University rules. In that connection, two aspects of the University's policies may warrant revision. The University's written policies currently provide for an all-University disciplinary system that, we understand, has not been used for decades and that should be re-evaluated.

More directly relevant to protest and dissent, we note that the University's statutes appear to provide that discipline can be imposed for "[c]onduct . . . disruptive of the operations of the University." Statute 21, Statutes of the University of Chicago (2013). This prohibition, taken literally, is too broad. Vocal protest, and demonstrations in particular, are by their nature disruptive to some degree.

There is a more specific definition of disruption in legislation enacted by the Council of the University Senate (Legislation enacted May 12, 1970; amended June 8, 1976). That definition (reproduced, along with Statute 21, in Appendix IV) is more appropriately limited, especially if it is applied – as it should be – with a proper understanding of the role of protest activity in the University community and with a recognition that protest activity will often cause incidental disruption. Such incidental disruption should not be regarded as a violation of University policy.

David A. Strauss, Gerald Ratner Distinguished Service Professor of Law and committee chair

Emilio Kourí, Professor, Departments of History and Romance Languages and Literatures and the College

Stacy Lindau, Associate Professor, Department of Obstetrics and Gynecology

Emil J. Martinec, Professor, Department of Physics, the Enrico Fermi Institute, and the College

Everett E. Vokes, John E. Ulmann Professor, Department of Medicine

Christopher Woods, Associate Professor, Oriental Institute, Department of Near Eastern Languages and Civilizations, and the College

Ingrid Gould, Associate Provost for Faculty and Student Affairs, staff to committee

Appendix I

Committee Charge

The Ad Hoc Faculty Committee on Dissent and Protest was asked to review and make recommendations about practices and policies regarding dissent and protest on campus. The recent protests at the Center for Care and Discovery raise issues for which we do not have set policies. Among these are the question of whether protests in healthcare and research facilities with patients and technical equipment should be treated differently than those in instructional or administrative buildings, the need to devise guidelines for protests that include both University affiliates and community members, and the expectations for communication between and the responsibilities of protesters, University staff and police. The committee is expected to solicit broad input from the University community.

Appendix II

In addition to holding several meetings for Committee members to discuss ideas, policies, and feedback from others among themselves, the Committee met with:

1. Administrators (3) from Campus and Student Life
2. Representatives (2) from the University of Chicago Police Department
3. Patricia Brown Holmes, Partner, Schiff Hardin LLP, the investigator hired by the University to examine events that occurred at the 27 January and 23 February 2013 the Medical Center protests in order to determine if University policies had been violated
4. Individuals (23) who attended an Open Meeting
5. Representatives (2) from the University of Chicago Medical Center

6. Students (20) who attended a Think Tank meeting hosted by Campus and Student Life
7. Executive Vice President for Finance and Administration
8. Board members (7) of the South East Chicago Commission

Appendix III

University of Chicago Documents

Statement of Freedom of Expression:

http://www.uchicago.edu/about/statement_on_principles_of_free_expression/

Protest & Demonstration Policy: <http://studentmanual.uchicago.edu/protest>

Outdoor Events on Campus Policy: <http://studentmanual.uchicago.edu/outdoor>

Safety & Appropriate Use of

Facilities: <https://studentmanual.sites.uchicago.edu/safety>

University of Chicago Student Disciplinary Systems

Student Disciplinary Systems (for individual students and groups of students):

<http://studentmanual.uchicago.edu/disciplinary>

All-University Disciplinary System (for students who disrupt the work of the

University): http://studentmanual.uchicago.edu/university_dicip_system

Appendix IV

Statute 21:

Disruptive Conduct. Conduct of members of the University disruptive of the operations of the University, including interference with instruction, research, administrative operations, freedom of association, and meetings as protected by University regulations, is prohibited and is subject to disciplinary action.

<https://trustees.uchicago.edu/sites/trustees.uchicago.edu/files/uploads/UniversityOfChicagoGoverningDocuments.pdf>)

All-University Disciplinary System:

Section 3. Definition of disruptive acts

It is misconduct, constituting a disruptive act, for any member of the University community to engage in conduct which substantially obstructs, impairs, or interferes with teaching, study, research, or administration of the University; the authorized use of University facilities; or the rights and privileges of other members of the University community, for example:

- a. By obstructing, impairing, or interfering with University sponsored or authorized activities or facilities in a manner likely to deprive others of the benefit or enjoyment of the activity or facility;
- b. By using force against any member of the University community or his or her family which substantially and directly bears upon the member's functions within the University, or threatening the use of force against him or her or his or her family in circumstances which create a reasonable fear that actual force is likely to follow[.]

http://studentmanual.uchicago.edu/university_dicip_system