

The Executive Council of the Davis Division of the Academic Senate hereby censures Chancellor Linda P. B. Katehi for failure to perform adequately the tasks of her office and failure to provide clarity, candor, and trustworthy accounts in relation to the events of November 18, 2011.

This action is based on the findings in the Kroll report, the Reynoso report, and the report of the Executive Council Special Committee on the November 18<sup>th</sup> Incident (Special Committee).

The Executive Council calls upon Chancellor Katehi to provide an action plan to implement the recommendations in these reports and to address the leadership deficiencies identified therein. These include deficiencies in consultation, communication, administrative organization, and documentation.

Although the Executive Council is not endorsing the Special Committee's call for resignations (in the appendix) at this time, the Executive Council endorses the remaining recommendations of the report of the Special Committee. Executive Council requests from the Chancellor a detailed written action plan by June 1, 2012, and a progress report by October 1, 2012. Subsequently, Executive Council will evaluate the progress that has been made to restore effective campus leadership, actively consider the faculty's confidence in the Chancellor's leadership in light of the progress that has been made towards meaningful change, and report to the Representative Assembly.

**The Executive Council will establish:**

1. The Executive Council Special Committee: Administrative Oversight to assure oversight of the Chancellor's efforts to implement the report's recommendations.
2. The Executive Council Special Committee: Freedom of Expression, which will address the need for new policies and procedures for implementation that clearly define the appropriate time, place and manner of freedom of expression on the campus.

**The Executive Council endorses:**

1. Formation of a Police and Emergency Management Review Board, as set out in the report of the Special Committee.
2. Formation of the Campus Community Council recently created by Chancellor Katehi with the expectation that this group will form a true advisory team in which dissent is welcome.

We pledge to work actively and collaboratively to restore clear, effective, and respectful channels of communication and to be vigilant in assuring that goals are met and progress is sustained.

**Executive Council Special Committee on the  
November 18th Incident**

**Special Committee Report**

**April 2012**

# Special Committee Membership<sup>12</sup>

**Julia Simon**

Chair, Professor of French  
College of Letters and Science

**Colin Carter**

Professor of Agricultural and Resource Economics  
College of Agricultural and Environmental Science

**Roland Faller**

Professor of Chemical Engineering and Materials Science  
College of Engineering

**Richard Grosberg**

Professor of Evolution and Ecology  
College of Biological Sciences

**Margaret Johns**

Senior Lecturer  
School of Law

**Ari Kelman**

Associate Professor of History  
College of Letters and Science

**David Masiel (Academic Federation Representative)**

Lecturer in University Writing Program  
College of Letters and Science

**Zackary O'Donnell (Staff Assembly Representative)**

Service Manager  
Communications Resources

**Matthew Zimmerman (GSA Representative)**

Ph.D. Candidate, Graduate Group in Ecology  
College of Agricultural and Environmental Science

**Scott Judson (LSA Representative)**

J.D. Candidate, Class of 2012  
School of Law

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<sup>1</sup> The committee would like to thank Mary Christopher for her leadership during the late fall and winter quarters.

<sup>2</sup> The ASUCD representative chose to leave the committee in early spring quarter.

## Executive Council Special Committee on the November 18th Incident

### Preamble

The committee is grateful for the work of the Reynoso Task Force and the Kroll group on the incident at UC Davis on November 18, 2011. These two reports were indispensable for our committee deliberations. Both reports identify a systematic breakdown in campus decision-making, procedures and communication. This breakdown led senior leadership to misidentify a peaceful student protest on campus as a crisis. Consistent with the findings of the Reynoso and Kroll reports (Reynoso, 5), we unanimously agree that the pepper-spraying of protesters on November 18, 2011 was completely unnecessary and avoidable, regardless of the legality of the operation. Both reports identify many factors that contributed to this mistaken and costly misjudgment. As a committee, we are concerned with the conditions that led to the episode, and the aftermath of the incident. The unacceptable treatment of our students by the administrators and the campus police, as determined by Reynoso and Kroll, represents an unreasonable use of force (Reynoso, 19). We offer the following report and series of recommendations in the best long-term interests of the campus.

### Specific Recommendations from the Committee

In general, the committee endorses the findings and recommendations of the Reynoso and Kroll reports as a minimum first step toward addressing the conditions that led to the incident on November 18. In some cases, we consider their recommendations to fall outside the scope and charge of this committee. With regard to system-wide recommendations, including NIMS-SEMS compliance, we defer to the expertise of appropriate parties.

We recommend the following actions based on specific areas of concern to our committee. In some cases (indicated below), we recommend the creation of committees or task forces composed of administration, senate faculty, federation faculty, staff and student members. To address the problems that we have identified, and in the spirit of representative democracy, all representatives should be chosen by their respective groups.

#### 1. Benchmarks and Metrics

A major concern of our committee is the lack of substantive response by the administration at UC Davis and other UC campuses to findings and recommendations following comparable incidents. This troubling pattern of behavior and lack of accountability by administrators motivates the recommendations that follow in this report. For example, after the Mrak Hall occupation in November 2009, the chair of the Academic Senate at the time, Robert Powell, recommended the creation of a Police Review Board to the administration. This recommendation was ignored. This is one in a string of such examples. To avoid this pattern, it is imperative that the following recommendations be coupled with benchmarks and metrics to assess progress. For each recommendation, we offer what we regard as a reasonable timeframe for implementation, but recognize that some adjustments may be necessary. We also recognize the need for oversight. **Executive Council will be charged with constituting a committee to monitor progress and comprehensively review the status of the recommendations made by this committee, Kroll and Reynoso.** Each group described below should submit a quarterly report to this oversight committee, indicating progress in meeting charges and goals, as well as detailing activities. This oversight committee should issue public reports on Nov. 1, 2012 and June 1, 2013 assessing whether or not the groups are meeting the established metrics. In addition, the oversight

committee should consider the full range of possible responses and whether or not the administration is making progress in building collaboration.

## 2. Freedom of Expression Group:

The committee endorses the Reynoso recommendation that “the campus develop a broadly accepted agreement on rules and policies that regulate campus protests and instances of civil disobedience” (Reynoso, 26). To achieve this, we recommend the formal constitution of a Freedom of Expression Group. We recognize and endorse the purpose behind forming the ad hoc student response team (Kroll, 15-16). However, its ad hoc nature and lack of established charges and goals rendered it incapable of responding to the complex needs of the Occupy protests.

This newly constituted group should address the need for new policies and procedures for implementation that clearly define the appropriate time, place and manner of freedom of expression on the campus. The group should help to put into place guidelines that enable appropriate parties to recognize civil disobedience and student protest as specific categories of action (Kroll, 128). At the same time, we recognize the need for student responsibility. Administration and faculty must educate students to make clear the guidelines related to these activities and to specify the disciplinary consequences when they are violated. The group should be attentive to the needs that pertain to the special nature of a campus community. Freedom of expression in a campus environment should go far beyond the protections of the First Amendment.

**Benchmark: This group should be established by fall 2012.**

## 3. Decision-Making

The administration and its “leadership team” failed both in its judgment of the situation and to establish a management structure that would lead to sound and well-informed decisions. Decision-making entails multiple elements of communication and consultation such that in some sense it is artificial to break them apart. However, because of the complexity of the issue, we need to bring clarity to the different elements that contributed to the problem. Both reports emphasize that there were dissenting voices within the process, but clearly, they were ignored. The deliberate decision to ignore dissenting voices—among them Griselda Castro’s characterization of the demonstrators as primarily students instead of non-affiliates (Reynoso, 22; Kroll, 28-9, 56), the chief of police’s agreement with this assessment (Kroll, 28-9), as well as the police objection to moving the operation to 3 pm (Kroll, 62)—is a function, in part, of ignoring what constitutes meaningful consultation.

The committee recommends a specific definition of consultation that recognizes the need for dissenting opinions to be offered without fear of retaliation and to be heard without prejudice. The outcome of such a process results in informed decisions and a sense of inclusivity of all parties. For example, the question of how to deal with the student protestors was on the agenda of the Executive Council meeting on November 18. Rather than consulting and collaborating with faculty leaders, the chancellor instead informed them that actions were already being taken. This does not constitute consultation. Meaningful consultation requires decision-makers who reserve judgment, consider all options, and state clearly the reasons for their ultimate decisions. The leadership of a community as diverse as UC Davis cannot legitimately function in any other way.

**Benchmark: These concerns should be addressed immediately.**

## 4. Leadership

This question of leadership comes into play in the “Leadership Team” described in Kroll and Reynoso, an informal advisory group with no official standing. Following the recommendations of Kroll

(section 8.1, Kroll, 127), a “clearly defined structure and set of operating rules” for such a team needs to be created. This “inter-disciplinary” leadership team should include representatives from relevant constituencies: Administration, Academic Senate, Academic Federation, Staff and Students. The leadership team, as it is presently understood, is made up of individuals from the Chancellor’s inner circle. The representatives of an official team should be chosen by their respective groups so that members of the leadership team are not beholden to the Chancellor. The leadership team should be an inclusive group that functions according to the principle of consultation outlined above. While we recognize that, on a variety of issues, it is advisable for the Chancellor to seek the opinions of individuals outside this team, responsibility for critical consultation must rest with an officially constituted body.

**Benchmark: This group should be established by fall 2012.**

5. Communication

The breakdown of communications was a major contributing factor to the unfolding of events before, during and after November 18, 2011. We acknowledge and support the findings of Reynoso and Kroll that poor communication lies at the heart of the incident. While it is difficult to separate consultation and communication, we also recognize that language was used by the leadership team in ways that did not clearly convey intended meaning. Examples include “we don’t want another Berkeley,” a phrase subject to multiple interpretations, and which may well be the source of the police apparently misunderstanding orders by administration prior to and during the incident. To avoid these kinds of situations, the administration should establish a set of procedural guidelines that provide a framework for ensuring that all parties understand commands and other communications in the same way. This may entail procedures for the party receiving orders to restate and acknowledge comprehension of the orders.

**Benchmark: Procedural guidelines for checking comprehension and communication should be established by fall 2012.**

6. Police and Emergency Management Review Board

Alongside the system-wide recommendations made in Kroll (129) that remain outside our purview, the committee recommends the creation of a police and emergency management review board specific to the Davis campus. We reiterate our endorsement of the specific recommendations in Reynoso and Kroll and add our own concerns about appropriate and inappropriate uses of force. Mindful of the special nature of the campus community, we are concerned with the militarization of the police force on campus and the chilling effect that the use of force produces. We recommend that, whenever possible and appropriate, alternatives to police force should be used, such as Student Judicial Affairs (Kroll, 128). Indeed, the police should be the option of last resort, even when the intention is not to use force because of the ever-present potential for situations to escalate. Finally, we strongly urge the administration to establish a clear structure that defines and delineates the limits of civilian and police authority.

**Benchmarks: The Review Board should be established by fall 2012.**

**An updated Emergency Plan (characterized by transparency, effectiveness and accessibility, consistent with NIMS/SEMS) should be established as soon as possible.**

**Organizational and Administrative Structures**

In one significant respect, the approach and findings of our committee differed from that of Reynoso and Kroll: we do not view the events of November 18 as an isolated incident caused by the confluence

of student protests with the Occupy Movement. Rather we perceive the response to the encampment as part of a larger pattern related to flawed organizational, decision-making and administrative structures. Again, we have identified previous incidents that had no impact on procedures:

- The occupation of Mrak Hall in November 2009 led to no significant changes in response to student protests by the administration.
- Likewise, the occupation of Wheeler Hall in Berkeley in November 2009, which led to the exhaustive Brazil report, produced no tangible results in terms of change in the response plan on the Davis campus.

In part, the failure to respond appropriately to the events on campus in November 2011 was produced by a leadership team that did not tolerate dissent within its ranks and did not listen to repeated warnings and informed opinions from within its own membership (Kroll, 109-10). In order for the administration to “devote itself to the healing processes for the university community” (Reynoso, 27) and establish patterns of behavior consistent with the Principles of Community, we recommend that the administration engage in a form of open dialogue with the campus community that is consistent with the principle of consultation defined above. Senate and federation faculty have a key role to play in providing guidance and alternative perspectives in this healing process.

**Benchmark: Open forums for dialogue and real communication and consultation with evidence of attendance and impact by fall 2012.**

## **Conclusion**

The problems of decision-making, consultation and communication identified above extend beyond the events leading to the pepper-spray incident on November 18, 2011 and encompass the administration’s poor response to the incident in the weeks and months that followed. Inconsistencies and gaps in statements made by the leadership team to Kroll may be the result of faulty memory or deliberate acts of omission, obfuscation or misdirection (Kroll, 58-9); the fact is, we do not know. Nonetheless, we find these inconsistencies deeply troubling.

The committee identifies a dysfunctional organizational structure that values public relations over candor and its own self-interest over the interests of the campus community or the reputation of the institution. Specifically, we are concerned with the professionalization of the administrative group, which has produced a deep divide between the administration and the rest of the campus. The failure to recognize students as students (and not non-affiliates) in the occupation of Mrak Hall in 2009 and the mistaken belief that the presence of non-affiliates necessitated taking down the encampment in 2011 are symptomatic of the gap between the administration and the rest of campus (Kroll, 114, 116).

The committee has divided views about whether or not Chancellor Katehi should continue in her current position.<sup>3</sup> In spite of this division among committee members, we unanimously agree on core principles concerning the duties of the Chancellor and the ways in which they were performed both during and after the events on November 18, 2011.

**Accountability:** As the chief executive officer for the campus, the Chancellor is ultimately responsible for actions performed under her authority. The committee believes that Chancellor

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<sup>3</sup> See Appendix.

Katehi fell short of the standard of accountability required of someone in this type of leadership role. We are particularly concerned about the failure to take responsibility in the weeks and months that followed the incident. Such a failure disables the community from moving forward and healing. To date, the Chancellor has not truly taken full responsibility for the incident on November 18, 2011. The chancellor has on a number of occasions claimed that she has taken full responsibility for the events; however, to date she has not acknowledged the mistakes and errors of judgment that she has made as documented in Kroll and Reynoso.

Performance: Chancellor Katehi's performance of her duties leading up to, during and following the events on the quad on November 18, 2011 was woefully inadequate. As evidenced by all of the specifics detailed by Reynoso and Kroll, she failed to perform competently as the chief executive officer of the campus.

Integrity and Trust: In order for a campus leader to function effectively, s/he must have the trust of the community. Chancellor Katehi's lack of candor, consistency and clarity in the aftermath of the events has undermined the community's trust in her leadership (Reynoso, 26-7; Kroll, 58-9). The attention to public relations and the less-than-forthcoming accounts of events has led to deep mistrust in many sectors of the campus community. To move forward, these issues of candor, clarity and trust must be addressed in order to ensure credibility and legitimacy in leadership.

**Appendix: Vote of Senate Faculty**

The members of the committee unanimously agreed on all of the findings and recommendations contained in the preceding report. On the question of recommending specific personnel changes, the committee was deeply divided. Some members of the committee even wondered whether or not our charge extended to recommending personnel changes. The outcome of the vote on four resolutions demonstrated how closely divided we are on the issue, despite being in complete agreement with the principles that underlie our assessments and judgments to this point.

According to the advice offered by the Academic Senate Committee on Elections, Rules and Jurisdiction (CERJ) on April 18, 2012 concerning voting rights on the committee, only Senate Faculty voted on the resolutions below, recommending action by Executive Council. All four resolutions passed.

- 1. I support the recommendation to Executive Council that they call for the resignation of Chancellor Linda P. B. Katehi.**

Yes: 3; No: 2; Abstain: 1

- 2. I support the recommendation to Executive Council that they call for the resignation of Vice Chancellor John Meyer.**

Yes: 4; No: 1; Abstain: 1

- 3. I support the recommendation to Executive Council that they call for the resignation of Vice Chancellor Fred Wood.**

Yes: 4; No: 1; Abstain: 1

- 4. I support the recommendation to Executive Council that they call for the resignation of Chief of Police Annette Spicuzza.**

Yes: 3; No: 0; Abstain: 3