

# **Independent Review Committee for the University of Chicago Police Department**

## **Review of February 24, 2010 Incident at the Regenstein Library**

### ***Introduction***

The mission of the Independent Review Committee (IRC) is to perform an independent review of all University of Chicago Police (UCPD) investigations of complaints against the UCPD alleging excessive force, violation of rights, or abusive language. The Committee is appointed by the Provost and consists of three faculty members, one of whom serves as chair; three students; two staff members; and three community members.

The Committee meets regularly to review all UCPD complaint reports and related policy and procedural issues. It produces an annual report published for all to review on the University's website and distributed to the President, Provost, and Vice President for Civic Engagement.

On occasion, the Committee may deem a particular case of such importance that it warrants a separate review. This is such an instance.

On February 24, 2010, an incident occurred in Regenstein Library that began with a library employee's admonition to students to be quiet and ended with one of those students being arrested and charged with resisting arrest.<sup>1</sup>

The IRC has tried to understand how a relatively trivial and routine occurrence—a passing moment of loud voices in the library—could have precipitated an incident so costly to individuals and the institution. Having closely reviewed the record, we have concluded that errors of judgment and failures to follow established procedures by multiple parties contributed to an outcome no one would have chosen.

The students involved in the February 24 incident are African-American, as are the accused officer and the library clerk who requested police assistance. Although the issue of race is not raised in the complaint itself, public discussion of the incident has often been framed in terms of racial bias. This report addresses that question. It is not, however, limited to it.

Drawing from the available evidence, we attempt to piece together the sequence of events, while pausing at several points to provide IRC analyses of and recommendations

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<sup>1</sup> The IRC originally believed that the student had also been convicted, and noted this in their review. Upon learning that no conviction had occurred, they amended the text.

related to the events as they unfold. We conclude with a set of broader observations that relate not only to issues of race, but also to institutional integrity, complaint investigation procedures, appropriate responses to challenges to authority, and ultimately, the nature of a university police force.

### ***The evidentiary record***

In preparing this report, the IRC reviewed the following evidence:

- The UCPD complaint report. The case file includes interviews conducted by two UCPD investigators with two complainants, twenty-seven witnesses, and the accused officer. It also contains a number of police reports and police radio dispatch tapes from the evening in question. The file also contains the findings and recommendations of the investigator, reviews of those findings and recommendations by two senior UCPD officers, and the letter sent by the Chief to the complainants.
- In order to perform its oversight function, the IRC found it necessary to go beyond the record contained in the UCPD complaint report and to conduct additional interviews of the accused officer, other UCPD personnel, and the Dean-on-Call at the time of the incident.
- The Chair of the IRC spoke at length, by telephone, with the student who was arrested in this incident. The conversation took place within minutes of the student's release from custody, following his appearance in court, on the afternoon of February 25, 2010. The student, however, declined any further interviews by UCPD officers. A number of other students also failed to respond to UCPD outreach.

Serious deficiencies in the evidentiary record—most notably, the absence of transcripts of interviews conducted in the course of the UCPD investigation—impaired the IRC's ability to perform its usual functions of (1) determining what occurred, (2) evaluating the credibility of competing witness accounts, and (3) reviewing the UCPD investigative findings and disciplinary recommendations. While it is clear to the entire IRC that a number of things went very wrong in this case and that misconduct occurred, the investigative deficiencies prevented several members of the IRC from being able to judge fundamental questions of officer integrity.

## ***Sequence of events***

### ***Regenstein Library***

At about 8:25 pm on February 24, two African-American U of C students, a woman and a man, were walking through the lobby of Regenstein Library toward the stairs. One told a joke. They both laughed.

An African-American library clerk had been descending the stairs from the third floor, when she heard their loud voices. She told the students to be quiet. She did not identify herself. The students say they learned later that she was an employee at the library. The students disregarded her request that they be quiet and proceeded down the stairs to the Mac Lab, the computer lab on A-level of the library.

The library clerk followed the students down to A-level. She looked for a supervisor, but was unable to find one. She asked the two students to show their ID cards. They refused. She told them she was going to call the police. She then returned to her desk on the first floor and called the UCPD.

The call was answered at 8:27 pm by the UCPD dispatcher. The clerk identified herself as “the attendant at the Regenstein.” She told the dispatcher, “I have two rowdy students who have been very loud, disrespectful. They’re down in the Mac Lab. They don’t want to show me their ID cards. I need a policeman right now.”

The dispatcher asked for a description of the students. The clerk responded that one was male, the other female, and both were African American.

She told the dispatcher, “I’m just very upset because they were very disrespectful to me.”

“What were they doing to you?” the dispatcher asked.

“Not to me, to the Library,” the clerk replied. “I was coming down the stairs. I heard all of this screaming and laughing. So I said you have to keep it down; this is a library. They looked at me and laughed even harder, went all the way downstairs screaming and yelling and laughing.” She added, “I mean they were really being outrageous.”

The dispatcher told the library clerk that an officer was en route. The clerk said she would meet the officer and take him to the students.

A UCPD sergeant responded to the call from the dispatcher. Upon his arrival at Regenstein, he was met at the entrance by the library clerk. She accompanied him down to A-level.

The reporting sergeant (R/S) verified that there was no ongoing disturbance. The two students whom the clerk had encountered upstairs and other students were congregated

around a computer work station. They were talking and laughing, but their behavior was not disruptive or out of keeping with the prevailing norms in that part of the library.

At this point, the accounts of many student witnesses and of R/S and the clerk diverge. We employ a split screen approach, in order to highlight tensions between the account of the R/S and library clerk on one hand and the student witnesses on the other. In so doing, we do not mean to suggest that the student voice is monolithic. At times, student accounts differ significantly from one another. The narrative reflects points on which there is a high degree of consensus among witnesses.

*Student witnesses*

The library clerk and R/S appeared on A-level. R/S immediately focused his attention on the male student. He told the male student several times to come with him. The student asked repeatedly, “Can you tell me what I did wrong?” R/S did not tell the student what he had done wrong.

Several witnesses noted that the male student was “polite” and “respectful” in his verbal exchange with R/S, that he “never showed any signs of disrespect or aggression.”

By this time, a crowd had begun to form around R/S and the student. R/S asked the student to step into the hallway. The student refused.

At 8:40 pm, R/S radioed dispatch to report that he was going to make an arrest. He told the dispatcher, “Contact the Dean-on-Call.<sup>2</sup> We got a student refusing to leave over here. I’m gonna take all them to the station. Tell the Dean to come over to the station to talk to this guy.”

Again, the accounts diverge:

*R/S and the Library Clerk*

The library clerk directed R/S to the three individuals—one male and two females—who were causing the disturbance.

R/S approached the three individuals and requested to see their U of C identification. The two women immediately began looking for their ID’s. The male refused to show his ID. He asked R/S why he had to show his ID. R/S again asked him for his ID. Again the student refused.

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<sup>2</sup>At all times, a representative from Campus and Student Life is on call to respond to emergencies involving students. The Dean-on-Call supports the student, ensures that all the resources of the institution are available to the student, and seeks to resolve the matter in an appropriate manner.

*Student witnesses*

R/S placed one handcuff on the male student. The student later acknowledged that he tensed and pulled away. R/S put the student in a choke hold and took him down to the ground. Many of the witnesses commented on what they saw as disproportionate force under the circumstances. Several noted that R/S is 6'3" and heavily muscled, while the student is 5'6". Some reported being startled and confused by what they saw:

There was no sign of resistance or disrespect from the student at any point, and certainly no sign of aggression that would warrant such a use of force by the officer.

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After the incident . . . there was much speculation among students that whatever the worker said to the officer must have precipitated this violent incident as the student's actions certainly did not indicate that he was any sort of threat whatsoever.

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I saw the officer then use excessive force to place the student under arrest. I was actually very shocked at the behavior because there was no resistance from the student.

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Two of twenty-six student witnesses reported that they observed the student resist or struggle with R/S in the course of the arrest.

*R/S*

R/S then proceeded to place the student under arrest. He handcuffed the student's left wrist. When he attempted to handcuff his right wrist, the student pulled away. At this point, R/S used the force necessary to control the situation and did an emergency take-down. This is a maneuver, as R/S later explained it, that officers are trained to execute when they encounter resistance in the course of making an arrest. It does not involve choking or striking the individual; rather, it is designed to enable the officer to complete the arrest swiftly when faced with resistance.

R/S was mindful of his relative size and strength. He pulled the student to him, so that the student's back was touching his chest, wrapped his arm around the student, and pulled him to the floor.

R/S placed the second handcuff on the student's right wrist and picked him up from the floor. He began to escort him out of A-level. A large number of students had gathered by this point.

*Student witnesses*

R/S

Someone asked, "Why is he being arrested?" R/S turned around and said to one of the students, an African-American woman who was wearing a green scarf, "You in the green, come with me." The student followed R/S and the male student out of A-level, as did the female student who had originally entered the library with the male student.

As R/S escorted the male student out of A-level, he told the two young women, whom he understood to have participated in the earlier disturbance, to follow them upstairs.

A large group of students followed R/S and the male student upstairs. In the lobby, R/S was joined by other officers. One of them searched the male student and found his U of C identification in his wallet. The female student who had entered with the male and the one who questioned why he had been arrested produced their ID's. The library clerk informed R/S that the student with the green scarf was not involved in the earlier disruptive behavior. R/S asked the clerk whether she wanted them to remain in the library. She said no. The two female students left the library. The male student, in handcuffs, was placed in the back of a police car.

In the immediate aftermath of the incident, students on the scene collected the names of witnesses, amassing a list of 35 individuals. Some attempted to file complaints of police misconduct by phoning the UCPD. Others walked to the UCPD facility in the Young Building at 5555 S. Ellis, in the hope of filing complaints.

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*IRC analysis of events at the Regenstein Library*

**Credibility conflict**

As we note at the outset of this report, our assessment of credibility at the points where the accounts diverge has been hampered by serious deficiencies in the evidentiary record.

The key point of divergence between the accounts goes to the question of whether R/S asked the male student or any other student to show his or her U of C identification. According to R/S, he repeatedly asked the male student for his identification. The library clerk corroborates his statement on this point. Many student witnesses contradict this account. They consistently state that R/S said, "Come with me" and not "Show me your ID."

The Committee was unable to reach a conclusion on the question of relative credibility. Several members believe the preponderance of evidence provided in the investigative file supports the conclusion that R/S did not ask the male student or any other student to show U of C identification and further that R/S subsequently falsified the record to justify the arrest and use of force. Despite the deficiencies in the investigative record, they find the extensive witness testimony strikingly consistent and persuasive on this point.

Other committee members find the deficiencies in the record so severe that they are unable to reach a conclusion about the credibility of the competing accounts. Some believe it possible that R/S asked to see the students' ID's at the outset of their encounter before witnesses had turned their attention to the exchange between the officer and the student. Some believe that R/S may not have accurately reported his actions. Was he lying to justify his actions? Was he simply mistaken? Did he misremember some elements of the sequence? Or was he, in fact, fully truthful?

### **Excessive force?**

On the question of excessive force, the two accounts at first appear to be diametrically opposed. Witnesses evoke the jarring image of a police officer using disproportionate force against a student in the setting of the library. R/S, by contrast, describes a highly professional maneuver employed in order to avoid harm. Yet on closer examination the two accounts are largely consistent. The differences are matters of perspective and interpretation.

We have found it useful to consider R/S's use of force within two different temporal frames—the moment of arrest and the sequence of decisions leading up to that moment.

Once R/S made the decision to take the male student into custody, he passed over a critical threshold beyond which the key consideration became completing the arrest. When he encountered a degree of resistance, he did what he was trained to do in such situations. He performed an “emergency take-down,” applying such force as was necessary to accomplish the arrest. Despite references by witnesses to a “choke hold,” there is no evidence that R/S choked the student. Rather, he momentarily immobilized him in order to complete the arrest. (The take-down involves reaching from behind across the individual's chest to the opposite shoulder—a movement that might appear to be a choke hold but that does not apply pressure to the throat.) The maneuver was swiftly and efficiently executed. It accomplished its purpose.

When the frame is broadened to take in the sequence decisions by R/S and others leading up to the moment of arrest and physical confrontation, it becomes clear that that moment need not have occurred.

*The role of the Dean-on-Call.* A key factor, in our view, was the failure, at multiple points in the unfolding incident, to involve the Office of Campus and Student Life. The relationship between the Office of Campus and Student Life and the UCPD is collaborative. Both have disciplinary tools and processes. Traditionally, they have

worked together to determine the most appropriate way to handle each particular case. Accordingly, it has long been the practice of the UCPD to notify the Dean-on-Call immediately in situations where there is reason to believe students are involved. As a general rule, in non-emergency situations, officers pick up or wait at the scene for the Dean before proceeding. As will be shown below, a number of University and UCPD employees failed to follow these procedures in this case. If they had, the situation might never have escalated to the point of arrest and the exercise of force.

*Missed opportunities for de-escalation.* In the Regenstein incident, both the male student placed under arrest and R/S made bad decisions, but they also suffered the consequences of bad decisions made by others. Consider key decision points in the unfolding incident:

- The incident was triggered by disruptive and rude behavior by the male and female students confronted by the library clerk. There is no dispute that the two students treated the clerk with disrespect. There is also no dispute that the students refused to comply with her request to see their ID's. This is a clear violation of University regulations. The *University Student Manual* unequivocally states that students are required to show identification when requested to do so by a University official:

The University of Chicago card is an official identification card and its use is subject to the regulations of the University. . . . The card . . . must be presented upon demand to a University official. A student is subject to disciplinary action if he or she fails to identify himself or herself adequately upon the request of a University official.

- Confronted with loud, “disrespectful” conduct by students, the library clerk attempted to find a supervisor. When she was unable to locate a supervisor, she called the UCPD to report a disturbance at the library. As of the time she called, the disturbance had ceased; it was not a continuing problem. Was it necessary to involve the police at all? Does the library staff lack resources to deal with occasional loud students?
- Having called UCPD dispatch, the library clerk might have requested that the Dean-on-Call rather than a police officer be sent to the library, for UCPD dispatch is the principal point of contact for the Dean.
- In response to the library clerk’s call, the dispatcher sent an officer to the scene rather than notifying the Dean-on-Call. It was evident that students were involved. (The clerk had repeatedly referred to “students” in her call.) The dispatcher did not, however, contact the Dean. The first mention of the Dean-on-Call does not occur until eleven minutes after the clerk’s call, when R/S, at the point of arresting the student, asked dispatch to contact the Dean.
- Upon arriving at the library, R/S decided to approach the students rather than contact the Dean-on-Call. Whatever sort of disruption may have occurred earlier,

there was no continuing disorder that required his intervention. There was no urgency. He could easily have waited for the Dean.

- R/S was in a difficult situation. On his account, he arrived at the library expecting to see a couple of students making noise who simply needed to be told to be quiet. In asking the male student to come with him into the hallway, he was seeking to de-escalate the situation. When the student asked why, however, R/S viewed the question as a challenge to his authority. Instead of providing the student with an explanation, he repeated his demand more sternly, creating a stand-off and thereby narrowing his options for resolving the situation.
- When the student refused to comply with his order to come with him, R/S decided to arrest him. On the basis of his pre-arrest communication to the dispatcher and his interview with the IRC, it appears he expected that the Dean-on-Call would handle the situation once he had brought the student to the station. Instead of arresting the student, the alternative remained open to him at that moment to extricate himself from the situation and request that the Dean-on-Call come to Regenstein.

The critical point here is that the physical confrontation need not have occurred. Whatever the original circumstances that prompted the encounter, the essential issue, as it unfolded, became a perceived challenge to police authority. The policy of involving the Dean-on-Call from the start in any incident in which there is reason to believe students are involved makes it possible to avoid going down this road. In addition, department-wide training on verbal de-escalation techniques would expand the tools available to UCPD officers for responding to potential challenges to their authority.

### ***UCPD headquarters***

R/S brought the student from Regenstein Library to the new UCPD headquarters at 6054 S. Drexel. (As of the time of the incident, dispatch functions continued to be performed at the old headquarters in the Young Building, 5555 S. Ellis.) At UCPD headquarters, the student was unhandcuffed and placed in the roll call room. When the Dean-on-Call arrived, he told R/S that the University would handle the discipline from there. The Dean then went into the roll call room to talk with the student.

While the two were talking, R/S spoke with the Captain, the highest ranking UCPD official present at the station. R/S explained that the library clerk had signed a complaint for criminal trespass and that R/S had found it necessary to execute an emergency take-down in the course of arresting the student. After discussion, the decision was made to charge the student. While there is some disagreement about who ultimately made the decision, the basis for the decision is clear: because R/S had “put hands on” the student in the course of making the arrest, it was necessary to go forward and charge him.

The Dean-on-Call emerged and spoke with both the Captain and R/S. Again, the Dean asked that the Office of Campus and Student Life be allowed to handle the situation. He

was told that this was not possible because force was necessary to make the arrest. The Dean returned to the student and explained the situation.

The Chicago Police were called in. There was further discussion with the CPD officer about what to charge the student with. It was decided to charge him with resisting arrest and trespassing. The CPD officer then left with the student.

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### *IRC analysis of events at UCPD Headquarters*

#### **The role of the Dean-on-Call**

Having only been contacted at the point of the student's arrest, the Dean-on-Call was now present at the UCPD headquarters. Yet the decision to charge the student did not arise from a process in which the UCPD and the Office of Campus and Student Life collaborated to find the appropriate approach. Rather, the UCPD decided on its own to bring charges against the student. Does this reflect a deliberate shift in policy? Does it perhaps reflect lack of familiarity with the role of the Dean-on-Call program on the part of recent hires of the UCPD? The relationship between the Office of Campus and Student Life and the UCPD needs to be clarified.

#### **The decision to charge**

According to UCPD decision-makers, they had no alternative but to charge the student after R/S found it necessary to "put hands on" him in executing the arrest. By way of explanation, they mentioned concerns about liability and the need to make a statement to students about respecting the authority of the police. While the decision to charge is legally defensible, the IRC questions whether it was wise in this instance. We also question, as a general matter, treating the need to charge after force has been used in making an arrest as an absolute, inflexible principle without weighing the costs to the individual and the institution. In his interview with the IRC, the Captain said that the student by resisting left R/S with "no choice." By extension, R/S's use of force to arrest the student left the UCPD with "no choice" but to charge. Again, we confront the fundamental question of how best to handle challenges to the authority of the police.

It should also be noted that no effort was made at the time, in the context of determining whether to charge, to investigate the incident, despite its obvious sensitivity and the fact that multiple witnesses were available. Nearly a week after its charging decision, the UCPD obtained numerous statements of student witnesses who reported that the student did not resist arrest or show any signs of aggression during his encounter with R/S. This information would have been material to the decision to charge the student. In situations in which there is no cause to believe the student-arrestee poses an immediate danger to the public or is a flight risk, and additional investigation might shed light on a decision to charge, the IRC recommends that the UCPD take the necessary time to conduct a more

thorough investigation before making the decision of whether to charge. (The student may be released from custody while the investigation takes place.)

### ***51<sup>st</sup> and Wentworth***

The CPD officer first took the student to a police station at 29<sup>th</sup> and King Drive. From there, the student was transported to police area headquarters at 51<sup>st</sup> and Wentworth, where he was photographed and fingerprinted. He was then placed in a cell. He was permitted a phone call, but he did not know whom to call. He spent the rest of the night locked in the cell.

Some hours later, he was brought from his cell to the locked bullpen outside the courtrooms at 51<sup>st</sup> and Wentworth. He was locked up there with a number of other men who were charged with various offenses and who were about to appear in court. A public defender addressed the men and explained what was going to happen in court. Then she called each prisoner individually. She told the student that the trespass charge would be dropped if he would plead guilty to resisting arrest. The judge, she said, would offer him fifteen hours of community service. The student later said he did not feel that he was given an alternative; the public defender simply told him what would happen. He agreed.

The student was returned to the bullpen. He asked to speak to the public defender again. He wanted to know what his choices were. No one responded to his request.

When the student was called before the judge, a different public defender stood before the bench with him. The judge said that he understood that the student was pleading guilty to resisting arrest and would be sentenced to court supervision and fifteen hours of community service. When the judge asked whether the student had any questions, he said that he did. The judge instructed him to speak to the public defender. The student asked the public defender whether he had any choice. He said he did not want to plead guilty because he did not believe he had committed a crime. The public defender told him he had no other option. "Just take the fifteen hours of community service," he said. The judge then imposed sentence.

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### *IRC analysis*

#### **Continuing role of the Dean-on-Call program?**

Might the Office of Student and Campus Life have taken steps to ensure that the student had adequate legal advice and representation after he was taken into custody by the Chicago Police Department? The student reported that he felt supported by the Dean-on-Call at UCPD headquarters, but he was alone, afraid, and unsure of his legal rights and responsibilities upon his arrival at Chicago Police headquarters. Once he was charged, the University, as the complaining party, was severely limited in what it could do on the

student's behalf. To provide legal representation or advice would be an obvious conflict. Yet it could have referred him to appropriate legal resources. For example, First Defense Legal Aid, a non-profit legal services organization, provides lawyers free of charge to individuals taken into custody by the Chicago police. The IRC recommends that the University, as a matter of policy, make such referrals when students are placed under arrest and there is a potential legal conflict with the University.

### ***UCPD investigation***

In the immediate aftermath of the incident, student witnesses sought to file complaints with the UCPD. Some called UCPD dispatch. Others went to the Young Building. The Watch Commander sent a UCPD sergeant to the Young Building to speak with the students. The Sergeant later stated that he took down information from the students, which he then passed on to the Watch Commander.

Two complaints were recorded by the UCPD on the evening of February 24. They were filed by two African-American female U of C students, one of whom had been with the male student walking into the library and the other of whom had witnessed events unfold on the A-level. (As the investigation proceeded, other students were treated as witnesses rather than complainants.) The UCPD interpreted the complaints to entail three allegations:

- R/S failed to explain the nature of the complaint in the library before proceeding to arrest the male student.
- R/S failed to state why the male student had to leave the library.
- R/S placed the male student in a choke hold and used excessive force during the arrest.

The UCPD assigned Captain #1, the UCPD Captain who participated in the decision to charge the student, to investigate the complaints of police misconduct.

On March 1, Captain #1 conducted the first interview of a complainant or witness. The library clerk was not interviewed until March 8. The date of the interview with R/S is not clear; the date of the report of the interview is March 10.

On March 5, the UCPD reassigned the investigation to a second UCPD Captain (Captain #2). The replacement of Captain #1 was prompted by an expression of concern from a staff member in Campus and Student Life who was aware that Captain #1 had been on duty and involved in the decision-making on the night that the incident occurred.

On March 22, Captain #2 submitted his report to the First Deputy Chief. On the basis of his investigation, he recommended findings of *Not Sustained* on each of the three allegations.

On March 29, the Chief wrote to the two complainants to inform them that the UCPD had made findings of *Sustained* on each of the three allegations.

On April 1, the First Deputy Chief received a memo from a Deputy Chief in which the Deputy made alternative findings and recommended *Sustained* on each of the three allegations.

On April 2, the Chief received a memo from the First Deputy in which he recommended findings of *Sustained*.

Another complaint was received by the UCPD on March 1. It was filed by an African-American female student who witnessed the incident in the library, and it took the form of an email to the Chief. Its focus was the investigatory process itself:

My complaint is on the failure of the University of Chicago Police Department to adhere to their duty to properly interview witnesses at the scene and moment of arrest, failure to take the calls of complaints over the phone, and failure to submit a written complaint when requested.

Specifically, the student alleges (1) that officers made no effort to interview witnesses, including herself, at the scene; (2) that UCPD dispatch refused to take her complaint when she called; (3) that a number of student witnesses went to the Young Building to complain and provide statements but were turned away by the UCPD; and (4) that when she and two other students stayed at the Young Building to persist in making complaints, the Sergeant took down their information but did not inform them as to whether a complaint would be filed and what the process would be.

The file does not include the Chief's response, if any, to this complaint. The student was subsequently interviewed—indeed, on the same day she sent the email to the Chief—regarding what she witnessed on February 24. There is, however, no indication in the file that her complaint about the UCPD response to student attempts to complain was ever pursued.

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#### *IRC analysis of the UCPD investigation*

It was clear from the outset that this incident would be the focus of intense public scrutiny and debate. Under the circumstances, the UCPD might have been expected to mobilize quickly to conduct a thorough, rigorous and transparent investigation. While the UCPD clearly took the occasion seriously and ultimately conducted a large number of interviews, the investigation was deficient in a number of respects:

- Despite the facts that the incident occurred late on a Wednesday, that the weekend intervened, and that the interviewing of witnesses began on the following

Monday, an effort should have been made to explain the complaint investigation process to the students who attempted to file complaints with the UCPD on the evening of the incident.

- The investigation file is incomplete in several respects. Among other things, it does not include the initial statements of the complainants taken by the Sergeant who was deployed to the Young Building to address the student complaints. It is thus difficult to have confidence in the particular allegations the UCPD derives from those complaints.
- Until he was removed from the case at the request of a staff member in Campus and Student Life, the investigator was an officer who had participated in the decision-making process with respect to the incident.
- Interviews were conducted over the phone rather than face to face.
- The interviews were not recorded. No transcripts were produced. Rather, the interviews were reported in summary form. This is a departure from past practice. And it significantly limited the ability of the IRC to ascertain the quality of the interviews and assess credibility.
- The interviews are unsigned. Presumably, this means that complainants and witnesses were not given an opportunity to review, correct, and sign off on their statements. This is a departure from past practice.
- The UCPD investigation also relied on student emails in place of formal interviews. Email is not an acceptable substitute for interviews. Moreover, most of the email messages were omitted from the investigative file and only summaries were provided. The UCPD should preserve all email (and other) communications with witnesses and incorporate those communications into the case file.
- The lack of a map or diagram of where the incident took place makes it impossible to assess the vantage points of various witnesses. This would have been particularly valuable in assessing which students, if any, were close enough to have heard the conversation between R/S and the arrested student.
- Information regarding the age, race, gender, and affiliation of complainants and witnesses was often lacking or incomplete. Such information should, as a matter of standard practice, appear on the cover sheet for each interview.
- While it may be no more than a clerical error, we note the anomaly that the Chief on March 29 informed the complainants of the results of the investigation before the internal review—reflected in the memos of the Deputy Chief (April 1) and the First Deputy (April 2)—was completed.

- There is no indication in the record of whether or not the student’s complaint regarding the investigatory process was ever pursued. In the absence of a record, the IRC cannot assess the merits of the complaint, but we must underscore the gravity of her allegations. It is University policy to accept all complaints against UCPD personnel and to investigate them. Any effort to frustrate or deflect the complaint process undermines the legitimacy of the UCPD investigatory process. The IRC strongly recommends that the UCPD conduct a thorough investigation into that student’s complaint.

### **UCPD investigation findings**

The UCPD ultimately made findings of Sustained on the three allegations against R/S and temporarily suspended him from the force. The IRC concurs, with three caveats.

First, as noted above, the question of excessive force turns on the frame within which it is engaged. The IRC agrees with the Sustained finding in the sense that R/S made a series of decisions that culminated in the use of force that could have been avoided. We believe that that is the appropriate frame to judge R/S’s use of force.

If, however, the frame were narrowed to the moment of resistance, we could not say whether or not the force used to accomplish the arrest was excessive, and would recommend a Not Sustained finding.

Second, regardless of the frame, the evidence clearly does not support the allegation that R/S applied a choke hold. The IRC recommends that that particular allegation be classified as Unfounded.

Third, as we trust this report makes clear, responsibility for this incident extends beyond R/S.

### ***Conclusion & Recommendations***

The February 24 incident at Regenstein Library can be an occasion for important clarifications of policy and procedure. We commend members of the University community—students, staff, faculty, UCPD leadership and administration—who are working toward those ends.

From the perspective of the IRC, four issues are of paramount importance:

## **The relationship between the UCPD and the Office of Campus and Student Life**

This incident would have had a very different outcome had the UCPD followed the customary procedure of immediately notifying the Dean-on-Call whenever a student is believed to be involved in an incident. The incident would also have had a very different outcome had the library clerk requested the Dean-on-Call instead of the police. There is thus a pressing need to clarify and reinforce the role of the Office of the Campus and Student Life and its Dean-on-Call program.

### **Responses to challenges to authority**

A central issue in this case, as we have come to understand it, is how to handle challenges to authority. The UCPD supervisors interviewed by the IRC all stressed the importance of sending a message regarding the need to respect the authority of the police. Respect for the authority of the police is an important institutional value. It contributes to their effectiveness; and it can reduce the need to assert force. Yet the paradox illustrated by this case is that reflexive assertions of authority in the face of challenge can have the effect of undermining that authority.

In addition to avoiding confrontations that can be prevented through coordination with the Campus and Student Life, the IRC strongly recommends that the UCPD develop training for its officers on techniques for de-escalating confrontations.

In the course of our review, UCPD personnel made statements that suggest that they felt they had *no choice* in this case—no choice but to use force, and having used force, no choice but to charge. But they did have choices. The purpose of de-escalation training would be to make those alternatives visible and thereby add to the tools officers have at their disposal.

### **Institutional integrity**

We noted above that some IRC members believe that R/S constructed a narrative designed to justify his use of force. Others do not. While the Committee is divided on this question of credibility, members agree on the need to raise two larger institutional concerns.

First, any effort by officers to falsify the record, in order to justify their use of force and/or the charges against the individual, strikes at the foundations of institutional integrity. Strong leadership is required on this count. Officers need to know that they will be dealt with fairly if they tell the truth, and that they will face consequences if they do not.

Second, the IRC's inability to assess officer credibility was due to serious shortcomings in UCPD's investigative file. The quality of UCPD's investigations into charges of officer misconduct is an important reflection of the overall integrity of the institution. High-quality investigations are critical to public confidence in and respect for the

authority of the UCPD. The UCPD must make improving its investigative procedures a priority going forward. The IRC is committed to working with the UCPD toward that end.

### **The question of racial bias**

Public discussion of the Regenstein incident has largely been framed in terms of racial bias. Throughout our review, we have been mindful of that issue. Under the same circumstances, would a white student have received the same treatment?

The record we have examined does not reflect obvious instances of racial bias on the part of the UCPD. That does not, however, mean it lacks racial *implications*. The UCPD operates in a particular demographic setting, policing both the university campus and neighboring communities that are predominantly African-American. The IRC is aware that African-American students are more likely to be asked by UCPD officers to show their U of C identification than their white peers. It is also apparent from IRC records that the vast majority of complaints against the UCPD are filed by African-Americans. It is thus of the utmost importance that members of the University community and the broader community of which it is part have confidence that their complaints will result in rigorous, credible, and transparent investigations.

Dated: August 19, 2010