

## Mitchell's Musings 4-30-12: The Real Pepper-Flavored Lessons of Hindsight

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By now, the world has become aware of the University of California-Davis' "pepper-spray cop," thanks to YouTube videos and even a song by radio comedian Harry Shearer.<sup>1</sup> The cop became an Internet "meme,"<sup>2</sup> appearing in photo-shopped format in famous paintings and photos.<sup>3</sup> Just in case you are not of this world, here is a brief rundown of what occurred. UC-Davis is located near Sacramento, California and is part of the University of California (UC) system. Various campuses in the UC system had "Occupy" type demonstrations in the fall quarter of 2011, partly linked to the national Occupy movement and partly connected more locally to protests against UC tuition hikes that resulted from California's state budget crisis. In particular, a student demonstration was broken up by UC-Davis police on November 18, 2011 which included an incident in which demonstrators - who appeared to be at most passively resisting - were pepper sprayed.

There was general public outrage at the YouTube videos and at the related news photos and there were calls for the chancellor of UC-Davis to resign. She didn't. As is often done to defuse such situations, a commission was set up to study the event with the benefit of hindsight and make an evaluation and recommendations. There was some delay in releasing the resulting commission report because of objections by the police union to the naming specific officers (other than the pepper-spray cop whose name was already public). In the end, after some litigation, the report was recently released with police officer names removed.<sup>4</sup>

The study commission was chaired by a former justice of the California state supreme court and had representation from university administration officials and from students. Much of the actual investigation was undertaken by Kroll, a consulting company specializing in police and security matters. The supplementary Kroll report was quite lengthy and includes a very detailed chronicling of the events and of who said what to whom in university and police leadership circles prior to, during, and after the pepper-spray incident.

I will provide a few highlights of the commission's report but like all reports that benefit from hindsight, it also has the drawbacks of hindsight. The logical progression of events recounted and the failings described were much clearer after the events than they were to the people involved in real time.

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<sup>1</sup> <http://www.youtube.com/watch?v=6AdDLhPwpp4> and [http://harryshearer.com/news/le\\_show/player/?id=865&start=47:25](http://harryshearer.com/news/le_show/player/?id=865&start=47:25).

<sup>2</sup> <http://www.urbandictionary.com/define.php?term=meme>.

<sup>3</sup> <http://www.youtube.com/watch?v=iU7y81FBxu4> and [http://abcnews.go.com/meta/search/imageDetail?format=plain&source=http://abcnews.go.com/images/Technology/ht\\_pepper\\_spray\\_meme\\_11\\_wm\\_nt\\_111121](http://abcnews.go.com/meta/search/imageDetail?format=plain&source=http://abcnews.go.com/images/Technology/ht_pepper_spray_meme_11_wm_nt_111121).

<sup>4</sup> <http://reynosoreport.ucdavis.edu/reynoso-report.pdf>.

Although the report says the chancellor is ultimately responsible, much of the blame is laid on the police chief (who unlike the chancellor did resign subsequently). Officers under the chief did not seem to respond to her commands and in any case exactly what she wanted from them was not always clear. She also is portrayed as not making higher-ups in the UC-Davis administration aware of her concerns about how the demonstrators should be handled. No one, including the police, could identify what law demonstrators were violating, if any.

The higher-ups above the police, including the chancellor, were concerned that non-students had, or soon would, infiltrate the student demonstrators who had set up tents on campus and provoke violence. At some point, the higher-ups became deaf to suggestions that there might not be such outsiders present among the demonstrators. Apparently, top university administrators were concerned that violent events such as had occurred in Occupy demonstrations in nearby Oakland could occur on their campus. Should that situation arise, they would be held accountable to parents of students who might be injured. They also did not want to have a repeat of an incident that occurred at UC-Berkeley in which campus police batons were used on demonstrators. A form of groupthink appeared to characterize the deliberations of the higher-ups at UC-Davis whose consultations with each other were *ad hoc* and informal.

The upshot was that the chancellor – apparently fearing outside infiltration and Oakland/Berkeley-style violence – ordered that the demonstrators be cleared in mid-afternoon rather than in the wee hours of the morning as the police chief had advised (but not very forcefully). In that context, the pepper-spray cop seemingly made up his own rules of crowd control and utilized a form of pepper spray he was not authorized to have and for which he was not trained to use. Since the report is available on line, I won't go further with the description of its findings. But I will make the following observations.

The report does not go into why there might be a police chief on a university campus who in the commission's view was evidently not competent. How did a person who is portrayed not up to the job obtain the position initially and then remain in it until something untoward happened? On the other hand, the report refers to the various UC-Davis administrators repeatedly as a "Leadership Team" dealing with how to handle the demonstration. Given the report's description of what occurred, "Leadership Team" seems to be an overly-formal appellation for a group of individuals who were only in loose contact and probably did not think of themselves as a "team" that had been formed to deal with a potential incident.

There is repeated reference in the commission's report to NIMS and SEMs which stand for National Incident Management System and (California) Standardized Emergency Management System. NIMS and SEMS are protocols for government and police officials handling "incidents." The commission report suggests that university officials – particularly the non-police officials – should a) have been aware of these protocols (in part because they are available on the web) and b) followed the formal steps contained within the protocols.

As readers may by now have guessed, I read the commission's report somewhat differently from the way the commission intended. At the level at which the commission focused – what went wrong at UC-Davis on November 18, 2011 – an alternative view is that you had a bunch of well-meaning administrative people with academic (not police) orientations who did not follow protocols of behavior with which they were unfamiliar and probably unaware – whether or not the protocols were on the web. (Almost everything official is on the web nowadays, but if you don't know about something, you are unlikely to go looking for it or find it.) Much of the blame, again at the level at which the report was focused, lies with the police chief who could not communicate effectively with her officers or with her superiors.

In the real world, police chiefs are more likely to be familiar with NIMS and SEMS than the UC-Davis Chancellor whose background is research “in electronic circuit design (that) has led to numerous national and international awards..., 19 U.S. patents, and an additional five U.S. patent applications (and who) is the author or co-author of 10 book chapters and about 650 refereed publications in journals and symposia proceedings.”<sup>5</sup> University chancellors and presidents are not hired based on their familiarity with NIMS and SEMS. So what the report suggests to me is that there needs to be a rethink about top university management. Who should run universities? What qualities in university managers should be sought? How do you integrate the academics in high-level managerial positions with non-academic managers who have (or are supposed to have) technical knowledge about their functions?

Although many in academia are not happy with the idea, the outside world increasingly views colleges and universities as the route to better jobs. Public universities in particular are seen as paths to upward social mobility. They are subsidized in various ways to accomplish that objective but those subsidies have been declining – particularly since the Great Recession - and university management is expected to do more with less. Efficiency has taken on increased importance.

University and college campuses have aspects of small cities. Note that UC-Davis, for example, has its own police department. There are folks employed on university campuses repairing sewers and pipes, maintaining roads, and providing park-like landscaping. Campus presidents or chancellors are expected to engage in fundraising, be it charitable giving or extracting money from recalcitrant legislators and governors. They set “policy” and make “strategy” but in fact rely on others to carry out day-to-day operations. In effect, there is likely to be a top official – a president or chancellor - who corresponds to a company CEO and a second-tier person corresponding to a COO (chief operating officer).

If both the CEO and COO are academics, the third tier of officials (other than deans and department chairs) is likely to be composed of individuals such as police chiefs and those looking after capital projects, campus enterprises, and maintaining the plumbing. The third tier of non-academics can easily be unmoored from university norms such as academic freedom. It is a structure that invites empire-building (which is costly and unsuited to the current distressed economic environment). There is also a likelihood that the top academic officials will assume that the third tier of non-academic officials is

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<sup>5</sup> <http://chancellor.ucdavis.edu/about/index.html>.

competent and will operate with them on a call-me-if-you-have-a-problem basis. Of course, subordinates are not keen on telling superiors they have created a problem. So the system can generate problems that don't receive the attention of top academic administrators until they evolve into crises such as the UC-Davis pepper spray affair. That organizational design flaw (i.e., the call-me-if-you-have-a-problem management approach) is the underlying reason for what happened at UC-Davis although the pepper-spray commission report does not say so.

No managerial structure is perfect and none can be designed that will avert all crises. But improvements are both possible and necessary in the current era of economic stringency in academia. Autonomous fiefdoms are expensive when in a period in which money is scarce. For example, new buildings - which are the *raison d'être* of autonomous university construction empires - are put up, even when their long-term costs of maintenance and use are not covered.<sup>6</sup> Physical capital is favored over the human capital on which universities are based.

So who would be the ideal COO of a university? Academics are not the obvious candidates, even though they are commonly appointed. Some folks would suggest recruiting university COOs from the business world. The appeal of putting universities on a "business-like" basis has a certain appeal (although probably not to most faculty!). Unfortunately, someone coming into academia from for-profit organizations that are ultimately command-and-control in style will find universities, and particularly public universities, to be alien environments. Faculty cannot be fired and insist on having a voice - as do students. Political realities impinge on decisions. External interests, such as alumni and neighbors, constrain available choices.

The requirements of the university COO job – if one is looking to the outside labor market for model candidates – most resemble those of city managers. A good city manager is used to working in a constrained, political environment in which the ability to fire is limited. And an experienced city manager would be knowledgeable about running the small cities that universities campuses are. He or she would know, for example, something about hiring and evaluating police chiefs. It's fine to think about increasing university efficiency through technical fixes such as online courses. But until good management is in place in universities, the other fixes will have only minor impacts.

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<sup>6</sup> <http://californiawatch.org/node/15273>.