SANTA MONICA COMMUNITY COLLEGE DISTRICT
REVIEW PANEL

Review of College Response to Protest at Board of Trustees Meeting on April 3, 2012

January 2013
# TABLE OF CONTENTS

I. Introduction ................................................................................................................................. 1

II. Methodology .............................................................................................................................. 3

III. What Happened on April 3, 2012 .......................................................................................... 4

IV. Police Investigation Report ..................................................................................................... 20

V. Findings and Conclusions .......................................................................................................... 21

1. The Meeting Location Was Not Responsible for the Incident .............................................. 21

2. The Pre-Planning for the Event Was Inadequate ................................................................... 23

3. The Police Did Not Take Measures to Control the Crowd Entering the Business Building ................................................................. 26

4. Inadequate Command and Control of the Incident and Inadequate Communication Equipment ........................................................................ 27

5. Insufficient Police Personnel Were Assigned ...................................................................... 28

6. Some Protestors Engaged in Unacceptable Conduct ............................................................ 28

7. Some Force Threatened or Used by SMCPD Was Inappropriate ......................................... 29

8. The Campus Community Needs to be Educated on Protest Rights and Responsibilities .................................................................................. 35

9. Student Discipline Process Rather than Law Enforcement Should be Used to Address Violations of Campus Protest Rules .................................................. 38

VI. Recommendations ................................................................................................................... 39

VII. Conclusion ............................................................................................................................... 41
APPENDICES

A  Diagrams of the Business Building
B  Operations Plan
C  Review Panel Website
D  Review Panel Survey
E  Survey Results
F  Survey of Business Building Faculty
G  Video and Audio Evidence Reviewed
H  Police Investigation Report
I  SMC Summary of Free Speech Rules
J  Oakland Crowd Management Policy
I. INTRODUCTION

On April 3, 2012, the Santa Monica Community College District Board of Trustees held its regularly scheduled monthly meeting. On the agenda was discussion of a previously approved pilot program for a limited expansion of the District’s contract education offerings designed to allow California residents to access courses that would not have been subsidized by the state during the 2012 summer session. This pilot program generated substantial controversy within the College community from inception.

The meeting was scheduled in the Board of Trustees’ normal meeting room located in the Business Building on the main campus of Santa Monica College. The boardroom has limited space. As had previously been done on the rare occasions when the room was too small to accommodate the number of people attending a meeting, an adjacent overflow room was set up. The overflow room had monitors to show closed-circuit video of the meeting in the boardroom. All attendees who wish to speak at Board meetings are asked to fill out speaker cards and then called in turn to address the Board. When an overflow room is in use, attendees in the overflow room who wish to speak are called into the main room when it is their turn to speak.

Five members of the Santa Monica College Police Department (SMCPD) were present in uniform. The Chief of Police was also at the meeting. Because a large number of meeting attendees and protesters were expected, the SMCPD had created an Operations Plan that addressed the possibility of evacuating board members in the event the meeting was disrupted.

Approximately a hundred people, many of them students, arrived at the April 3 meeting to protest the Board’s earlier decision to expand contract education offerings. Although many of the same people had been seated in the overflow area during the previous month’s meeting, none of the protesters entered the overflow area. All of the protesters remained gathered directly outside the boardroom door. While there, the protesters engaged in a debate about whether or not to follow the Board’s established procedure for speaking at the meeting and to what end. There was substantial disagreement. Some wished to voice their opposition to the expansion of contract education and request that the program be put to the SMC community in the form of a referendum. Many of the protesters wished to speak solely in order to request that the meeting be moved to a larger room. The stated desire of many protesters was that the entire body of protesters should simultaneously be present in front of the Board when expressing their position.

The discussion among protesters was ongoing when an SMCPD Sergeant interrupted. The boardroom door was then opened. SMCPD personnel hoped to allow a limited number of attendees to enter but the crowd surged forward to push its way in. This caused physical conflict with the officers present, one of whom eventually deployed pepper spray to disperse the crowd. Dozens of people, including SMCPD

1 Posted lawful capacity of the boardroom is 50 people. The capacity of the overflow room was 60 people. A diagram showing the floor plan of the areas in which the events at issue took place are attached as Appendix A.

2 Operations Plan attached below as Appendix B.
and District personnel present for the meeting, were affected by the spray. Santa Monica emergency services responded and helped people who had been sprayed. At least 2 students were transported to the hospital for treatment of minor injuries.

The meeting resumed after a break of over an hour and all attendees who wished to speak had a chance to do so. The incident received extensive national press coverage.

The public reaction to the incident was wide ranging. Many expressed the opinion that the police used appropriate force to deal with an unruly mob. For example, one person present described the protesters as “an angry mob of students attempting to provoke police officers.” SMC Student Ernie Sevilla has stated that police had no choice but to respond to the actions of protesters with force. Others expressed outrage at the conduct of the police. One survey respondent stated that police had been “overcome by words and reacted with force.” Others protested the “excessive” force used and the lack of a prior warning. SMC student Kayleigh Wade was quoted in the Los Angeles Times stating that "There is no way to justify this behavior by police officers."

In the aftermath of the event, SMCCD Superintendent/President, Dr. Chui Tsang, appointed a Review Panel to consider the incident and review policies, practices, and protocols relevant to the College’s response to demonstrations and similar events. The Panel consisted of Professor Eve Adler (SMC Academic Senate President-Elect), Dr. Patricia Ramos (Dean, Workforce Development), Dr. Nancy Greenstein (Vice-Chair of the Board of Trustees, and Joshua Scuteri (Student Trustee at the time of the incident), and was chaired by Robert M. Myers (Campus Counsel).
II. METHODOLOGY

Over the course of several months, the Review Panel collected and reviewed information from a variety of sources. The Panel sought input from community members who were present at the incident through a broadly advertised survey that remained available online for several months. The SMC homepage included a link to the survey for several months. The campus community was also alerted to the survey through an email sent to all enrolled students, faculty and staff. The Review Panel received 36 responses to the survey. The Panel also surveyed faculty members who were holding classes in the Business Building concerning the impacts of the event on instruction. It reviewed the extensive video and photographic records available, both those submitted directly to the committee and those available in the press and online. The Panel also reviewed police radio transmissions during the incident. It considered the Operations Plan for the meeting, and both the initial SMCPD report (hereafter “Police Report”) on the incident and the SMCPD internal investigation of the incident (hereafter “SMCPD Investigation” or “Investigation”). Panel members also interviewed several witnesses to the events and consulted police interviews of other participants. Other evidence considered included SMCPD and Santa Monica Community College District Policies and Regulations, and the policies and regulations of other California colleges and universities.

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3 The Review Panel created a website to keep the College community apprised of its work.

4 See Appendix D. The email was sent to 33,925 recipients on June 21, 2012.

5 See Appendix E. The majority were SMC students who had been present at the protest or were attending a class in the building that evening. The responses included a range of perspectives about the events of that evening and several very thoughtful analyses of the interaction between the police and the protesters.

6 See Appendix F. Six out of ten instructors who had been teaching in the Business building at the time of the incident provided responses to written questions sent by the Panel. Five respondents reported interruptions to their classes of between 20 and 35 minutes after the fire alarm was pulled. Two of the instructors allowed their students to stay late so that students could complete exams. Only one respondent was severely inconvenienced as the noise of the protest disrupted the beginning of her class and she cancelled the remainder of class after the incident.

7 See Appendix G.

8 See Appendix G.

9 See Appendix B.

10 The Police internal investigation report was provided to the Review Panel on July 12, 2012. See Appendix H. The actual reports of the incident were received by the Panel on August 13, 2012.
III. WHAT HAPPENED ON APRIL 3, 2012

After the College administration proposed a pilot program for expanding contract education to in-state students, a group who opposed offering the courses to California residents began to organize opposition to the program under the name the “Student Organizing Committee” (S.O.C.) 11 The S.O.C. organized events on campus to explain their position to students. Speakers affiliated with the group, as well as independent speakers in opposition to the plan, attended the March Board meeting and voiced their concerns. A core concern was that allowing in-state students to access the contract education courses would constitute privatization of the state’s public education system and thereby disadvantage poorer students.

Between the March and April Board of Trustees meetings, student organizing around the issue had increased. The controversy surrounding the proposed program had received extensive discussion on campus and in the press.

Prior to the April Board Meeting, the SMCPD had received information suggesting that students who opposed the plan intended to disrupt the meeting.12

Police Develop Operations Plan for April Board Meeting

The SMCPD Operations Plan13 for the April 3 Board Meeting briefly describes the background for the meeting, including the possibility of protest, and sets as the Department’s objective, to “[p]revent disruption of an otherwise peaceful and orderly BOT’s Meeting; ensure safety of the students, staff, community members, BOT’s and the immediate SMC community.” It then discusses two scenarios for the meeting: the first is titled “BOT MEETING W/O INCIDENT”; the second, “BOT MEETING EMERGENCY RECESS OR INCIDENT.” The creation of an operations plan which anticipated an “emergency recess or incident” was not normal. Rather, it was created in anticipation of possible disruption caused by protesters opposed to the contract education pilot program.

The plan for a meeting without incident discussed the use of an overflow room for excess seating, the distribution of speaker cards for those who wished to speak, and the process for speakers seated in either room to be called to the podium. The plan for a disrupted meeting gives instructions for the movement and protection of Board members, the subsequent issuance of a dispersal order followed by a waiting period, the possible request for assistance from other departments, and the possible resumption of the meeting. In addition to phone numbers, code names, and general assignments locations for the SMCPD Officers involved, the plan also incorporated a map of the Business Building’s

11 The S.O.C. consisted of both SMC students and others. It was not a recognized on-campus organization at the College. See AR 4445. However, some students involved in the S.O.C. were involved in student government and other campus organizations.

12 SMCPD Investigation at 2.

13 See Appendix B.
first floor and the text of the dispersal order that officers were required to read in order to declare an unlawful assembly.

A substantial portion of the Operations Plan sets forth detailed procedures regarding a “BOT MEETING EMERGENCY RECESS OR INCIDENT.” These procedures include the following:

A. Once Emergency Recess is declared by the Board Chair and/or designee and/or an incident requiring physical movement of the BOT occurs, the meeting will temporarily adjourn with the following actions to commence:

   ... 

5. In the event of public disorder or an unlawful assembly as designated by the Chief of Police and in consultation with the College President, the dispersal order shall be given by the Operations Commander, who will retain the title of “Incident Commander” for the entire incident.

6. Additional Police personnel may be requested from neighboring agencies through mutual aid dictated by the circumstances of the event ...

7. All sworn personnel shall have the SMCPD “Dispersal Order” on their person in order to effectively announce and issue the order to the person(s) involved in the unlawful assembly.

8. The Dispersal Order shall allow for a ten (10) minute departure of the crowd through all marked exits from the hallway to the north and east of the Business building. ...

(SMCPD 04/03/12 Operations Plan, at 3-4.) The text of the dispersal order referenced in “8,” above, is attached as the final page of the Operations Plan.14

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14 Operations Plan, Appendix B. Text of Dispersal order is as follows:

“I am (peace officer’s name and rank), a peace officer for the Santa Monica College Police Department. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, command all those assembled at the Business Building to immediately disperse, which means to break up this assembly.

If you do not do so, you may be arrested or subject to other police action. Other police action could include the use of force which may inflict significant pain or result in serious injury. Penal Code §409 prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of Penal Code §409.

The following routes of dispersal are available through all marked exits to your car or onto Pico Boulevard in order to stay off of the college campus.
In addition to requiring all officers to have the “‘Dispersal Order’ on their person in order to effectively announce and issue the order to the person(s) involved in the unlawful assembly,” the Operations Plan also called for a ten minute period for the crowd to depart after the dispersal order. The use of the formal order to disperse and the waiting period before further action is taken are measures designed to de-escalate contentious situations.

Around noon on April 3, 2012, Chief Vasquez met with Dr. Tsang, Vice President Mike Tuitasi, and Campus Counsel Robert Myers to summarize the police plans for the Board meeting. During this meeting, Chief Vasquez was asked whether the police had any plans to use less lethal weapons for control purposes. Chief Vasquez indicated there were no such plans. He did not, however, relay this assurance to Department personnel and the Operations Plan was not updated to reflect the assurance.

Prior to the Board meeting, Campus Counsel learned that all students would be directed to the overflow room, reserving the limited space in the boardroom for administration and those attending for other Board items. Campus Counsel opined that the plan was inconsistent with the Brown Act, stating that the law required all members of the public to be admitted to remaining seats in the boardroom on an equal basis. As a result, the public seating in the main boardroom was to be made available on a first-come, first-serve basis.

Mutual aid from the Santa Monica Police Department (SMPD) and University of California Police Department (UCPD) was requested for the evening of the meeting. Both agencies put themselves at the disposal of the SMCPD on a stand-by basis. Neither agency was requested to have officers stationed at SMC.

A walk-through was conducted prior to the meeting by all SMCPD personnel involved. After the walk-through and the subsequent arrival of the members of the Board of Trustees, but prior to the start of the public meeting, SMCPD Chief Albert Vasquez met with the Board of Trustees in closed session to brief them on evacuation plans. Chief Vasquez learned that two members of the Board attended an Associated Student (“A.S.”) board meeting, but had not attended any S.O.C. meetings. According to the SMCPD investigation of the incident, Chief Vasquez left the closed session believing that “as a result of a recent meeting between Board of Trustee members and the A.S. leaders, the escalation of tensions had potentially been diffused,” and that mutual aid was therefore unnecessary.
Students Begin to Assemble in Front of Library

Throughout the day, students were organizing to try to get a large turnout at the Board of Trustees meeting, including holding a press conference.

At about 5:50 p.m., students and others opposed to the plan began to gather in front of the library. A rally organized by the Student Organizing Committee took place. This was observed by the SMCPD. After about 30 minutes, the assembled group began to move across campus toward the Business Building where the Board of Trustees meeting was to be held. As it progressed across the campus, the movement of the rally was filmed by the SMCPD and also by several independent videographers.

First Group of Students Assemble Outside Boardroom

Video records from inside the Business Building show that by 6:30 p.m. between 20 and 30 prospective meeting attendees had lined up along the hallway wall outside the Boardroom. At least one of the individuals present was an active leader of the S.O.C. This fact presumably accounts for the description of these prospective meeting attendees in the SMCPD Investigation as a “scouting party.” The college personnel present were Sergeant J.B. Williams, Parking Enforcement Officer Joel Williams, and Police Officer Bryan Wilson. Sergeant Williams interacted with these students at length. He explained the size constraints of the boardroom, the plan to use an adjacent overflow room, and the system by which people who wished to speak would be allowed to do so. He distributed numbered cards to the group which would allow them to enter the main boardroom, told them that other students would initially be directed to an overflow room, distributed speaker cards that they could fill out if they wished to speak at the meeting, and requested that they keep the hallway clear while they waited.

The final plan for the meeting, which had been used at the March meeting without incident, was to seat as many people as possible in the boardroom itself and direct the rest of the attendees to the overflow room where they could watch the proceedings on video monitor. During the public comment period, the Board would call all attendees who wished to speak and who had filled out a speaker card to the podium in turn. Speakers who were seated in the overflow room would observe the meeting by video monitor until called and then enter the main boardroom to speak.

Between 6:30 and 6:42 p.m., Sergeant Williams listened to student concerns and answered questions, distributed speaker cards, and suggested that students fill them out so that they would be placed on the list of people wishing to speak at the meeting. Although he was called away intermittently, he clearly and repeatedly explained the procedures that had been put in place to allow all attendees who wished to speak at the meeting to do so.

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17 SMCPD Investigation at 22.
Arrival of Protester March

At approximately 6:42 p.m., the initial group of attendees in the hallway began to leave the building through the door at the end of the hallway. By 6:43 p.m., only a handful of people were still in the hallway. The departure of the students appears to have been occasioned by the arrival outside the building of the large group that had marched across campus to the meeting. Sergeant Williams describes the exit of the students as follows: “without provocation or notice, the group of protesters turned and walked eastbound through the hallway and exited the east doors of the Business Building and out of sight.”

After arriving outside the building the protesters held a rally for about 10 minutes. Several people used a megaphone to address the crowd. Mikhail Pronilover spoke first. He encouraged everyone “to sign a card, speak, end it with ‘we want a referendum’ and we have a couple speakers that will read the referendum.”

Natalia Toscano spoke second. Despite having been told repeatedly by Sergeant Williams that the Board would allow anyone who wanted to speak to address it, she described the meeting procedures as follows:

"They are really cracking down on how many students can go inside. We have about 17 speaker cards . . . and we are going to give our 17 speaker cards to whoever has priority to go inside and the rest of us, well we just gotta bombard and go in. There is an overflow room but we deserve to be in the main room. We have the right as students to be inside . . ., on the side, but we’re going to try to get in anyways.

A.S. President Harrison Wills then addressed the crowd. Among other comments, he said:

"Now, we need to think about how we can do something to shake the meeting up like they did in Arizona. . . . So we need to think about . . . if you want to allow a system that doesn’t serve you to function then we sit quietly on the sidelines but I say we need to interfere with a system that doesn’t serve us.

This statement was a reference to the April 26, 2011, Tucson Unified School District board meeting that was cancelled after protesters took over the dais to express their opposition to the District’s termination of its Ethnic Studies/Mexican American Studies curriculum.

At approximately 6:53 p.m., the collected protesters began to enter the Business building. While entering, they chanted, “referendum,” and then, “let us in.”

18 Police Report at 5-6.
Sergeant Williams remained alone outside of the boardroom as students entered and approached. PEO Williams and Officer Wilson were in the hallway but well away from the alcove door. The students were initially arranged along the entire length of the hallway and were not pressing toward the door of the meeting room.

Once the body of protesters had entered the building, Sergeant Williams assumed a position within the alcove in front of the boardroom door. He described this area as “a dimly lit space of approximately 8 x 10 feet.” He was the only obstacle between the protesters and the closed boardroom door. The protesters gradually gathered around him.

At approximately 6:55 p.m., the protesters started to surge slowly toward the doorway while chanting “the students, united, will never be divided.” Although the body of protesters was becoming more animated, its movement toward the door was gradual. No officers were interacting directly with the body of the crowd.

Some protesters with bullhorns then attempted to draw the attention of the crowd. Most of the crowd was still chanting “let us in” and did not respond. [6:55 - 6:56 p.m.] A group of people holding a long banner reading “EDUCATION IS A HUMAN RIGHT / WE WANT A REFERENDUM!” then surged forward holding the banner aloft. The movement of this group caused a momentary press toward the door. After less than a minute the banner was passed back through the crowd and away from the door. [6:56 p.m.] Although the body of the crowd was outside the alcove, as many as 8-10 students remained standing inside the alcove after the surge that had accompanied the movement of the banner. No students were touching the officers at this point and Sergeant Williams was standing calmly within the alcove not being touched by students.

Students then began yelling “this is a public meeting,” and “don’t start without us.” [6:56-6:57 p.m.] Most of the protesters had made their way into areas of the hallway that directly faced the meeting room; this included both the hallway and an elevated area below the staircase that is across the hall from the meeting room. Some students with bullhorns and some just yelling encourage the crowd to be quiet and listen. [6:57 p.m.]

Sergeant Williams then addressed the crowd:

If you guys would please hear me out. If you have the card with the number that we passed out early for the people that came early, just please if you would just line up for me so I can let you in. I also passed out speaker cards which a number of you guys filled out so that you could come over and speak. Now what I need you to do is I need you to help me so the meeting is not shut down because right now we are in violation of the fire code. [6:57 p.m.]

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At the reference to fire code the protesters began to “boo” him.

Some members of the crowd urged the rest to be quiet. Sergeant Williams waited until it was quiet and then said:

I merely ask you to do what you are doing, you believe in, that’s fine. I don’t have an issue with that personally. I’m not the enemy. I’m here to help have an orderly meeting. What I need you to do is if you have a card with a number I need you to line up on this wall right here for me outside of this turn. Now listen, please hear me out. Once we have everyone inside with a number, then we can start directing people over to the overflow. Otherwise, all we’re going to do is we’re gonna have you saying your piece, and we’re not able to have the meeting so you can be heard further. So all I’m asking you to do is just to cooperate with that please. That way we can get you in the overflow and those of you have cards we can get you inside. All I’m asking you to do is if you want to come in let us do it in an orderly fashion so everyone is safe. Right now we have too many people. [6:58 p.m.]

He then assured the crowd that everyone in the overflow room would be allowed to speak and stated that he would bring more speaker cards to the room. [6:59 p.m.]

Several people interjected while he spoke. One male protester said loudly “all we’re going to do is have video in that side room. The door is not going to be open like it was last time. . . .” [6:58 p.m.]

Many protesters started to talk all at once toward the end of Sergeant Williams’ explanation. Some students began chanting “let us in.” [6:59 p.m.] During this period, and for almost all of the subsequent discussion among protesters which lasted close to ten minutes, Sergeant Williams was the sole representative of the College communicating with the protesters.

**Students Attempt to Form Consensus**

Other protesters began speaking through a bullhorn, attempting to marshal consensus from the crowd about their goals. The main options discussed were demanding a referendum and demanding that the meeting be moved to a larger room.

After several minutes, a male student loudly stated “bigger room or close it down.” [7:02 p.m.] Students briefly chanted “close it down.” At that point there was not yet pushing at the front of the alcove. Although quite a few students were within the alcove, they were standing without pushing on one another or pushing forward. Sergeant Williams was not in physical contact with any students.

Students then returned to their attempt to reach consensus about their goals. Among intermittent shouts of “shut it down” discussions of “shutting it down” took place, one student argued that they should send the students with numbers in to speak. [7:03-7:06 p.m.]
Sergeant Williams then addressed the crowd again, suggesting that the people with numbers enter and stating that for everyone else, “the overflow room is open.” [7:07 p.m.] Among other comments, a male student responded by yelling, “Send the pigs to the overflow room.”

Mikhail Pronilover, using a bullhorn, then reiterated the main options that had been discussed (entering the meeting to request a referendum or insisting on a larger room for that evening’s meeting), and called a vote.

While Pronilover was addressing the crowd, A.S. President Harrison Wills, was moving through the crowd speaking into the ears of several people. One of the people he spoke with, Ernest Sevilla, has repeatedly stated, including during an interview with police, that when Wills approached him, Wills said, “Ernie, when they open the door, I don’t care what it takes – force that door open. Whatever it takes, keep that door open; don’t let them close it.”

As Wills was circulating and speaking in the crowd, and just as Pronilover was bringing the consensus process to a close by calling a vote, Sergeant Williams interrupted the vote by shouting “Hold it! Hold it! Whoa, whoa, whoa! Hold on! Hold on! You hold on! You’re not gonna let the public speakers, the people that filled out these cards, be heard.” A female in the crowd responded, “You’re not letting them be heard, you’re not letting them in the building.”

Sergeant Williams then informed the crowd that the Board was working its way down the agenda and requested that people with cards move forward so that he could let them into the room. [7:08 p.m.] The call was echoed by several students. Simultaneously, PEO Williams and Officer Wilson moved into the crowd, heading toward the alcove in front of the room. Some attendees, apparently those with numbers, did begin moving toward the door.

**Door Opens to Admit Students and Protesters Surge Forward**

At approximately 7:09 p.m., the door opened to allow people in. Within seconds, the crowd surged in a crush toward the door. After several students entered the Board room, Sergeant Bottenfield stopped the flow of students into the room by blocking the doorway with his body. Sergeant Williams, located slightly outside the doorway, was also blocking students from moving forward.

After the initial press of protesters subsided, more people moved into the alcove chanting “let us in.” Sergeants Bottenfield and Williams were standing in the doorway so that students could not enter. PEO Williams and Officer Wilson had joined them in the alcove: Officer Wilson located slightly to the east side of the open door stopping students from approaching obliquely; PEO Williams several feet further into the crowd than the other officers. All four Officers were in direct physical contact with students:

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21 See Police Report at 13, (Bottenfield writes that door was opened at approximately 7:10).
some students appeared intent on forcing their way past Officers; others were being pushed into the Officers from behind by the crowd. Several officers had objects ripped off of their duty belts or removed from their person during this scuffle, and all but one sustained minor injuries.

As students tried to push past them, PEO Williams, Officer Wilson, and Sergeant Bottenfield blocked students with their bodies. [7:10 p.m.] They all remained calm. One male protester, later identified as CSU Northridge student Ankur Patel, was especially aggressive, both verbally and physically, with Officer Wilson. Although he was being pushed by Patel, and repeatedly repositioned himself to stop Patel and others from moving toward the door, Officer Wilson did not react to Patel’s verbal abuse.22

Sergeant Williams became entangled with several students. He eventually placed student Christine Deal in an arm bar and spun her away from the door and back into the crowd.23 This action noticeably altered the mood of the crowd, and it began chanting “shame on you.”

22 Patel, in a post-incident post on a social media site, showed some recognition of the need to maintain more distance from police officers: “There is a distance from a police officer’s gun that we shouldn’t be within. That exact distance is debatable, but it is a clear issue that they need to have their guns holstered and out of reach of the protesters. That is a specific point of tactical wisdom that we should develop a code of interactions with police around.”

23 Sergeant Williams’ report describes this as follows:

As the group pushed against me, I felt the right side of my duty belt being pulled from behind. Simultaneously, I was then brushed against at my left waist side and turned to see a female Hispanic crouched down and attempting to sneak past me. A female Hispanic approximately 18 years-old with her back to me, then stepped between me and a group of people in front of and next to the door where Sergeant Bottenfield stood. [Deal] The female Hispanic leaned forward aggressively into the group of people standing in front of her and pushed them into the door causing their weight to open the door further. When this occurred, it looked like the door pushed past Sergeant Bottenfield. I repositioned myself directly behind the female Hispanic and place my left forearm over her head and then around the area of her left shoulder in an attempt to apply an upper body control hold so I could pull her off balance and away from the group she was helping to push the door open. As my arm went around the front of the female Hispanic’s body she move[d] forward resulting in my forearm being inadvertently positioned in the area of her head and neck. She began struggling with me and leaned backwards allowing me to pull her away from the group. I forced my forearm downward across her chest and used her struggling with me as momentum to spin her body to the right, away from the group opposite the door.

(People Report at 7-8.) Sergeant Bottenfield’s report describes this moment as follows:

As our attempts to maintain control of the door continued, I glimpsed Sergeant Williams try to control one unknown white female subject (wearing glasses) who had forced her way in between us in an attempt to gain entry to the
Several members of the crowd urged it to back up at this point. A young woman in front of Sergeant Williams turned to face the crowd and yelled that people were getting hurt and “this isn’t going to solve anything.”

After Sergeant Williams turned Deal, Ankur Patel appeared to move or be pushed directly into Sergeant Williams’ back. However he got there, he stayed there and placed his arm between Sergeant Williams’ body and his right arm. Sergeant Williams, aware of someone touching his belt, moved his arm back to secure his weapon by holding on to it. 24

At this point, about 7:11 p.m., there was a brief pause. The initial surge of students toward the door had subsided, and Sergeants Williams and Bottenfield and Officer Wilson had control of the door – their bodies were blocking it completely.

24Sergeant Williams describes this moment as follows:

I felt the right-side of my duty belt where my firearm is holstered being pulled from behind. Simultaneously, I was being pushed backwards and forwards by several unidentified people crowded closely around and/or physically against me. I felt my holstered expandable baton (located on my duty belt and in a holster directly behind my firearm) being pulled from behind as I was now being pushed forward from behind and against my right shoulder. I turned around to see who was pushing me and saw the male Hispanic adult with glasses I earlier saw holding the box [Patel] now standing directly behind me and to my right. I opined he was the one pushing me from behind and pulling on my holstered baton. Without warning, I was pushed against my front left upper body and felt overwhelmed as people were attempting to push and squeeze past me. I turned to see who was in front of me at my left side and while facing away, simultaneously delivered one (1) right reverse elbow strike to the area I last saw the male Hispanic’s upper body. I felt my elbow make contact with an unknown object and held onto the top of my holstered duty pistol as a precautionary weapon retention technique.

(Police Report at 8.)
Sergeant Williams Leaves Doorway

Sergeant Williams then moved to his left, spoke briefly with Sergeant Bottenfield, and moved assertively across the alcove to pull the door closed. Sergeant Williams’ account of this moment is as follows:

As I turned to my immediate left, I saw Sergeant Bottenfield and Chief of Police Albert Vasquez standing in the doorway attempting to pull the door inward into a closed position. I yelled numerous times for the group pushing against me to “get back” and was met with negative results. I saw two male Hispanics and a female black standing on the backside of the door and it appeared they were using their hands at the mid portion of the door’s edge to pull it open. I observed Sergeant Bottenfield attempt to swipe his hand against the hands holding onto and pulling the door opened. I yelled to Sergeant Bottenfield that I would go around to the back of the door and try to help push it closed. At the same time I felt an unknown person pulling my duty belt at the center of my back and at my left rear pocket where I conceal my back-up firearm. I stepped forward, pushed myself away from several people crowded around me and repositioned myself behind the door.25

Sergeant Bottenfield describes this moment as follows: “Still trying to maintain access control to the boardroom, Sgt. Williams yelled to me that we needed to close the door and began trying to clear the way and push it into the closed position.”26

Officer Wilson was not informed that Sergeant Williams intended to close the door.

As the Investigating Officer told the Panel, Sergeant Williams’ attempt to close the door destabilized the situation. In his view, instead of using the pause in movement as an opportunity to de-escalate the situation, “we initiated a second surge,” by trying to close the door.

When Sergeant Williams moved to close the door it was no longer effectively blocked. Sergeant Bottenfield and Officer Wilson were forced to move out of the doorway to push back surging students. Sergeant Williams disappeared from view behind the door.

Within half a minute of Sergeant Williams’ move to close the door, it was clear from the reaction of the crowd that he had deployed pepper spray.27 The students’ continuing chant of “shame on you” was replaced by panicked retreat from the alcove.


27 The effects of the spray being deployed were presumably exacerbated by the type of spray used by Sergeant Williams. The SMCPD issues officers a spray called MK-3 which contains .2% of the active ingredient Oleoresin Capsicum. The spray used by Sergeant Williams, Sabre Red contained 1.33% Oleoresin Capsicum. The higher
Williams describes his deployment of pepper spray as follows:

While behind the door, I leaned against it and began moving forward toward Sergeant Bottenfield and Chief Vasquez in an attempt to help force it into a closed position. A male black adult approximately 18 years-old, faced me and the door and leaned into me while yelling profanities. Without warning, the door was pushed forcefully against me resulting in my being pushed backwards and into the nearby wall. I got off of the wall, looked around the door and saw an unknown person crouched below the door handle in front of me and at the legs of Sergeant Bottenfield. I then saw Officer Wilson and PEO Williams pushing themselves through the crowd towards us.

As Officer Wilson and PEO Williams got closer to the group pushing against the door preventing it from being closed, they were being violently pushed against by those persons crowded around them (Officer Wilson and PEO Williams). I then saw two unidentified people being pushed forward and knocked to the ground. The male black who remained standing near me continued yelling directly at me. Fearing a physical confrontation with him was imminent I removed my Oleoresin Capsicum (OC) spray canister from the left-side of my duty-belt and pointed it in his direction. As the male black yelled at me, I ordered him to “Get back or he would be sprayed.” The male black continued yelling and quickly side-stepped to his right and slightly backwards in what appeared to be an attempt to avoid being sprayed. I decided not to spray him because he appeared to be complying.

Realizing that the violent behavior of the crowd and their advancing [sic.] Officer Wilson, PEO Williams, Sergeant Bottenfield, Chief Vasquez and I was intensifying, I opined that the deployment of the OC spray would best aid us in stopping the violent actions of the group and prevent serious injury [to] all of us, especially those being pushed forward to the ground. I pointed my OC canister in the direction of an unknown male Hispanic standing approximately 3-5 feet away from me who I saw violently pushing people forward from behind towards the open door and in the direction of Officer Wilson, PEO Williams, Sergeant Bottenfield and Chief Vasquez. I deployed one 2 (two) second burst in his direction. Due to him moving back and forth, I saw that the stream concentration makes the spray much stronger, causes it to disperse more widely, and to remain in the air longer. According the Investigating Officer, Sergeant Williams had provided his own spray without having obtained permission.
hit him in his face at an angle and then onto other people standing beside him who were pushing and shoving against people in front of them. Initially, it did not appear that the OC affected him or the others because they continued pushing themselves forward against the backs of those in front of them. Within a couple seconds, I saw several of the male and female Hispanics place their hands over their mouths and noses as they continued to violently push against the back of people in front of them and towards us.

Based on my observations, I feared the OC spray was not effective and deployed two (2) additional one (1) second bursts into the rear of the crowd of people as they too pushed people from behind allowing them to advance towards the door of the Board Room (BUS 117). \(^28\)

Officer Wilson described the spray as follows:

During the struggle [with protesters] I smelled the odor of pepper spray in the air and was unable to determine at first where it came from. Scanning the crowd, I was unable to locate where the pepper spray may have originated. I then looked behind me and observed Sgt. Williams, positioned on one knee. As Sgt. Williams got to his feet, he deployed his pepper spray at the crowd to back them away from the door and officers. \(^29\)

Sergeant Bottenfield described the spray as follows:

Since my vision was obscured I was unable to maintain proper officer safety coverage of [Sgt. Williams] and thereby insure his safety.

Suddenly, and to my surprise, I began smelling the odor of (based on my training and experience), OC Spray and feeling its effects. I felt a sudden light burning sensation in my sinus area and could taste it in my mouth. I didn’t see where the OC came from, but saw the crowd begin to react by backing up and begin to disperse as many appeared to be feeling its effects. \(^30\)

\(^{28}\) Report at 9.

\(^{29}\) Report at 17.

Green Party Senate Candidate David Steinman was sprayed directly in the face by one of the later bursts. He was toward the back of the crowd aiming a camera at Sergeant Williams when he was sprayed. He was neither pushing nor being pushed by other people.

About 10 seconds after the crowd initially recoiled from the spray, Sergeant Williams emerged from behind the door pushing into the crowd, he then turned, pushed Sergeant Bottenfield back slightly, and closed the door to the meeting room with Bottenfield inside it. Ankur Patel then screamed, “We won. We won. They pepper sprayed us.”

About 10 seconds after Sergeant Williams shut the door and turned back to the crowd, student Jasmine Delgado moved out of the crowd and took several quick steps toward Sergeant Williams with her arm extended and finger pointing at him. He stopped her advance by pushing her to the ground. Sergeant Williams momentarily raised his baton above her while she was on the ground. The crowd reacted strongly to this event. Sergeant Williams describes this interaction as follows:

[After the deployment of pepper spray] I removed my expandable baton from my duty belt, held it in my right hand, took a defensive stance, ordered the group to “Get back” and maintained a position in front of the door leading to BUS 117.

While standing in the area in front of the door of BUS 117, a female Hispanic with raised clenched fists and an angry look on her face ran away from the group towards me yelling. Fearing I was going to be attacked by the female, I extended my left arm and hand in front of me and yelled for her to “get back.” However, the female refused to comply, charged at me and upon her upper body colliding with my hand, abruptly stopped and fell backwards to the floor.31

Officer Wilson describes the event as follows: “A female protester rushed at Sgt. Williams in an aggressive manner. Sgt. Williams using an open hand, extended his left arm in a straight arm movement and knocked the female to the ground on her buttocks and back.”32

After Sergeant Williams knocked Delgado down, various students yelled “oh my God,” “stop,” and “fuck you.” Several students then surged closer to Sergeant Williams, most of them were holding cameras in front of them, and none appear to have been closer than about five feet. He describes the students this way: “Several male and female adults standing behind [Delgado] and approximately 6-8 feet away from me and Officer Wilson angrily ran to her aid while yelling at us and holding their clenched fists in a fighting stance.”33 Although there is no video from Sergeant Williams’ perspective, available still
photographs taken from his perspective show the male student closest to Sergeant Williams bending down to assist Delgado while making a peace sign with his raised right hand.

After lowering his baton from above his head, Sergeant Williams looked up from Delgado, brandished his baton, and yelled “back up” at the people in front of him. [Approximately 7:12 p.m.] Officer Wilson had also removed his baton but kept it pointed at the ground and did not appear to say anything. Within seconds of Sergeant Williams having brandished the baton, Sergeant Bottenfield emerged from the boardroom door and tapped him on the shoulder. Sergeant Williams then backed into the room. Officer Wilson also entered the room and the door closed.

After Police Have Left the Hallway

Shortly after the door was closed a fire alarm was set off. By 7:13 p.m., within a minute of Sergeant Williams and Officer Wilson leaving the alcove, the door to the boardroom was no longer being protected. The door was locked, but after protesters knocked on the window adjacent to the door, a student walked out from within the boardroom and opened the door allowing unimpeded entrance to the room.

After the incident, Santa Monica Police and Fire Department personnel responded to the scene. Fire Department personnel treated approximately 30 people for the effects of their exposure to the spray. Two people were transported to the hospital for observation. They were both released in time to attend the meeting when it resumed.

Virtually everyone in attendance at the meeting, including members of the Board of Trustees and College staff, experienced some effect from the pepper spray deployment.

As reported extensively in the press, a four-year old child was among those affected by inhaling pepper spray that hung in the air. There is no indication that she was directly hit when the spray was deployed.

The Meeting Resumes

Prior to resumption of the meeting, Board Chair Dr. Margaret Quiñones-Perez met with students in an effort to reduce tensions and consulted with police about how to resume the meeting. After a delay of approximately an hour and twenty minutes, the Board meeting was resumed. Dr. Quiñones-Perez and Vice-Chair Dr. Nancy Greenstein resumed the meeting in room B111 (previously set up as the overflow room) and took testimony from 37 people, including Natalie Toscano, Mikhail Pronilover, Ankur Patel, Christine Deal, Harrison Wills, and Earnest Sevilla. The remainder of the Board members listened to

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34 The fire alarm was apparently activated by one of the protesters. It constitutes a misdemeanor to “sound any false alarm of fire.” (Penal Code Section 148.4.) However, following the deployment of pepper spray, participants could reasonably conclude that activating the fire alarm might summon fire personnel to assist with treating the victims. Moreover, activating the fire alarm shut down the air-circulation system and prevented the pepper spray from being dispersed throughout the building.
testimony from the adjacent boardroom. All members of the public who wished to speak were allowed to do so.
IV. POLICE INVESTIGATION REPORT

The SMCPD Investigation describes the incident as having been intentionally caused by a violent and hostile mob that was united in its intent to carry out a previously agreed upon plan to attack officers and force its way into the meeting. The report suggests that SMCPD planning and actions were appropriate, but notes that the Department showed too much “faith in the student body of Santa Monica College” and “must take a firmer approach” in the future.

The Report made the following recommendations:

- All SMCPD Officers undergo Chemical Deployment Update training with an emphasis on tactical and environmental considerations.
- SMCPD Officers use only district approved and issued pepper spray.
- The SMCPD policy manual be updated to reflect current best practices in law enforcement.
- The SMCPD “take a firmer approach” in dealing with unpermitted protests, including the use of referrals for campus discipline and/or criminal prosecution in cases where classes or other campus functions are disrupted.

Specific aspects of the Report are discussed on the following pages.

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35 Investigation at 1, 3.
36 Investigation at 40-41.
V. FINDINGS AND CONCLUSIONS

The Panel is aware that its conclusions regarding these events are made with a perspective that was unavailable to the participants. It is easier to say how events could have been avoided when working with the benefit of hindsight than it is to act with foresight during a chaotic situation. However, good planning does require a forward looking analysis of all likely occurrences. As discussed below, a number of lessons have been learned that should help the College better respond to like incidents in the future.

The Panel wishes to emphasize that this incident should not diminish appreciation of the SMCPD’s long commitment to and successful implementation of the principles of community policing. The Department should be commended for its responsiveness to community input, emphasis on personalized service designed to meet the unique needs of community members, and commitment to actively engaging in ongoing community partnerships.

1. The Meeting Location Was Not Responsible for the Incident

Protestors objected to the Board meeting being held in a room with limited capacity. A.S. President Harrison Wills, in particular, questioned whether it made sense for an institution of SMC’s size to hold public meetings in such a small room. The decision to hold the April 3 meeting in the regular boardroom also appears, at least in hindsight, to have been objected to by College Police. As noted in the SMCPD Investigation, the SMCPD claims to have requested a larger room for the March meeting. The Panel surveyed President Tsang and all members of his senior administrative staff regarding this request. They all denied having received such a request. Nor were any of them aware that anyone involved with the SMCPD had made such a recommendation to anyone else.

Whether or not a request was made in connection the March meeting, no such request was made for the April meeting. Nevertheless, the SMCPD Investigation Report concludes that “ultimately, the confrontation would never have occurred if the Police Department’s earlier request for a larger venue through proper channels, in March 2012, had not been denied.”

Two things are clear. First, the March meeting was held in the normal boardroom without incident. Second, SMCPD made no request for a different venue for the April meeting. Thus, there is no connection between the purported denial of room change request in March and the events at the April Board meeting.

Moreover, it is highly unusual for deliberative bodies at any level of local, state, or federal government to change location because they are considering a controversial issue, or because more people would

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37 In this regard, see David Michael Cortrite, Servant Leadership for Law Enforcement (Ed.D. dissertation, University of California Los Angeles, 2007).

38 SMCPD Investigation, at 14-15.

39 Id., at 40.
like to observe or participate in their deliberations than fit into their normal meeting place. The core value that must be served in a democratically responsive deliberative body is that it takes into account the views of community members. Individuals must have a chance to express their views to the body. The Panel has found no credible basis for the protesters’ purported concern that each person who wanted to speak would not be heard in turn. The process in place that evening was sufficient for everyone who wished to speak to do so and for the Board to hear the views of everyone present.40

The subset of protesters whose paramount objective was the simultaneous presence in the boardroom of every person opposed to the pilot program were interested in something other than democratic participation and a full presentation of their views for the Board’s consideration. Contrary to the view of some protesters that evening, having all the people with a particular view in the room at one time so that they can physically disrupt the meeting if they don’t get what they want does not make a meeting more “democratic.” As supported by the statements of numerous protesters, at least a minority of their number intended to use disruptive tactics rather than reasoned arguments.

There is no right to express oneself in a public meeting in any manner one chooses. Regardless of one’s views, it is incumbent upon participants in public meetings to express them within that body’s framework of reasonable restrictions and guidelines (time limits, no abusive language, etc.) so that all individuals and viewpoints have an equal opportunity to be heard. This Panel has heard no plausible argument that the restrictions put in place at the April 3 Board meeting were unreasonable, and the Panel has no reason to doubt that all people that hoped to address the Panel would have been heard if the process had been followed. Moreover, using superior numbers to shout down deliberative debate is not a constitutionally protected form of communication.

Although the Board is of course free to choose to meet in a larger room any time it wishes, the necessity of such a move is not indicated by the events considered here. In the aftermath of the April 3 meeting it was useful for the immediately subsequent meeting to be held in a room that allowed the campus community to process the event collectively. That fact does not militate against the propriety of using the current boardroom in the future. The current room is large enough to accommodate all interested participants at most meetings. Also, the intimacy afforded by a room with reasonable scale is advantageous to the presentation of a range of views. Individuals who sincerely hope to persuade the Board of their position or who hope to effectively present objections to Board policies clearly benefit from the chance to speak directly to the voting members of the Board from a few feet away. The deliberative advantage of a room of modest scale is clear when one considers the alternative of speaking from a distance in a large, and largely empty, auditorium.

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40 Board Policy places no limit on the number of speakers at a Board meeting. “Generally, each speaker may be allowed a maximum of five minutes per topic. If there are more than four speakers on any topic or item, the Board reserves the option of limiting the time for each speaker.” BP 1570. Although the Brown Act authorizes the adoption of regulations limiting the total amount of time on any agenda item (Government Code Section 54954.3), the Board of Trustees has not done so and has a long track-record of accommodating all speakers.
Board meetings are not political rallies or sporting events where loud and boisterous expression of opinion is expected, inevitable, and actively invited. The only democratic value that must be achieved at an open meeting is for the public to hear the proceedings and speak during appropriate comment periods. Collective actions by members of the audience are inconsistent the orderly conduct of meetings. As Board Policy 1570 makes clear, those who participate at Board meetings shall be orderly:

Any person who disrupts, disturbs, or otherwise impedes the orderly conduct of any meeting of the Board of Trustees by uttering loud, threatening, or abusive language or engaging in disorderly conduct shall, at the discretion of the presiding officer or majority of the Board, be requested to be orderly and silent and/or removed from the meeting.

Ultimately, once a decision is made concerning the location of a Board meeting it is the responsibility of the SMCPD to put in place adequate plans to ensure the safety of all those involved in the meeting. If the SMCPD has serious reservations about the location of any campus event, it should have expressed them to decision-makers. Therefore, the Review Panel finds that the meeting location did not put the SMCPD in an “untenable position.”

2. The Pre-Planning for the Event Was Inadequate

As described in its investigative report, the SMCPD was watching the development of campus protest related to contract education closely. This occurred as part of the Department’s ongoing intelligence gathering related to possible Occupy movement related protests on campus. According to the Investigating Officer, the SMCPD expected disruption at the Board meeting. This belief was based on information gathered from public meetings and informal discussions with students, the monitoring of information publicly available on the internet, and the public statements of participants in earlier contract education protests.

Given the Department’s awareness of the growing numbers of students organizing in opposition to the plan prior to the April meeting, it was important for the College to have in place adequate plans for the meeting. The Department needed to plan for and accommodate the movements of a large crowd in a public building with multiple concurrent uses. Yet no plan was put in place to guarantee ease of entry and exit for people not involved with the meeting. Nor was any constraint placed on the movement of the mass of meeting attendees.

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41 See In re Kay, 1 Cal. 3d 930, 943-44 (1970) (considering extent of protected expressive activities in light of nature and location of meeting); Kindt v. Santa Monica Rent Control Board, 67 F.3d (9th Cir. 1995) (discussing reasonable restrictions on First Amendment rights in context of public meeting).

42 SMCPD Investigation, at 42.

43 See SMCPD Investigation, at 17, “The [Student Organizing Committee’s] recruitment campaign, along with its increasing rhetoric detailing escalation, resulted in the drafting of the Santa Monica College Police Department’s obligatory Operations Plan.”
In light of the Department’s expectation that some protesters would attempt to disrupt the meeting, several aspects of the Department’s preparation for the meeting appear to have been insufficient. While a request for mutual aid was made to other departments, and such aid was made available, the Department did not ask that officers from cooperating agencies be staged on-site. Therefore, despite the awareness of other departments that the SMCPD might need assistance at some point that evening, there was no preparation for quick and effective use of cooperating officers to respond in case of disruption.

The absence of barriers to control the crowd suggests either an underestimation of likely crowd size or a misapprehension of the crowd’s likely behavior. There is a divergence with respect to this issue between the statements of the Investigating Officer and the SMCPD Investigation: the Investigating Officer says disruption was expected; the Investigation concludes that the Department was too trusting that students would behave appropriately.

Regardless of the Department’s beliefs about whether protesters were likely to behave or to be disruptive, the substantial size of the crowd was expected. No measures to control the flow of the crowd and its access to the Business building, the alcove, or the boardroom were put in place. The SMCPD Investigation suggests that the events of that evening were in large part attributable to the location and size of the room. Although the meeting location had been set for weeks, the Department did not establish methods to safely control access.

a. The SMCPD Operations Plan Was Inadequate

The SMCPD Operations Plan\textsuperscript{44} for the April 3 Board Meeting discusses two scenarios for the meeting: the first is titled “BOT MEETING W/O INCIDENT”; the second, “BOT MEETING EMERGENCY RECESS OR INCIDENT.” Although the plan acknowledges the likelihood of a protest at the meeting, neither scenario outlined within it addresses how to control a large or unruly protest. Nor is there any discussion of how to accommodate a large number of meeting attendees in the limited space available. While the plan includes instruction on what to do if the meeting has been disrupted or suspended and the protocol for dispersing a crowd, there is no consideration of measures that might be taken in advance to avoid disruption.

The SMCPD Investigation includes the following description of the Operations Plan governing SMCPD operations for the April 3 Board meeting:

Prior to the Board of Trustees meeting of April 3, 2012, during a Closed Session presentation about the planning for the Board Meeting, Santa Monica College Chief of Police, Dr. Albert Vasquez, had been reassured that as a result of a recent meeting between Board of Trustee members and the Associated Student body [sic.] leaders, the escalation of

\textsuperscript{44} Appendix D.
tensions had potentially been diffused, therefore the presence of both the Santa Monica Police Department and/or the University of California at Los Angeles-University Police Department might not be necessary for the meeting.

The Operation Plan design, without the mutual aid request, had the provision for security that the minimal number of Santa Monica College Police officers be assigned as necessary to maintain order as would generally be provided for a normal and regular Board of Trustees Meeting.45

The Operations Plan did not address crowd control measures, nor did it discuss protection of the entrance and exit path for other users of the building. This shortcoming in the Operations Plan receives neither comment nor scrutiny in the SMCPD Report.

Regardless of the lack of prior preparations, Department personnel knew that a large number of protesters were on campus for at least a half hour before the most of them arrived at the business building. There was time to adjust the plan in response to this fact. No adjustment was made and no officers from outside agencies were called to assist.

Overall, the Operations Plan appears insufficiently developed for a planned event of this type. It lacks a fully developed objective, does not address tactics or strategies, and does not include any of the information gathered regarding the identity and intentions of the groups expected to protest. Although the plan addresses, at least superficially, most of the components common to operational plans, it does not utilize current best practices in operational/incident planning.46

b. Those Involved in Student Affairs Were Not Engaged in the Planning for the Event

SMC’s Student Affairs Division includes a range of counseling services, is responsible for student programming including the A.S., and it also includes the campus police department. They have the most extensive ongoing contact with students and student groups. Personnel within Student Affairs were aware of the breadth and intensity of student concerns about the issue being debated at the Board meeting. They were also aware that a substantial number of students were planning to protest at the

45 SMCPD Investigation at 17-18.

meeting. However, there was no formal presence from Student Affairs at the meeting assuming responsibility for interacting with students.47

The primary responsibility for interacting and communicating with protesting students should have been played by Student Affairs staff. The absence of Student Affairs staff to deal with students forced the SMCPD to assume the dual role of facilitating student participation and simultaneously enforcing rules about student conduct. When students objected to the previously established rules for participating in the meeting there was no one present to mediate between the protesters and the police.

3. The Police Did Not Take Measures to Control the Crowd Entering the Business Building

No apparent measures were taken to control the motion of the crowd into the building and the area surrounding the boardroom. The building was being used for multiple purposes at the time of the scheduled Board meeting. Most importantly, ten classes were being held in the building concurrently, including one in the room directly next door to the boardroom. Students therefore required unobstructed access and exit routes. Given the SMCPD’s awareness that a large number of students would attend the meeting, the limited space in the hallway, and the small entrance area to the meeting room, it would have been advisable to provide for controlled access to the building and meeting room alcove.

If preparations had been made in advance to protect the ability of students and teachers involved with the classes in the building to enter and exit, many of the crowd control issues that later arose would have been avoided. Given the large number of people who came to the meeting and encountering no obstacle to doing so, they filled the available space in the hallway. However, once the mass of protesters was allowed to fill the hallway and alcove area outside the meeting room, the ability to control the flow of people into and within the areas surrounding the boardroom had been relinquished.

Regardless of the convenience of a venue or the size of protest expected for an event held within it, the number of people that may enter or approach the venue should be controlled. Given the small size of the approach to the boardroom relative to the size of the crowd expected that evening, some arrangements should have been made to make the access of protesters to the area manageable. Even if no previous notice had been given, the police could have made a fairly precise count of how many students were about to enter the building during the long, slow, procession across campus and the 10 minute rally directly outside the building.

Once the department became aware of the size of the student march toward the building and the substantial number of people already waiting in the hallway, an attempt to structure the entrance to the building in some way should have been made. The events at issue developed over a considerable period of time. According to the SMCPD Investigation, protesters gathered over a period of approximately 30 minutes, they marched across campus for almost 20 minutes, and then gathered outside the Business

47 After the meeting was disrupted, Vice President Tuitasi did work with students to help with the resumption of the meeting.
Building listening to speakers for more than 10 minutes prior to entering the building.48 At any point during this hour, the entrance to the building could have been locked until measures were put in place to provide safe access.

The SMCPD Investigation discusses the difficulty that student Arlene Harrison had entering her classroom during the protest.49 However, her difficulties are discussed solely to support the characterization of the protesters as a mob. Had access to classrooms been protected by the police no students would have been inconvenienced in this way. Yet the Investigation includes no discussion of any actions that might have been taken to prevent the situation, placing all blame on the protesters.

4. Inadequate Command and Control of the Incident and Inadequate Communication Equipment

The Operations Plan designated Sergeant Bottenfield as the Operation/Incident Commander.50 As part of his training at SMC, Sergeant Bottenfield has received instruction in the Standardized Incident Command System established by the Federal Emergency Management Agency. According to the SICS protocol, essential components of the Incident Commander role include: providing overall leadership; ensuring incident safety; delegating responsibility to others, and; assessing staffing needs. Each of these tasks presupposes that the Incident Commander will assume appropriate distance from the operation to have perspective on unfolding events. Because of the staff level, it was impossible for Sergeant Bottenfield to perform his assigned role. Sergeant Bottenfield and Chief Vasquez were involved in the physical confrontation at the boardroom door. Because no one was looking at the bigger picture, a number of opportunities to avoid the use of force were lost. In retrospect, it seems clear that keeping doors locked until officers were prepared to control the movement of the crowd would have helped matters. The door to the building could have been locked and officers could have let students into the building from there. The door to the boardroom could have been kept closed until the protesters left or moved into the overflow room: there was no reason the board had to begin the public comment section of its meeting at any particular time.

Even after the door was opened and the pushing had begun, there was a chance to stop and let things calm down after the surge had been repelled. Officers had control of the door. It was only when Sergeant Williams attempted to forcibly close the door that tensions escalated again.

Issuing an order to disperse is a tool of de-escalation, as is the use of a waiting period after that order. These tools might have been usefully employed once the crowd began to ignore instructions.

48 SMCPD Investigation at 20-23.

49 SMCPD Investigation at 28.

50 See Operation Plan, at 5. Step A.6. of the Operations Plan states that “In the event of a public disorder or an unlawful assembly as designated by the Chief of Police and in consultation with the College President, the dispersal order shall be given by the Operations Commander, who will retain the title of ‘Incident Commander’ for the duration of the incident.” Operations Plan, at 3.
Finally, despite the SMCPD’s awareness that a large and possibly disruptive crowd was expected, no arrangement was made for communications devices that were loud enough to allow easy communication with the protest group. The protesters brought a bullhorn to communicate; the police just yelled.

5. **Insufficient Police Personnel Were Assigned**

Compared to the number of protesters, there were relatively few SMCPD personnel present. The light staffing of police was probably a contributing factor to the loss of control.

Although it is treated at greater length in the discussion of the SMCPD Operations Plan, the decision had been made to have six SMCPD personnel present that evening and to leave cooperating agencies on call. The usual police presence at an SMCCD board meeting is one uniformed officer.

In addition to the SMCPD personnel present at the Board meeting, there were also several other uniformed officers on campus that evening. The fact that none of them were called to assist prior to the use of force suggests that available resources were not fully utilized.

Additional personnel from cooperating agencies (SMPD, UCPD) were available to the SMCPD for back-up but they were not called until after the students were in control of the meeting room. Although the cooperating agencies were on standby to provide officers, there were no personnel from either of these agencies staged on or near campus so that they could be called upon quickly in the event that their presence became necessary. If no personnel from cooperating agencies were to be staged on campus, it seems unlikely that they could respond quickly and effectively to any disturbance.

6. **Some Protestors Engaged in Unacceptable Conduct**

Some protesters acted inappropriately. Pushing and grabbing the persons of police is illegal. Using force to gain entry to a public meeting is illegal. Protesters were also guilty of several other minor violations, such as the use of amplified sound in public building and blocking passageways.

Students from SMC and other area colleges came to the meeting for various reasons. Many of them wanted to speak to the board to express their opinions about contract education. But some protesters do appear to have intended, if not to disrupt the meeting themselves, to incite others to disrupt the meeting.

Natalia Toscano’s speech to the crowd assembled outside the building was an attempt to incite inappropriate use of force. Sergeant Williams had spoken to her and those with her at length about the process that was going to be used to allow attendees to speak to the Board. Her suggestion that the protesters who were not admitted immediately should “bombard and go in” anticipated the illegal behavior that some protesters did ultimately engage in.

A.S. President Harrison Wills’ intention to incite others to use force rather than reason that evening is quite evident. Outside the building his statement that protesters “need to think about how we can do
something to shake the meeting up like they did in Arizona,” was a clear reference to students in Tuscon forcing the cancellation of a school district board meeting. He subsequently circulated within the crowd telling people to use force to keep the boardroom door open. His attempt to incite others to perform illegal actions that evening crossed the line from lawful to unlawful conduct.

7. Some Force Threatened or Used by the SMCPD Was Inappropriate

As a preliminary matter, it should be noted that several individual members of the SMCPD acquitted themselves with commendable restraint and professionalism in the face of a very difficult situation. Finding themselves in the middle of an out-of-control situation at the door to the boardroom, and pressed against extremely excited students, Sergeant Bottenfield, Police Officer Wilson, and Parking Enforcement Officer Williams, remained stoic. That officers showed such restraint in the face of ill-considered behavior by young adults illustrates the virtue of maintaining a campus police force that is accustomed to interactions with a college-age population. Prior to the moment when he used force to move a student, Sergeant Williams also interacted with the students in a patient and diplomatic manner. Although it may have been more appropriate for a member of the SMC administration or student services staff to be tasked with discussing procedures and addressing the concerns of the students, Sergeant Williams acquitted himself well in this task.

It is unlikely that the specific interactions discussed below would have occurred if staffing had been appropriate and reasonable methods to control the flow of the crowd been put in place. Nevertheless, once it became clear that the number of people attempting to enter the meeting was so large and that none of the students wanted to be separated from their peers and shunted off into an overflow room, the best course would have been to prevent entrance to the Board room until more officers could be called in and the crowd organized in an appropriately controlled fashion. Once protesters had crowded into the alcove directly in front of the boardroom door, limiting the movement of such a large crowd into or out of the room with a handful of officers was impossible without the full cooperation of protesters.

Despite his initial success at working with the students, it proved a mistake to assign a recently hired Sergeant as the sole person to interact with a large crowd of student protesters. The students’ failure to follow direction was not unexpected. Dealing patiently with the uncooperative and challenging students is a core aspect of campus policing: from a college officer, use of force is rarely an appropriate and never a preferred response to such behavior. Nevertheless, Sergeant Williams repeatedly used force during the incident; none of the officers with longer tenure in the campus community did so despite being confronted with essentially identical circumstances.

a. Sergeant Williams’ Use of Force Against Student Christine Deal.

As students pushed toward the door, Sergeant Williams put a female student named Christine Deal in an arm bar and spun her back toward the crowd. In response much of the crowd began chanting “shame on you.”

Sergeant Williams’ description of this event is as follows:
As the group pushed against me, I felt the right side of my duty belt being pulled from behind. Simultaneously, I was then brushed against my left waist and turned to see a female Hispanic crouched down and attempting to sneak past me. A female Hispanic approximately 18 years-old with her back to me, then stepped between me and a group of people in front of and next to the door where Sergeant Bottenfield stood. The female Hispanic leaned forward aggressively into the group of people standing in front of her and pushed them into the door causing their weight to open the door further. When this occurred, it looked like the door pushed past Sergeant Bottenfield. I repositioned myself directly behind the female Hispanic and placed my left forearm arm over her head and then around the area of her left shoulder in an attempt to apply an upper body control hold so I could pull her off balance and away from the group she was helping to push the door open. As my arm went around the front of the female Hispanic’s body she move [sic.] forward resulting in my forearm being inadvertently positioned in the area of her head and neck. She began struggling with me and leaned backwards allowing me to pull her away from the group. I forced my forearm downward across her chest and used her struggling with me as momentum to spin her body to the right, away from the group and opposite door.51

Sergeant Bottenfield’s report states:

As our attempts to maintain control of the door continued, I glimpsed SGT. Williams try to control one unknown white female subject (wearing glasses) who had forced her way in between us in an attempt to gain entry into the Boardroom. I saw that he was backing up with her, pulling her away from me and that he had one arm wrapped around her neck, just under her lower jaw. When he had backed up about three feet, he turned to his right pulling her with him. No longer between us, he let her loose in the direction of the mob. It did not appear that he was applying force that would restrict her airway and other than the surprised look on her face, she did not appear to be in distress.52

This event escalated the physical altercation and altered the mood of the crowd for the worse.

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51 Police Report at 7-8.
b. Sergeant Williams’ Decision to Forcibly Close the Door

After he moved Deal out of the way, Sergeant Williams moved toward the middle of the doorway. He then informed Sergeant Bottenfield of his decision to forcibly close the door. According to Bottenfield “Sgt. Williams yelled to me that we needed to close the door and he began trying to clear the way and push it into the closed position.” Sergeant Williams took several steps across the alcove and disappeared behind the door. Sergeant Williams’ description is as follows:

As I turned to my immediate left, I saw Sergeant Bottenfield and Chief of Police Albert Vasquez standing in the doorway attempting to pull the door inward into a closed position. I yelled numerous times for the group pushing against me to “get back” and was met with negative results. I saw two male Hispanic’s and a female black standing on the backside of the door and it appeared they were using their hands at the mid portion of the door’s edge to pull it opened. I observed Sergeant Bottenfield attempt to swipe his hand against the hands holding onto and pulling the door opened. I yelled to Sergeant Bottenfield that I would go around the back of the door and help push it closed.

The decision to close the door was destabilizing. The initial surge of students had been stopped. Officers had control of the door. Sergeant Williams’ action again escalated the conflict for no discernible benefit. Once the door was finally closed officers abandoned it almost immediately.

In addition, Sergeant Williams was the wrong person to make this decision. He was not the Incident Commander. His decision was not communicated to other personnel in the vicinity.

c. Deployment of Chemical Agent

The Panel has not obtained any video evidence showing Sergeant Williams during or just prior to his deployment of the spray. Sergeant Williams was largely out of view once he moved behind the door.

Relevant SMCPD Policies concerning the use of less lethal control devices (oleoresin capsicum spray) are as follows:

308.11 WHEN DEVICES MAY BE USED
When a decision has been made to restrain or arrest a violent or threatening suspect, and approved less lethal control device may only be used when its use appears reasonable under the circumstances.

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53 Id.

54 SMCPD Investigation at 8.
308.3 CHEMICAL AGENT SPRAY GUIDELINES
Only authorized personnel may possess and maintain department issued oleoresin capsicum spray. Chemical agents are weapons used to minimize the potential for injury to officers, citizens or offenders. They should be used only in situations where such force reasonably appears justified and necessary.

308.31 REQUIRED INSTRUCTION FOR USE
All personnel authorized to carry O.C. spray shall complete the required course of instruction prior to possessing and using the oleoresin capsicum spray.

Sergeant Williams’ decision to use his spray failed to comply with this policy in several ways. First, it was not incident to an “arrest or an attempt to restrain a violent or threatening suspect.”55 Dispersing a crowd, the reason suggested by Sergeant Williams’ Police Report narrative, is not an approved use. In that report, he stated that his first deployment occurred when:

Realizing that the violent behavior of the crowd and their advancing [sic.] Officer Wilson, PEO Williams, Sergeant Bottenfield, Chief Vasquez and I was intensifying, I opined that the deployment of the OC spray would best aid us in stopping the violent actions of the group and prevent serious injury to all of us, especially those being pushed forward to the ground. I pointed my OC canister in the direction of an unknown male Hispanic standing approximately 3-5 feet away from me who I saw violently pushing people forward from behind towards the open door and in the direction of Officer Wilson, PEO Williams, Sergeant Bottenfield, Chief Vasquez.56

According to this narrative, the person he aimed his spray at was a member of the crowd who was having no direct interactions with police. The second deployment appears to have been aimed even further back in the crowd, “[I feared the initial deployment of] OC spray was not effective and deployed two (2) additional one (1) second bursts into the rear of the crowd of people as they too pushed people from behind allowing them to advance towards the door.”57 It is unclear why he would have targeted different people if he was concerned that the first burst was ineffective.

Second, the spray was not department issued.58 The department uses spray with 0.2% Capsaicinoid concentration59; Sergeant Williams carried his own spray, Sabre Red, that had 1.33% concentration of

55 As per SMCPD Policy 308.11.
58 As per SMCPD Policy 308.3.
active ingredient. This concentration of active ingredient is touted by the spray’s maker, Sabre, for the extreme intensity of its effect. The greater concentration of active ingredient corresponds to greater effect on the person sprayed. Sprays with a higher concentration of active ingredient also last much longer than sprays with lower concentrations. Therefore, the release of multiple bursts of this high-concentration spray within a closed, densely populated space inevitably resulted in a large number of people being seriously affected.

Finally, no dispersal order had been given prior to the deployment. Although Sergeant Williams warned a student that he then decided not to spray, he failed to provide warning that weapons were about to be deployed to the mass of students that he sprayed subsequently.

It appears beyond question that an “incident,” “emergency,” or “public disorder,” sufficient to trigger the implementation of the procedures for declaring an unlawful assembly had occurred, but no dispersal order was given to the crowd prior to the deployment of pepper spray. The SMCPD Investigation repeatedly notes the protesters’ “failure to follow lawful orders.” The sole example of the “lawful orders” that the crowd failed to follow is given at page 3, where it states that “mob participants” had “received specific and direct verbal orders from the police to ‘Get Back.’” Yelling “get back” at the front ranks of a surging crowd as they are being pushed forward by a mass of people presents a difficult, if not impossible, order to comply with. Although the students may not have acted as Sergeant Williams wished, his “unannounced preferences are not substitutes for police orders.” See Nelson v. City of Davis, 685 F.3d 867, 881 (9th Cir. 2012).

The Operations Plan included the text of the order to be given if the crowd needed to be dispersed. In order to be anything but futile, such orders must be given in such a way that a significant portion of the crowd can hear, and they must be followed by an appropriate pause for the crowd to disperse. No such order was given here. The fact that the conditions that would have made such an order effective were not present was a consequence of earlier failures to anticipate and control the movement of the crowd.

50 The Department issues MK3 manufactured by Defense Technologies.

51 Penal Code Section 726 provides as follows: “Where any number of persons, whether armed or not, are unlawfully riotously assembled, the sheriff of the county and his deputies, the officials governing the town or city, or the judges of the justice courts and constables thereof, or any of them, must go among the persons assembled, or as near to them as possible, and command them, in the name of the people of the state, immediately to disperse.” (Police Officers are included among those required to order assemblies dispersed. (People v. Skar (Super. 1930) 117 Cal.App.Supp. 763.)

61 Courts evaluate the obligation of an individual to disperse by evaluating, “whether the order was given in such a way as to reasonably assure that the persons involved heard the command to disperse and were made aware of the order.” People v. Cipriani (1971) 18 Cal. App. 3d 299, 307.
Based on his account of the incident, it appears that Sergeant Williams’ prime motive for deploying his pepper spray was to disperse the crowd. This decision should have been made by the Operations Commander.

d. Sergeant Williams’ Use of Force Against Student Jasmine Delgado.

Once the boardroom door was closed Sergeant Williams stood outside facing protesters with his baton drawn. About 10 seconds after the door had been closed Sergeant Williams had contact with a female student named Jasmine Delgado. The SMCPD Investigation describes video of the contact as follows:

[Delgado] is seen charging towards Sergeant Williams with a raised right arm as if getting ready to swing in a downward motion. The video clearly shows Sergeant Williams extending his arm straight out, similar to a stiff arm in football, which allowed Jasmine Delgado to run into it. The sudden and abrupt stop caused her to bounce back and fall to the ground.62

When viewed from directly behind Delgado, this is a reasonable description of what appears to occur. Delgado appears to run directly toward Sergeant Williams with one arm pointed toward him, and he knocks her to the ground. (Any suggestion that Sergeant Williams merely extended his arm and did not push Delgado to the ground is not supported by the video.) From a side view it appears that Sergeant Williams stepped forward with his arm extended, closing the distance between them and pushed her to the ground. Once Delgado had been knocked to the ground Sergeant Williams raised his baton above his head while looking down at her.

Sergeant Williams’ description of the event is as follows:

While standing in the area in front of the door of BUS 117, a female Hispanic with raised clenched fists and an angry look on her face ran away from the group towards me yelling. Fearing I was going to be attacked by the female, I extended my left arm and hand in from of me and yelled for her to “Get back.” However, the female refused to comply, charged at me and upon her body colliding with my hand, abruptly stopped and fell backwards to the floor. Several male and female adults standing behind her and approximately 6-8 feet away from me and Officer Wilson angrily ran to her aid while yelling at us and holding their clenched fists in a fighting stance.63

Officer Wilson’s description of the event is as follows:

62 SMCPD Investigation at 34.

63 Police Report at 10.
A female protester rushed at Sergeant Williams in an aggressive manner. Sgt Williams using an open hand, extended his left arm in a straight arm movement and knocked the female to the ground on her buttocks and back.64

The Panel is concerned by the difference between these two descriptions. It appears clear that Officer Wilson’s description of Delgado having been knocked to the ground is the more accurate account. The idea that she was running at Sergeant Williams with such force that she bounced off his unmoving hand and skidded backwards on the floor is not supported by the video evidence.

Although it appears Delgado was approaching Sergeant Williams to scold rather than attack him, his initial reaction was not unlawful. Sergeant Williams had his baton drawn and was screaming “Get Back!” at the crowd. Delgado’s decision to approach him so quickly was ill-advised and could have been perceived as an attempted assault by a reasonable officer under the circumstances.65

Sergeant Williams’ subsequent action of menacing the supine Delgado with his baton was inappropriate. Even though he did not strike her, raising the baton over his head constituted an inappropriate use of the baton in accordance with standard training protocols.66 Using a metal baton in a downward striking motion is deadly force. Threatening the use of deadly force was not justified by Delgado’s actions.

8. The Campus Community Needs to Be Educated on Protest Rights and Responsibilities

a. Peaceful Protest: Rights and Expectations

Throughout U.S. history, individuals and groups have exercised the right to engage in dissent and protest, including actions such as demonstrating, picketing, displaying or carrying signs or posters, and engaging in vigils. The United States Constitution protects freedom of expression. Generally, expression may not be banned or restricted because of its content (what is said). However, the time, place, and manner of free expression can be regulated. Expression may be limited when necessary to prevent

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64 Police Report at 17. Delgado was one of the two people taken to the hospital after the incident. Both were treated and released.

65 A minority of the Review Panel believe that the better course of action for a College police officer in such a circumstance would have been to protect himself (such as using his baton as blocking device) rather than to knock a student to the ground before his or her intentions were evident.

66 See United States Marshal Service Policy Directive for Less-than-Lethal Devices (available here: http://www.usmarshals.gov/foia/Reading_Room_Information/Contracts/cso_forms_policy/less_than_lethal_devices.pdf ) at Appendix B, B.3.c. “Operational personnel using the expandable baton will take reasonable measures to avoid strikes to the following areas unless deadly force is necessary: (1) Head/Face (2) Neck . . . ) The Department has confirmed that the Department’s training concerning the expandable baton is consistent with that contained in the video.
interference with lawful functions/activities (such as the disruption of classes or offices, obstruction of entrances or exits, or causing traffic congestion), or to protect other important rights (endangering safety, breaching the peace/public order, infringing others' rights to free speech or others' right to privacy).

At the time of the incident, SMC had a range of policies in place that governed the time, place, and manner in which protest activity could occur on campus. These policies were adopted in order to assure that expressive activity was undertaken in a manner that was compatible with the educational function of the College. These policies are consistent with those of other public colleges and universities, and with the protections of expressive activities set forth in the state and federal constitutions.

Civil Disobedience is a protest tactic that intentionally exceeds the limits of constitutionally protected speech. Whereas constitutionally protected forms of expression take place within the constraints of reasonable restrictions imposed by laws and policies, civil disobedience involves intentionally violating them. Sometimes civil disobedience is chosen as a tactic to highlight the injustice of the law that is violated, other times the law violated is ancillary to the point being made. Either way, because civil disobedience always involves the intentional violation of laws or policies, its use involves consequences. Such violations are not forgiven or excused because they occur as a component of political activity, and the acceptance of consequences is often illustrative of the conviction with which protesters hold their beliefs.

b. Members of Campus Community Often Misunderstand Free Speech Rights

This incident itself does not appear to suggest a problem with campus policies regarding expressive activity. Rather, it suggests the need for educating the campus community about the extent and limits of the constitutional protections afforded expressive activity on college campuses. Students were either unaware of the limits of their rights or intentionally committing violations of state law and campus policies. If one credits their apparently genuine expressions of shock and indignation that the police responded to their actions with force, it appears that the former is the case. While policies regarding expressive activity on campus were available within the College policy documents at the time of the incident, they have now been collected in one document and disseminated broadly to the SMC community. 67

Nevertheless, on the evening of April 3 no one informed them that their actions were in violation of campus policies and beyond the scope of constitutional protection. Although it can be argued that they should have known better, such fundamental misunderstandings of their rights is an educational issue within the campus context. The Panel’s investigation has also shown that students are not the only group whose members may misunderstand the nature and limits of constitutionally protected expressive activity. Several faculty members who supported the protesters assisted them in ways that may have misled them about how their actions would be received. For example, a Faculty Association bullhorn was used by the students.

67 Attached as Appendix H.
The existence of policies governing campus expressive activity does not mean that the students will be aware of them. It is obviously important to have appropriately detailed and comprehensive written policies within the publicly available documents that govern the college. Nevertheless, it is equally obvious that students are unlikely to be intimately familiar with the contents of college governance documents. Hopefully, the dissemination of a concise informational handout can serve as a substitute for the relative lack of knowledge that students have about the precise contours of their expressive rights on campus. Educating people about the limits of their freedom of expression is obviously more effectively done before an emotional event implicating expressive rights is under way.

The task of educating the campus community might not be as hard as it seems. Although it has a large student body, the number of students involved in a way that might lead them to attempt organized protest is rather small and, within any given period, the same student leaders will likely be involved with a range of issues.

Because of their expertise interacting with student groups, Student Affairs is the logical group of administrative personnel to connect with students on these issues. However, this must happen as a regular and consistent part of student affairs practice. Once a tense issue has arisen, it is possible that no representative of the campus administration will be perceived as an honest broker. Moreover, the fact that College discipline is handled through the Office of Student Affairs may limit their effectiveness.

The campus police have an important role to play in protecting the SMC community. The general importance of police personnel connection to the community within which they work is broadly established. The culture of a college community is a distinct environment and SMC is has the luxury of having a police department specifically focused on serving the college community. SMC’s student population includes a large percentage of young adults. A police department that is aware of the unique developmental aspects of the population they serve is an asset.

In addition to the general importance of having public safety officers who are focused exclusively on the unique challenges of a campus environment, there are three specific reasons why the SMCPD should expand efforts to develop ongoing contacts with student leaders and organizations. First, they need to establish trust through creating effective working relationships in non-conflict situations. Second, greater exposure provides a basis upon which to understand, interpret, and predict other people’s actions. Finally, when a problem does arise, the preexistence of a relationship allows more effective communication.

While campus safety is the SMCPD’s primary responsibility, their knowledge of the student body allows many matters that might lead a student into the justice system if they occurred off-campus to be dealt with administratively or through counseling. Some subset of students are clearly going to act in ways that, while ill-advised or immature, may be better met with education and redirection than harsh sanction if they occur within the campus community.

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68 The SMCPD has recently assigned a police sergeant to attend all AS Board meetings. The Review Panel commends the SMCPD for reaching out to build bridges to our student leaders.
9. In Most Situations Student Discipline Process Rather Than Law Enforcement Should Be Used to Address Violation of Campus Protest Rules

If students protest through actions that are not constitutionally protected, and that violate campus policies, student discipline should be assertively applied. A component of the education mission of the College is the teaching of the extent of constitutionally protected speech. Most modes of protest have been time-tested and their use (and administrative responses to that use) within the context of the campus community has been well thought out. Therefore, when students engage in inappropriate or illegal conduct, they should immediately be notified of this fact and it should be explained to them why it is perceived this way. Failure to do so lends apparent sanction to behaviors that lead closer to a situation that is likely to solicit a forceful response from campus authorities.

In situations where campus policies and/or state laws are being violated by protesters, the availability of student disciplinary procedures will often be the preferred alternative to law enforcement action. As a community where young people are in the process of learning how to be public actors, such internal procedures provide an avenue for positive and educational resolution of such violations. The inclusion of peers and other non-administrative members of the community on disciplinary review panels provide the student with a sense of a fair hearing and allow her to learn how her actions are perceived by different constituencies within her community. In contrast, involvement with the criminal justice system is costly, involves little in the way of education, removes discretion from the hands of College officials, can feel like persecution rather than measured consideration from within the community, and can be disproportionately punitive for an action that was committed within what the student felt was a protected learning environment.

Those who engage in civil disobedience recognize that they may face criminal sanctions. The police should maintain dialogue with such those planning such actions. Such dialogue helps to ensure advance planning by the police to ensure a measured response to the civil disobedience.

Serious violations of criminal laws (such as property destruction and physical violence) should be addressed through law enforcement action.
VI. **Recommendations:**

1. A planning group should be convened by Dr. Tsang to meet prior to large protest events and brainstorm about the best ways to facilitate on campus speech activities while protecting concurrent educational activities and/or other campus events. The planning group should be provided with the Operations Plans for any such protest.


3. The SMCPD Incident Commander should provide up to the minute briefings to all personnel involved and should maintain distance from conflict situations so as to maintain perspective.

4. The SMCPD should have amplified sound equipment readily available to communicate with crowds.

5. Recommendations by SMCPD to college administration concerning policing recommendations should be commemorated in writing.

6. The College should develop appropriate methods of notification to provide timely information to impacted areas of the College community when disruptions occur.

7. The College community should be educated about the nature and extent of their rights and responsibilities under the First Amendment through the broad dissemination of available printed and online materials.

8. As with all co-curricular campus activities, Student Affairs staff, not the SMCPD, should be the primary representatives of the College when interacting with groups of student protesters. A senior College administrator should be present at any protest activity for which the SMCPD has developed an Operations Plan; the name of the administrator should be documented in the Operations Plan.

9. SMCPD policies regarding the use of less lethal weapons should be reviewed and revised.\(^69\)

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\(^69\) The Panel notes that there are outstanding issues regarding both the health effects of exposure to pepper spray and the efficacy of pepper spray relative to other less-lethal weapons. The SMCPD is encouraged to monitor ongoing research related to the propriety of pepper spray use by campus police officers. (Edley, Christopher F., and Robinson, Charles F. *Response to Protests on UC Campuses: A Report to University of California President Mark G. Yudof* (September 13, 2012), pp. 84-86 and Exhibit E.)
a. Explicit guidelines about the allowable strength and composition of chemical agents should be instituted. The College currently uses a concentration of 0.2% and this is the same used by the UCLA Police Department. The Review Panel recommends that the 0.2% concentration should be used.

b. Detailed information about when and where the use of chemical agents is appropriate should be included. In general, the use of chemical agents in occupied buildings should not be used because of their impact on bystanders.

c. Situations in which chemical agents may be deployed without warning should be explicitly delimited.

10. The SMCPD should adopt specific crowd control policies and train all officers concerning them. An example of a comprehensive crowd control policy is contained in Appendix J. The policy should include appropriate use of force distinctions when dealing with members of SMC’s community who are not suspected of having committed serious crimes and those who pose a threat to the safety of the SMC community or members of the SMCPD. Once policies are developed, all officers should be trained concerning the policy.

11. The Guidelines for the use of batons should be substantially expanded and clarified. Current SMCPD Policy 308.2 authorizes use “when, based upon the circumstances perceived by the officer, less force would not reasonably appear to result in the safe control of the suspect.” Such a policy fails to address the manner in which batons may be used. (Compare to current CSU system-wide policy prohibiting the use of batons to be used for striking above shoulders except in defensive use against deadly force; Compare to current UC university-wide policy stating that the “head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect may cause serious bodily injury or death to the officer or others.”) The policy should include ongoing training requirements.

12. The Academic Senate should consider developing a program to identify and train a group of faculty members who are willing to serve as conflict mediators to assist in de-escalating conflicts between protestors and College officials.

13. The student discipline process under the auspices of the Office of Student Judicial Affairs should be used in situations where Campus rules and regulations are violated.
VII. CONCLUSION

Santa Monica College is a learning community whose members share an essential commitment to open dialog and the free exchange of ideas. Thoughtful communication, collegiality, and respectful attention to the beliefs and ideas of others constitute the heart of this commitment. It is the sincere hope of this Panel that, after appropriate reflection on the multiple ways in which this incident is incompatible with our shared values, the SMC community can move forward strengthened by a redoubled commitment to the values of mutual respect and collegial communication.

Respectfully submitted,

Eve Adler
Nancy Greenstein
Robert M. Myers
Patricia Ramos
Joshua Scuteri
APPENDICES

A  Diagrams of the Business Building
B  Operations Plan
C  Review Panel Website
D  Review Panel Survey
E  Survey Results
F  Survey of Business Building Faculty
G  Video and Audio Evidence Reviewed
H  Police Investigation Report
I  SMC Summary of Free Speech Rules
J  Oakland Crowd Management Policy
APPENDIX A
OPERATIONS PLAN

Type of Operation:
BOT MEETING SECURITY DETAIL

Date of Operation:
04/03/2012

* CONFIDENTIAL *

Prepared by: Sgt. J.B. Williams - 1916
File #: BOT MEETING 04/03/2012

Approved by:
Date: 04/03/2012

Final Review by Chief:
Status: [ ] Approved [ ] Denied
I. OPERATION LOCATION:
Santa Monica College-Main Campus
Board of Trustees Meeting Room
Business Building, First Floor - Room 117
1900 Pico Boulevard
Santa Monica, CA 90405
Telephone: (310) 434-4910 (Control Room)

II. SYNOPSIS:
The Santa Monica College (SMC) Board of Trustees (BOT) recently agreed to implement a program; wherein options were made available to students to take advantage of course offerings otherwise not available to them. The program, known as “Contract Education,” has gained national attention and been the subject of numerous small scale non-violent campus based protests. The probability that BOT’s decision will result in further protest by members of the campus community is likely.

On Tuesday, April 3rd 2012 at approximately 1700 hours, members of the BOT will convene in preparation for the regularly scheduled Closed and Public Session BOT’s Meeting. In accordance with the Brown Act, the BOT’s has made public the meeting by posting notice of the same. It is anticipated that members of the public will attend the meeting to share their support and/or opposition to SMC’s “Contract Education” programs. The BOT’s Meeting Agenda, INFORMATION ITEM G (Page No. 7) is related to academic programs scheduled for Summer 2012 and may be construed as an item to be considered for a vote in determining whether or not SMC will have a “Contract Education” program. The BOT’s have already voted on the “Contract Education” matter.

III. OBJECTIVE:
Prevent disruption of an otherwise peaceful and orderly BOT’s Meeting; ensure safety of the students, staff, community members, BOT’s and the immediate SMC community.

IV. EXPECTED SCENARIO:
A. 1600 Hours: Briefing at Headquarters (Roll Call Room)
B. 1615 Hours: Detail Walk-Through (BUSINESS BUILDING)
C. 1700 Hours: All Assigned Staff at assigned positions.
   1. Assigned staff will monitor location; immediately report observations of increased pedestrian traffic and / or presence of obvious protestors. Check area of assignment for contraband items (Signage, sticks, rocks, bottles, debris, etc…).
   2. Operation Commander will determine the appropriate course of action based on the aforementioned.

BOT MEETING W/O INCIDENT
D. 1730 Hours: BOT Closed Session Meeting begins.
E. 1845-1900 Hours: Board Room (BUS 117) doors opened for Public Meeting seating - Capacity 40 Audience seats and 10 BOT Dias/Standing (Total 50).
   1. 20 “RESERVED” spaces for Senior Staff and Invited Guests
   2. 20 Spaces for general seating.

F. 1900 Hours or upon Board Room capacity - CLOSE AND SECURE ENTRY DOOR and re-direct to adjacent Conference Room (BUS 111) - Capacity 60
1. Public Speakers will be allowed to speak “One at a Time” during Public Session (III-F). This will occur in collaboration with SMC staff assigned to distribute “Request to Speak” cards.

2. Speakers may be limited at the direction of the President, BOT. Speakers inside the Conference Room will be allowed One at a Time to enter the Board Room to address the BOT’s.

G. Hours TBD - End of Meeting

H. Once BOT’s and Dr. Tsang “College 1” are secured at “end of meeting,” they’re to be “Shadowed” by SMCPD to their respective vehicles.

BOT MEETING EMERGENCY RECESS OR INCIDENT

A. Once Emergency Recess is declared by the Board Chair and/or designee and/or an incident requiring physical movement of the BOT occurs, the meeting will temporarily adjourn with the following actions to commence:

1. The Operation Commander will broadcast “CODE BE” (Board Evacuation). “CODE BE” is notification to the Security Detail activating the BOT SECURE FACILITY (BUS 133) and is the Preparatory Command for detail personnel to immediately secure posts and move without delay to designated positions for immediate evacuation of BOT’s and designated Senior Staff. The SMCPD Dispatcher will broadcast “CODE BE” on Frequency No. 1 designating Police Patrol Units to switch to Frequency No. 2 and respond to the Board Room Patio to assist in the evacuation of the Board of Trustees and Senior Staff.

2. The Operation Commander will broadcast “CODE BE MOVE,” the command for detail personnel to immediately evacuate the BOT’s and designated Senior Staff from the Board Room to BUS 133 via the east facing double doors, south through the open area east of the Board Room, and then westbound on the walkway to BUS 133.

3. Once the BOT’s and designated Senior Staff are safely within BUS 133, the Operation Commander will broadcast “CODE BE SECURE.”

4. The Operation Commander will determine the appropriate course of action. Detail personnel SHALL maintain their assigned location until directed by the Operation Commander and / or designee.

5. In the event of public disorder or an unlawful assembly as designated by the Chief of Police and in consultation with the College President, the dispersal order shall be given by the Operations Commander, who will retain the title of “Incident Commander” for the duration of the incident.

6. Additional Police personnel may be requested from neighboring agencies through mutual aid dictated by the circumstances of the event; and the Incident Command System (ICS) will be utilized with the Incident Commander remaining “in-place” unless relieved by the Santa Monica College Chief of Police.
7. All sworn personnel shall have the SMCPD “Dispersal Order” on their person in order to effectively announce and issue the order to the person(s) involved in the unlawful assembly.

8. The Dispersal Order shall allow for a ten (10) minute departure of the crowd through all marked exits from the hallway to the north and east of the Business Building. No one will be allowed onto the walkway to the south of the Business Building where the B133 entry/exit without specific permission of the Incident Commander in consultation with the Chief of Police or College President.

9. In the event of a longer term “sit-in” or “occupy” event in B-111 or the hallway north of the SMC Board Room, which does not interfere with the rest of the regularly scheduled BOT meeting, precautions will be taken to allow for Free Speech and other rights and freedoms as guaranteed by the US Constitution.

10. As appropriate, the regularly scheduled Board meeting will resume to a closed audience in the Board Room until conclusion.

EVENT DE-BRIEF
A. At the conclusion of the event, the Operation Commander will broadcast a location to de-brief.

V. SUBJECT INFORMATION:
No specific groups and/or individuals of immediate concern have been identified at the time of this plan.

VI. EMERGENCY SITUATIONS:

Police / PEO Communications:
Board Meeting Security Detail - SMCPD Frequency Channel No. 2 [TAC]
Routine/Emergency Patrol Communications - SMCPD Frequency Channel No. 1
Mutual Aid: Santa Monica Police Department Frequency Channel No. 1

Fire/Paramedics:
Urgent: Dial 9-1-1
Non-Emergency: SMCPD Dispatch (310) 434-4300

In the event of a medical emergency, officers will respond to assess the injury/illness and advise Dispatch of the appropriate level of response needed. In the event of life threatening injury to a Department member, a supervisor will determine if the injured person will be transported via Department vehicle or will stand by at the location until paramedic assistance.

Nearest Hospital:
Santa Monica UCLA Medical Center & Orthopaedic Hospital
1250 16th Street (Cross Streets: 16th and Santa Monica Boulevard)
Santa Monica, CA 90404
**SANTA MONICA COLLEGE POLICE DEPARTMENT**  
*1718 PEARL STREET – SANTA MONICA, CA 90405*

(310) 319-4000

**Directions to Hospital from SMC Main Campus:**  
Head **west** on **Pico Blvd** toward **14th St.**  
Turn **right** at **14th St.**  
Turn **right** at **Arizona Ave.**  
Turn **left** at **16th St.**

**VII. OPERATION PARTICIPANTS & TELEPHONE CONTACTS:**

- **SAM2** - Sergeant R. Bottenfield/Operation Commander  
- **SAM4** - Sergeant J.B. Williams/Assistant Operation Commander  
- **SAM1** - Sergeant J. Romano/Watch Commander-Patrol  
- **C371** - Officer B. Wilson/Board Mtg  
- **C370** - Officer R. Cadena/Patrol  
- **P31** - PEO R. Negron/Board Patio Area  
- **P44** - PEO M. Mitchell/Room 133  
- **P25** - PEO J. Williams/Business Building 120-Hallway

**VIII. MAPS & DIAGRAMS:**

See Attachments.

**IX. PRE-EVENT NOTIFICATION:**

Santa Monica Police Department - Operations, Lieutenant Doug Theus (310) 678-7312  
Santa Monica Police Department - On-Duty Watch Commander (310) 458-8491  
UCLA Police Department - On-Duty Watch Commander Sgt Kilgore (310) 825-1526
Unlawful Assembly

Dispersal order:

“I am (peace officer’s name and rank), a peace officer for the Santa Monica College Police Department. I hereby declare this to be an unlawful assembly, and in the name of the People of the State of California, command all those assembled at the Business Building to immediately disperse, which means to break up this assembly.

If you do not do so, you may be arrested or subject to other police action. Other police action could include the use of force which may inflict significant pain or result in serious injury. Penal Code §409 prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of Penal Code §409.

The following routes of dispersal are available through all marked exits to your car or onto Pico Boulevard in order to stay off of the college campus.

You have, 10 minutes to disperse.”
APPENDIX C
SMC Review Panel

On April 3, 2012, the Santa Monica College Police Department deployed pepper spray and other force on a crowd attempting to enter the Board of Trustees’ meeting room in the Business Building. Following this incident, Santa Monica College Superintendent/President created a review panel chaired by Campus Counsel Robert Myers to conduct a review of the police response Independent of the internal police investigation.

The Review Panel has been directed to consider all concerns raised about the College’s response and make such recommendations as it deems warranted on the policies, practices and protocols relevant to the College’s response to demonstrations and similar events.

As part of its work, the Review Panel is inviting those who were present to provide their observations and to share any video or photographs that they might have of the incident.

If you have relevant information, please complete the survey form by clicking the following link: https://docs.google.com/spreadsheet/viewform?formkey=dhrq3UL1U1kKzB2UzJzZzJXU2B4VGdpY25MQ

If you have video or photographs, use the following drop box to get them to the Review Panel: https://dropbox.yousendit.com/SMC-Review-Panel-Dropbox

Members of the Review Panel are:

Campus Counsel Robert Myers, Chair of the Review Panel: Mr. Myers has practice law since 1975. He wrote Santa Monica’s rent control law as staff attorney with the Legal Aid Foundation of Los Angeles and served as Santa Monica City Attorney from 1981-1992, where he headed an officer-involved shooting team. His private law practice focuses on complex civil rights issues and two post-conviction death penalty cases. He has both defended police officers and sued them. Major civil rights cases he has handled include suing the Los Angeles Police Department for improper use of less lethal weapons and chemical weapons during the 2003 Democratic Convention and 2007 May Day demonstration in MacArthur Park. Since 1999, he has served as Campus Counsel for the Santa Monica Community College District.

Professor Eve Adler: Professor Adler is a lecturer and clinical instructor in Medical-Surgical nursing, Pediatrics, Physical Assessment, Dosage Calculations, and Multicultural health and healing practices. She serves on a variety of college committees, including serving as chair of the Academic Senate’s Equity and Diversity Committee. In 2011, she was awarded St. John’s Health Center Chair of Excellence.

Dr. Nancy Greenstein: Dr. Greenstein has served on the Board of Trustees since 2002. Since 1997, she has been the Director of Police Community Services at the UCLA Police Department, where she has received national recognition for community policing programs and strategies for bringing together diverse groups and agencies to resolve various issues. She has also worked as Public Safety Administrator in West Hollywood. She is a current board member and past president of the ACLU of Southern California.

Dr. Patricia Ramos: Prior to her current position, Dr. Ramos held a variety of leadership roles at Santa Monica College, including part-time faculty, and Director of the Small Business Development Center. Her civic engagement spans nearly two decades. Currently she serves as LA County Commissioner for the Workforce Investment Board (WIB). In 2011 she was one of 16 nationally to be selected to participate as a 2012 fellow of the National Hispanic Leadership Institute. She is a graduate of Hispanics Organized for Political Equality (HOPE) Leadership Institute. For the past 15 years, she has chaired, sponsored or been a committee member for the Latina/o Youth Conference in Santa Monica.

Joshua Scuteri: Joshua was elected by his fellow students to serve as Student Trustee for the 2011-12 academic year. He is a Los Angeles native and has an interest in sustainability programs. He was an active participant at Board of Trustee meetings articulating the concerns of students.
APPENDIX D
On April 3, 2012, the Santa Monica College Police Department deployed pepper spray and other force on a crowd attempting to enter the Board of Trustees' meeting room in the Business Building. Following this incident, Santa Monica College Superintendent/President created a review panel chaired by Campus Counsel Robert Myers to conduct a review of the police response independent of the internal police investigation.

The Review Panel has been directed to consider all concerns raised about the College's response and make such recommendations as it deems warranted on the policies, practices and protocols relevant to the College's response to demonstrations and similar events.

As part of its work, the Review Panel is inviting those who were present to provide their observations and to share any video or photographs that they might have of the incident.

If you have relevant information, please complete the survey form by clicking the following link: https://docs.google.com/spreadsheet/viewform?formkey=dHg3LU1BbkxzUzdfajFkU204VGdqbVE6MQ

If you have video or photographs, use the following drop box to get them to the Review Panel: https://dropbox.yousendit.com/SMC-Review-Panel-Dropbox

For more information on the Review Panel, click on the following link:

http://www.smc.edu/ACG/reviewpanel/Pages/default.aspx
Santa Monica College Review Panel

The Santa Monica College Review Panel is investigating the use of force by the Santa Monica College Police Department at the Board of Trustees meeting on April 3, 2012. The Review Panel is interested in receiving information from any witnesses to the incident.

Unless you provide contact information below, your identity will remain anonymous. We encourage you to provide contact information in the event we have follow-up questions for you.

* Required

Were you present at or near the Board of Trustees’ meeting on April 3, 2012: *

☐ Yes
☐ No

Please provide a statement of what you observed: *

Do you take any video or photographs of the incident? *

☐ Yes
☐ No

If yes, are you willing to share the video/photographs with the Review Panel.

☐ Yes
☐ No

Are you available to speak with a member of the committee for additional information if needed? *

☐ Yes
☐ No

I am: *

☐ Santa Monica College student
☐ Student of another college
☐ Santa Monica College employee
☐ Other

Optional contact information: Name

Optional contact information: Email Address

Optional contact information: Mailing Address

Optional contact information: Telephone Number

Submit
APPENDIX E
<table>
<thead>
<tr>
<th>Timestamp</th>
<th>Were you present at or near the Board of Trustees' meeting on April 3, 2012?</th>
<th>Please provide a statement of what you observed:</th>
<th>Do you take any video or photographs of the incident?</th>
<th>If yes, are you willing to share the video/photographs with the Review Panel?</th>
<th>I am:</th>
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</thead>
<tbody>
<tr>
<td>6/21/2012 20:49:44</td>
<td>No</td>
<td>i did not observed anythink , because i wasn't present that day</td>
<td>No</td>
<td>No</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>6/21/2012 22:37:08</td>
<td>Yes</td>
<td>Students and faculty had lined up early to get a ticket into the meeting. Few tickets were given out and the police explained to students that only those with tickets would be admitted. There were many students and faculty (including myself) that did not get a ticket and went to the overflow room. Before the meeting began, the marchers came into the building and were hoping to be able to see the meeting. I was in the stairway, above the marchers watching most of what happened. There were a few students, who were closer to the doorway, who were speaking on behalf of the rest of the students, asking to get into the meeting. The police explained that there was not enough room. This went on for awhile. It was getting heated. Then I left to the overflow room and watched the meeting from the projector. I heard screaming coming from the hallway (the door to B111 was open) and couldn’t see what was going on from the overflow room. I ran to the hallway and that is when students had already been sprayed. An African-American student was being carried out. The tall light-skinned African-American police man (not sure of his name) was being very courteous in the beginning, when we was giving out tickets. He was put in an impossible situation. According to a few student activists, they had previously requested that the board provide them with a larger venue. Completely avoidable situation. After students had been pepper-sprayed, we ran to get milk from the coffee shop to pour into their eyes. From what I could see, there were three students, doubled-over in pain, and crying after having been sprayed. We tried to help them by giving them water to drink and milk for their eyes.</td>
<td>Yes</td>
<td>Yes</td>
<td>Santa Monica College employee</td>
</tr>
<tr>
<td>6/22/2012 03:31:28</td>
<td>No</td>
<td><a href="http://www.radiofarda.com/content/f8_california_police_used_pepper_spray_against_student">http://www.radiofarda.com/content/f8_california_police_used_pepper_spray_against_student</a> Even RadioFarda.com broadcasted this incident to the Europe and to the middle east. When there is a protest in Capitol building in Sacramento police reads a warning note and video records it but in this incident police has violated policing rules and regulations. These are incident videos on YouTube; <a href="http://www.youtube.com/watch?v=Dg9UfBvo-A">http://www.youtube.com/watch?v=Dg9UfBvo-A</a> <a href="http://www.youtube.com/watch?v=keUdYuUNzLk">http://www.youtube.com/watch?v=keUdYuUNzLk</a> <a href="http://www.youtube.com/watch?v=x_k2cGbgKs">http://www.youtube.com/watch?v=x_k2cGbgKs</a> <a href="http://www.youtube.com/watch?v=Y4e1j9AoSL4">http://www.youtube.com/watch?v=Y4e1j9AoSL4</a> <a href="http://www.youtube.com/watch?v=enNUYpPaw">http://www.youtube.com/watch?v=enNUYpPaw</a> <a href="http://www.youtube.com/watch?v=60AucA9-970">http://www.youtube.com/watch?v=60AucA9-970</a> I was invited to be present on Monday in front of Library for opposition to fees rising. I could not come because I was driving a bus. Then I heard from my physics 24 classmate that his girl friend was pepper sprayed. YACOB ZURIAW's girlfriend was pepper sprayed. YACOB ZURIAW can be reached at zuriaw_yacob_ash <a href="mailto:bearer@student.smc.edu">bearer@student.smc.edu</a> His girlfriend was pepper sprayed. You may interview his girlfriend. One of these police officers on June 21 when I was parking in Pearl street and I saw 2 underage children are skateboarding in the middle of street I notify that police officer passing to go to them and let them know that what they are doing is not OK and is dangerous. But he was lazy and he just chooses to leave. Are these so called police officers really there to protect people or are they there for money and to harm like a sadism person?</td>
<td>No</td>
<td>Yes</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>6/22/2012 05:56:55</td>
<td>Yes</td>
<td>I gave an interview at this source about what I experienced and observed at the meeting, which you can read here: <a href="http://socialistworker.org/2012/04/16/pepper-sprayed-for-protesting">http://socialistworker.org/2012/04/16/pepper-sprayed-for-protesting</a> I do not think I should have to re-type out what I experienced for the nth time just because you keep asking to bureaucratically dissuade us from re-re-re-voicing our legitimate complaints. The interview is there, and if you believe it is too much to ask to follow a link to read the same complaint I’d file in writing here, then you should be ashamed of your concerted effort to discount student voices with any excuse you can find. You had police officers pepper spray us for attempting to peacefully enter a supposedly public meeting that greatly concerned our future; they then claimed we pepper sprayed ourselves when questioned about it. They also interfered with our first amendment rights by doing everything from unwanent police intimidation to ridiculous flooding of fields we might have camped on (ironically during earth week, no less), all under your orders, you despicable fascists. I believe I can summarize my statement as such: Fuck you. Long live the guillotine.</td>
<td>No</td>
<td></td>
<td>Student of another college</td>
</tr>
<tr>
<td>6/22/2012 08:21:13</td>
<td>Yes</td>
<td>I was sitting in the first row of the board room and heard students repeatedly shouting “Let us in”. There was commotion at the doorway, which was not visible from where I sat. Suddenly several students stormed the room and were screaming at the members of the board.</td>
<td>No</td>
<td></td>
<td>Santa Monica College employee</td>
</tr>
<tr>
<td>6/22/2012 09:03:25</td>
<td>Yes</td>
<td>I was a student trying to enter the board meeting and the officers were guarding the door not allowing anyone to enter. Then the crowd began to sway back and forth and I saw that the officers were pushing against the crowd to hold us back. Then when I noticed we were sprayed with some liquid a few seconds later when it began to burn I realized it was pepper spray</td>
<td>No</td>
<td></td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>Timestamp</td>
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<td>I am:</td>
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<tr>
<td>6/22/2012 9:38:57</td>
<td>Yes</td>
<td>I witnessed students getting frustrated and angry. I heard Sargent Williams telling students that they will let the 20 with Gold tickets into the board room and the remaining students would be allowed into the overflow room to be heard. I saw them assaulting a police officer. I saw Sargent Williams pepper spray them. I had Harrison Wills walk up to me and say into my ear &quot;Emie what ever it takes don't let me close the doors, keep them open, force your way in.&quot;</td>
<td>No</td>
<td>Santa Monica College student</td>
<td></td>
</tr>
<tr>
<td>6/22/2012 12:33:51</td>
<td>Yes</td>
<td>I observed an angry mob of students attempting to provoke police officers. I believe that the police acted withing their rights and that the students were out of control. The whole incident is completely blown out of proportion and the students involved were looking to become victimized. I hope that the school does not punish the police officers involved or adjust school policy in a knee jerk response and cave into the demands from an angry mob.</td>
<td>No</td>
<td>Santa Monica College student</td>
<td></td>
</tr>
<tr>
<td>6/22/2012 13:46:40</td>
<td>Yes</td>
<td>I was inside the Board Room waiting for the meeting to begin, and could hear loud, angry-sounding chanting from the hallway. Chants included &quot;Let us in&quot; and &quot;Shame on you&quot;. Board members asked to have the people in the hall invited into the overflow room and be given public comment cards, but were told that the people in the hall refused to use the overflow room. Shortly thereafter, I could hear commotion at the doorway to the board room entrance, then two young women burst into the room shouting and crying. There was a lot of yelling and further commotion at the entry way. I then smelled an unusual odor that made me cough. Those of us in the room were then asked to leave by the side door and taken into a nearby classroom where we waited for about an hour. At that time, we went back to the Board room and the meeting resumed. I could still hear angry voices outside. The side door was open to help clear the air because many in the room were coughing. Outside voices became louder/closer so the side door was closed. In the meantime, a large group of people had congregated in the overflow room. Board members asked if those people could enter the Board Room one at a time to make their comments to the Board, but were advised against this by police. Two board members then moved to the overflow room where public comments were heard. Microphones were used so that those of us in the Board Room could also hear the comments. I left the meeting at about 10:30, after the public comments were complete.</td>
<td>No</td>
<td>Santa Monica College employee</td>
<td></td>
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<tr>
<td>6/22/2012 14:05:34</td>
<td>Yes</td>
<td>I was teaching a class in the Business Building when the protests. In no way, shape, or form was this demonstration peaceful. The student protesters were completely out of hand and pushing, shoved, and screaming. They were so disruptive that their shouts could be heard throughout the building and made it impossible for classes to be conducted. Both from inside my classroom and in the hallway, I could hear the campus police officers give the students many, many warnings—over and over again, over the course of several minutes—that the protesters needed to back up, that they were creating a fire hazard, etc. The students escalated the situation nearly to the point of violence, NOT the campus police. The campus police showed great restraint. They did not indiscriminately use pepper spray, and I believe did so only under great threat and as a last resort. The news media and the videos have conveniently manipulated the events and made the situation worse by giving erroneous and misleading information. And yes, I got &quot;second-hand&quot; pepper spray while running back and forth on the top floor trying to get my own students to safety. That's what we do in a civilized society, not create situations that put others in harm's way.</td>
<td>No</td>
<td>Santa Monica College employee</td>
<td></td>
</tr>
<tr>
<td>6/22/2012 14:48:14</td>
<td>Yes</td>
<td>I was inside the Board Room waiting for the meeting to begin, and could hear loud, angry-sounding chanting from the hallway. Chants included &quot;Let us in&quot; and &quot;Shame on you&quot;. Board members asked to have the people in the hall invited into the overflow room and be given public comment cards, but were told that the people in the hall refused to use the overflow room. Shortly thereafter, I could hear commotion at the doorway to the board room entrance, then two young women burst into the room shouting and crying. There was a lot of yelling and further commotion at the entry way. I then smelled an unusual odor that made me cough. Those of us in the room were then asked to leave by the side door and taken into a nearby classroom where we waited for about an hour. At that time, we went back to the Board room and the meeting resumed. I could still hear angry voices outside. The side door was open to help clear the air because many in the room were coughing. Outside voices became louder/closer so the side door was closed. In the meantime, a large group of people had congregated in the overflow room. Board members asked if those people could enter the Board Room one at a time to make their comments to the Board, but were advised against this by police. Two board members then moved to the overflow room where public comments were heard. Microphones were used so that those of us in the Board Room could also hear the comments. I left the meeting at about 10:30, after the public comments were complete.</td>
<td>No</td>
<td>Santa Monica College employee</td>
<td></td>
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</tbody>
</table>
I was doing schoolwork on the 2nd floor in the computer lab and was not part of the protest downstairs. Alarms began going off and we were told to evacuate. We were told not to use the elevators. We used the stairway down and about two-thirds of the way down walked into a sea of pepper spray. Everyone walking downstairs, including myself, began coughing and trying to get out as soon as possible. Once out there I looked over into the parking lot and witnessed Campus Police just standing there and making no attempt to help students with medical needs. I made my way out toward Pico Blvd, and was treated by paramedics. About an hour later I came back to the business building and saw Sgt Bottenfield off to the right just giving students dirty looks. At the door was proven liar and simpering coward Sgt Jere Romano giggling about just having sent several people to the hospital and having pepper-sprayed a pregnant woman and a three-year-old child. Students asked him what was so funny about what he did, and he kept on giggling. When I say proven liar, the California Attorney General's Office encouraged me to file what amounts to 9 criminal complaints against the police department and Asst. Dean Michael Tuitasi, including making terroris threats against Romano and felony extortion against Tuitasi stemming from an incident that began on January 20th (Romano giggled that day as he searched me for weapons outside the computer lab and giggled when I told him on Feb. 9th that an off-campus stalker named Bruce Cardozo harassed my sister in Illinois via telephone intimidation - Romano is sick and has some serious giggling issues). All in all, it is an 8-page complaint with 12 criminal charges that we sent to the Altly General's Office and to the Los Angeles County District Attorney's Office (the latter as recommended by the Altly Genrnals Office). It does not surprise me in the least that knuckle-draggers like Romano & Bottenfield are involved with something like this, as they are known around campus for having a hostile and adverserial relationship with/toward students. The Chief of Detectives at the Hollywood P.D. has openly called them "those goddamned playground cops." And it's good that the disgraceful and twisted Michael Tuitasi isn't serving on this committee, as his entire investigation would be "Dems a fine buncha boys I got over there" and to retaliate via extortion methods anyone who raises concerns about "Mah boys," like they are his fishing buddies. The fact that Romano was outside laughing at the injuring of students should NOT surprise anyone, as other employees of the college have openly described him as "cocky," "unpleasant" and "none too bright." An off-campus wife-beating stalker named Bruce Cardozo hacked into my school account, and Romano has openly declared that his department will not do anything to help me no matter what Cardozo does, which is why I've contacted the santa monica P. D. and L.A. County Sheriff's department, who said they would respond if Romano followed through with any of his threats. And if you want me to prove that Romano and Tuitasi are nothing but filthy liars, eel free to contact me and if you like I will show you a copy of the detailed complaint letter I filled out. But Romano & Bottenfield's behavior on April 3rd was a disgrace to law enforcement everywhere.

I was at the classroom next door to the board room mtg. The students in the hallway were so loud and out of control, that our professor couldn't conduct our lesson plan for the day. They were balking us from getting out of the classroom by pushing and shoving if we tried to get out to use the bathroom. Our professor said to stay inside to keep safe. I was afraid and worried about what the crowd was going to do. Everytime we opened the door, the crowd seemed to be pushing and provoking the policeman that was calmly standing infront of the boardroom door. We could hear him reasoning with them over and over again to calm down so he could let them inside the meeting in an orderly fashion. They continued to shout and push to charge at him and the door.

I saw police get overcome by words and reacted with force.
6/24/2012 16:50:05 No I was in a classroom on the second floor.

I was present on the second floor. I was in a classroom on the second floor.

Why did the SMC PD lose control of the situation so very completely?

It seems like the board plotted to make the session inaccessible to the general population at SMC, and that the SMC PD was complicit in this, via their ridiculous lack of planning and preparedness. After reviewing a few of the videos available on the web, it is clear that the SMC PD provoked the "incident" by wading into the crowd.

The meeting ought to simply have been moved to a larger room than the one I saw SMC PD ushering people into the back door of while I and my classmates were evacuating the premises, because of the fire alarm. A larger space - which there are many on campus - would have accommodated everyone in that hall, as well as all of the ones inside the room. Not being ready to do that shows either gross incompetence or ill intent on the part of all administration representatives present that evening.

When we did return to the classroom through the upstairs rear door on the SouthWest corner of the building, the stench of pepper spray was oppressive, and I saw students who were returning to classes, having never been anywhere near the protests, reacting to it.

6/24/2012 23:23:02 Yes I was also present the week before when less students showed to pre-protest, didn't anyone realize that the students were serious and that the next week it was going to be worse?

My class was next to the door of the meeting, I was there for both.

On 4/3 I could hear the chanting right outside my class room and as the crowd got bigger and louder I lef my class room and pushed and shoved against the crowd because only people in denial would not be able to tell that something was going to happen! Hello!!! Big Crowds, small spaces, screaming, ignoring = disaster.

6/25/2012 13:37:25 Yes Most of the students started out with good intentions. However, when the mob mentality set in they were no longer trying to get their voices heard. Students started to harass the police, and when the police started to defend themselves they students thought they were being punished without cause. The police had every right to defend themselves and were using appropriate actions to do so. I believe the students thought they could do whatever they wanted and would have no consequences. The police had every right to act the way they did.

6/25/2012 13:58:52 No Unprofessional behavior of certain SMC Police Officers/Admin -- nothing serious, but a clear indication SMC does not need its own police force. Put the money toward education and classes. Also, I was told by at least one officer last semester that parking was free the first week of classes. This turned out to be a gag, apparently, and I was issued a $53 parking ticket based on my permit being out of date which I paid under protest.

The unprofessionalism and amount is far too high, giving the impression SMC is running a racket with SMC cops saying one thing while enforcing another. Of course, if the pepperspray incident is true, that would be quite despicable as well, but it seems too unreal to be true.

Dennis Morris
310 487 4272

6/25/2012 14:24:30 Yes I sent you a couple of messages already, but I'm sending more as I think that Campus P.D. should be gutted and started all over - I spoke with 4 military friends, 3 of whom told me that they had pepper-spraying training and part of that training specifically was that YOU DO NOT drop pepper spray in cars, windy areas and enclosed places - they did, and why? because some students tried to enter a meeting? - this perfectly comports with my experiences with Sgt Cognitively Challenged (Jere Romano) and Sgt Yosemite Sam (Ray Bottenfield), neither of whom is remotely capable of reading and interpreting California Penal code written so simply that a child could understand it - seriously; I filed a stalking complaint against Bruce Cardozo (they refuse to investigate, a current matter for the Atty Gen's Office), and - I'm not kidding - Sgt Romano "employed" this off-campus, non-student wife-beating stalker to canvass my Facebook page and "report" back to him concerning any criticism I have of Campus Police - !!! - this is the absolute definition of dysfunctional, and at least the Hollywood P.D. agrees with me - and all I'd put was that I was shocked at what many police officers don't understand about penal code - for that Romano physically threatehned me, which is listed as only one of 14 criminal complaints filed against Campus Police and Bruce Cardozo with the Atty Gen's Office - both Michael Tuitasi and Sgt Romano have threatened me concerning any criticism that I may make of Tuitasi's "boys," or Good Old Boy Network, but I am not the least bit afraid of either one of them and have retained a lawyer to deal with these threats - but there is a record of me having to have been treated that night of April 3rd and would love to meet with you

Richard Stockton
323-392-2555

6/25/2012 18:07:27 No n/a No
<table>
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<tr>
<th>Timestamp</th>
<th>Were you present at or near the Board of Trustees' meeting on April 3, 2012?</th>
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<th>I am:</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/26/2012 8:10:49</td>
<td>Yes</td>
<td>I was sitting next to the video camera equipment station and my Multimedia Specialist (Jim Serikawa) was operating the camera. We heard a loud commotion of protesters outside the room with requisite shouting and pounding on walls/doors. The group seemed to be shouting “Let us in!” At one point the front door was opened by the SMC PD to let in speaker #2 and several students burst past the officers into the room. They addressed the Board members and shouted repeatedly “you see what you did!” Shortly after the room filled with pepper spary residue. I instructed Jim Serikawa to hand me the videotape and secure the camera. We proceeded to evacuated the Board room. I secured the videotape in my office and I left campus for the evening. I believe Jim Serikawa returned to the Business Building and was asked to resume videotaping in the Board room or overflow room.</td>
<td>Yes</td>
<td>Yes</td>
<td>Santa Monica College employee</td>
</tr>
<tr>
<td>6/26/2012 22:22:37</td>
<td>Yes</td>
<td>I was in a business class and the fire alarm rung. We left the class to see what was going on. The people in that hallway were hysterical, I am a liberal and patient person, not for the increase in fees. I saw the officer who did it; I think he was an African-American gentleman. Not that that matters, but to identify him, he was perfectly in control and calm in the middle of an absurd panicky immature group. They were about to break the door down. It looked that way tome anyway. He did the right thing. He had no choice. It was a weird situation and some of the people, especially some of the younger ladies, were really rude and dangerous. My opinion is that he protected and served the rest of us. Given I saw this after the spraying but it was a right calling my opinion. Some of these people, especially a few younger ones were really not being civil.</td>
<td>No</td>
<td>No</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>6/28/2012 14:49:17</td>
<td>Yes</td>
<td>I was upstairs from the board meeting in my Accounting class, out of nowhere we were hearing loud noises and loud chanting. Unable to continue with our lecture. We took a 10 minute break to wait for it to blow over. I left my classroom and went to see what the commotion was. All I saw was a group of people and police. Then next thing I knew there was yelling and screaming. And I saw a police officer deploy his mace right point blank in a girl’s face, and then continued to mace.</td>
<td>Yes</td>
<td>Yes</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>7/1/2012 23:18:53</td>
<td>Yes</td>
<td>Blatant, brute, and unnecessary force deployed by campus police.</td>
<td>No</td>
<td></td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>7/3/2012 14:05:17</td>
<td>No</td>
<td>I observed videos online of the protesters pushing into the meeting room chanting “Let us in!” with an angry tone. I believe the students were looking for a reason to be pepper sprayed. At one point in the video after one of the officers “Shoved” a female protester back after she was walking towards him with her hand out, the students yelled “He shoved her, we win!”; I believe the students that were protesting were doing so purely for the excitement of being a part of a “cause” in which they get to protest. I don’t believe the majority of the student body was represented by the students acting immaturely.</td>
<td>No</td>
<td>Yes</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>7/5/2012 16:01:22</td>
<td>Yes</td>
<td>I am a returning student who formerly worked as a commercial property manager for high rise buildings and shopping centers. Having supervised security staff for public demonstrations in my former employment, I witness several deviations from standard crowd control procedures, as I understand them. 1. The architecture of the building lent itself to compacting the crowd and making it more difficult to handle. 2. Information was given to those at the front of the crowd and no attempt was made by security to ensure that all people knew what was going on and what they wanted them to do. 3. Two officers who were originally at the back of the crowd near the primary exit door moved past me and pushed their way through the crowd to the meeting room access doors. I’ve never seen officers put themselves in that kind of a position where they physically pushed their way into a packed crowd. When I witnessed the officers pushing their way into the crowd I anticipated a problem and quickly moved back away from the meeting room access door. It was only a few minutes later that pepper spray was deployed. There was never any request to disperse; there was never any request to back up and make room for ingress and egress. From my vantage point officers did not control the crowd and put themselves into a potentially dangerous situation. I truly believe that the entire confrontation could have been avoided at multiple points where bad decisions were made on the part of the professionals who should have known better. I would never have allowed people under my supervision to push their way into a crowd. I would have called for back-up and determined that the area was too dangerous for everyone involved. I would have cancelled the meeting and rescheduled it in a larger venue to ensure everyone’s safety and right to be heard.</td>
<td>No</td>
<td>No</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>Timestamp</td>
<td>Were you present at or near the Board of Trustees' meeting on April 3, 2012?</td>
<td>Please provide a statement of what you observed:</td>
<td>Do you take any video or photographs of the incident?</td>
<td>If yes, are you willing to share the video/photos with the Review Panel?</td>
<td>I am:</td>
</tr>
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</tr>
<tr>
<td>7/23/2012 16:15:56</td>
<td>Yes</td>
<td>Some students are beginning to call Sgt. Jere Romano the nickname &quot;Sgt. Jere Sandusky.&quot; Very deserved - this simpering and giggling coward was seen by all outside the Business Building laughing and giggling and what he and these rogue officers had just done. Indeed, I challenge you to pull the tape from outside the Business Building from between about 8:50 PM and 9:10 PM. You will see what a coward Romano is, to not mention the scowl on half-face Sgt. Bottenfield’s face. And please investigate whether these cops did ANYTHING to help injured students. I walked down into the pepper spray after the alarm went off, and could not stop coughing. But I managed to notice that the cops stood off to the side and did not lift a finger to help any of those injured, further cementing campus police’s reputation as being dangerous cowards. And let’s not forget that Romano physically threatened me in February on another matter, which I’ve included in an 8-page, 11 count complaint against the department and other college employees, such as Michael Tutasi (who openly hates students and is a sick liar) - another 3 complaints were filed against my stalker Bruce Cardozo, whom Romano has adopted as his special needs cousin. These complaints, urged by the Santa Monica City Attorney’s Office, have been sent to the California Attorney General’s Office. And why is that drooling, giggling sociopath Sgt. Romano even still employed? Do you want more lawsuits?</td>
<td>No</td>
<td>No</td>
<td>Santa Monica College student</td>
</tr>
<tr>
<td>8/27/2012 14:15:06</td>
<td>Yes</td>
<td>I was in the class room “Digipix” right next door. The meeting was supposed to take place around 8PM (as far as I was informed). However by 7:30PM we could hear the attendees getting louder and louder and yell “Let us in! Let us in!” accompanied with bangs on our class room door. Some of our students were curious to the uproar and sneaked a peak every so often. One student filmed some of the incident as to fulfill his duty for his school paper photojournalism class. Finally our teacher demanded to keep the door closed and focus on the class assignments. Eventually around 7:50PM the alarm in conjunction with sharp blinking light came on inside our class room. Needless to say, it was impossible to focus on the class assignment - in particular surprising as our teacher was known to be bothered by the clicking of a cell phone text message, he asked us to ignore that? After five or so noisy minutes trying to ignore the background noise, our teacher informed us that we had to evacuate from the class room. Unfortunately a pepper spray was release right in front of our class room, which made the alarm and the sprinkles go off in the hallways. However as we exited our class room they made space for us to leave and the pepper spray was barely felt and harmless to us at that point. To my observation there were a lot of angry students trying to get into the Board of Trustees room. I do not blame the Board of Trustees to not let anyone in. There was a good crowd of unhappy people. If let in, I be afraid the place would be trashed. I wouldn’t know how to calm a crowd as such down. The pepper spray certainly created a chain reaction of excitement. It became an exciting moment to a few of them. If I may say, it seemed an exciting statement to announce, that they were a victim of police mishandling and to spread the word. With that said, adrenaline seemed rather high in many of them. As I was observing the crowd from a safe distance I wondered why some of the students had milk with them. I learnt that night, that washing your eyes with milk will help to minimize the pain of pepper spray. They were prepared? I didn’t even know that milk can do that. I was also curious to know why a female was present with her baby spray. They were prepared? I didn’t even know that milk can do that. I was also curious to know why a female was present with her baby spray. They were prepared? I didn’t even know that milk can do that. I was also curious to know why a female was present with her baby spray. They were prepared? I didn’t even know that milk can do that. I was also curious to know why a female was present with her baby spray. They were prepared? I didn’t even know that milk can do that.</td>
<td>No</td>
<td>Santa Monica College student</td>
<td></td>
</tr>
<tr>
<td>8/27/2012 17:53:29</td>
<td>No</td>
<td>I was not present but I am aware of many people who have wrongly been validated by Officer Williams. Thank You</td>
<td>No</td>
<td>Yes</td>
<td>Other</td>
</tr>
<tr>
<td>9/10/2012 17:45:20</td>
<td>Yes</td>
<td>the police were spraying students in the face and pushing them away from the room. Some students were crying and the police still showed no mercy. Sad day for a wonderful community college.</td>
<td>No</td>
<td>Santa Monica College student</td>
<td></td>
</tr>
<tr>
<td>9/22/2012 21:03:04</td>
<td>No</td>
<td>in tv i saw people streaming</td>
<td>No</td>
<td>Santa Monica College student</td>
<td></td>
</tr>
<tr>
<td>9/22/2012 21:03:07</td>
<td>No</td>
<td>in tv i saw people streaming</td>
<td>No</td>
<td>Santa Monica College student</td>
<td></td>
</tr>
<tr>
<td>Timestamp</td>
<td>Were you present at or near the Board of Trustees' meeting on April 3, 2012?</td>
<td>Please provide a statement of what you observed:</td>
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<td>I am:</td>
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</tr>
<tr>
<td>9/23/2012 0:18:04</td>
<td>Yes</td>
<td>I watched from the Bread Factory patio at approximately 6 p.m. as 43 students (I counted) began an assembly at the Library steps and started a march through campus, but I did not follow their progress. I independently arrived outside Business Room 117 about 6:45 p.m. A crowd of regular meeting attendees was standing in the hallway, saying that nobody else could enter the meeting room. I stood in the hall between the meeting room and the elevator. I took still photos and video as a protest group of approximately 100 students entered the Business Building hallway. I was partly deafened by a non-SMC student shouting through a megaphone nearby. I asked him to stop using the megaphone indoors, and he agreed. I watched a police officer new to the college address the protest group and explain how he would distribute numbered speaker cards. (Numbering is a new procedure I've never seen before in 16 years of attending Trustee meetings.) At one point the crowd became dissatisfied with the perceived delay and so boisterous that I became concerned the officer did not know large spillover crowds in 2003 had been accommodated on the patio outside B117. Then, suddenly, the crowd calmed and appeared to be satisfied with the plan to line speakers up along the wall for their turn. The officer said he would obtain more speaker cards. Soon, I saw the protest leaders engage in the confusing General Assembly &quot;what do we want and what do we do next&quot; discussion method popularized by the Occupy movement. The hallway crowd continued the ritual of whistle-blowing and protest chants. I could not see into the alcove outside the meeting room. Suddenly, people began covering their faces and moving away from the alcove and the meeting room door. My first thought was that an outsider had discharged a stink bomb or pepper spray on a police officer or on the crowd to cause disruption. I walked toward the alcove possibly to assist but quickly reversed direction as the crowd safely evacuated the other way and as I began to experience the pepper spray effect on the lungs. I heard someone shout, &quot;Pull the fire alarm.&quot;</td>
<td>Yes</td>
<td>Yes</td>
<td>Santa Monica College employee</td>
</tr>
</tbody>
</table>
APPENDIX F
Faculty,

Santa Monica College Superintendent/President Chui Tsang created a Review Panel to conduct an investigation of the April 3, 2012 pepper spray incident in the Business Building at Santa Monica College.

The Review Panel has been directed to consider all concerns raised about the College's response and make such recommendations as it deems warranted on the policies, practices and protocols relevant to the College's response to demonstrations and similar events.

As part of its work, the Review Panel is inviting those faculty who were teaching in the Business Building at the time of the incident to provide information about their observations by answering the following three questions.

1. Did the protest outside Business 111 during the evening of April 3, 2012, interfere with your class? If so, how?

2. Did you lose any teaching time? If so, how much and why?

3. Any other observations about what happened on April 3, 2012?

Please return the answered questions by Thursday, August 9, 2012.

Thank you for your time,
Professor Eve Adler
On behalf of the Review Panel:
Campus Counsel Robert Myers, Chair of the Review Panel Dr. Nancy Greenstein Dr. Patricia Ramos Joshua Scuteri
1. Did the protest outside Business 111 during the evening of April 3, 2012, interfere with your class? If so, how?

When the alarms sounded we vacated the building.

2. Did you lose any teaching time? If so, how much and why?

Yes. We lost about 20 minutes of teaching time while we waited outside the building for permission to re-enter.

3. Any other observations about what happened on April 3, 2012?

No.

J. Ken Geddes, Jr., Professor
Department of Computer Science & Information Systems
310.434.4628
http://homepage.smc.edu/geddes_james/
Santa Monica College
1900 Pico Blvd.
Santa Monica, CA 90405-1628

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From: ADLER_EVE
Sent: Tuesday, July 31, 2012 3:26 PM
To: SCHAPA_ELEANOR; DANIEL_CHARLES; NAULT_WILLIAM; LU_MING_CHUN; SINDELL_STEVEN; RODRIGUEZ_KATYA; DRAKE_VICKI; HURLEY_DANIEL; DEHHODA_ABBAS; GEDDES_JAMES
Cc: MYERS_ROBERT; RAMOS_PATRICIA; GREENSTEIN_NANCY; ADLER_EVE
Subject: Business Building Survey

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Here are my responses:

1.  Did the protest outside Business 111 during the evening of April 3, 2012, interfere with your class? If so, how?
   I recall my students and I heard some shouting and rumbling from next door. Also, the fire alarm was pulled.

2.  Did you lose any teaching time? If so, how much and why?
   I was administering an exam that day so I wasn't teaching or lecturing new material. The false fire alarm was a minor inconvenience to my class.

3.  Any other observations about what happened on April 3, 2012?
   Before I let my students into my classroom to start class, my students and I could hear them protesting. It was apparent that the protesters were very angry. Other than that, I have no other comments because I actually didn't witness anything else that happened that night.

Faculty,

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1.  Did the protest outside Business 111 during the evening of April 3, 2012, interfere with your class? If so, how?

2.  Did you lose any teaching time? If so, how much and why?

3.  Any other observations about what happened on April 3, 2012?
I was teaching Accounting in BUS 254 on April 3. The class commenced at 6:45 pm.

There were some relatively minor disruptions with the chanting and yelling. When the fire alarm was activated I instructed the class to quickly evacuate the building using the back stairs on the west side, so this was a major disruption to the class. I had the class congregate at the patio area outside the west entrance to the Business Building, until a better assessment could be made.

It seemed like a long time after the fire alarm was activated before the first fire truck arrived.

It was pretty chaotic, and it was difficult to determine who, if anyone was "in-charge". I was told that once the Fire Department gave the okay our class could re-enter the building.

Some pepper spray seemed to linger around the main entrance and could be detected in the hallway near BUS 111.

We returned to the classroom about 30 - 45 minutes after the fire alarm went off.

Faculty,

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2. Did you lose any teaching time? If so, how much and why?

3. Any other observations about what happened on April 3, 2012?
ADLER_EVE

From: HURLEY_DANIEL
Sent: Thursday, August 02, 2012 11:55 AM
To: ADLER_EVE
Subject: RE: Business Building Survey

1. Did the protest outside Business 111 during the evening of April 3, 2012, interfere with your class? If so, how?

Since I was giving a midterm on the date in question, the disruption almost certainly impacted the students taking my test in B201. If nothing else, to varying degrees I am sure that it impacted their concentration and consequently their scores on the exam.

2. Did you lose any teaching time? If so, how much and why?

We were required to stay outside the building for approximately 30 to 45 minutes. Since I was not teaching I did not lose any teaching time. Additionally, in order to permit students to finish their exams, I let them stay past the 9:50 PM deadline usually allotted to the class.

3. Any other observations about what happened on April 3, 2012?

At the time my class and I evacuated the building I saw approximately 40 demonstrating students shouting and screaming at the approximately 10 police officers standing outside the Business building. Some of the protest chants included such phrases as 'Fuck the cops' and 'Fuck the pigs'. I was actually quite impressed by the incredibly restrained response of the police force as they stood there stoically nonreactive. The high regard that I have had in the past for the Santa Monica College police force was certainly reinforced and amplified on that evening.

Dan Hurley

From: ADLER_EVE
Sent: Tuesday, July 31, 2012 3:26 PM
To: SCHAPA_ELEANOR; DANIEL_CHARLES; NAULT_WILLIAM; LU_MING_CHUN; SINDELL_STEVEN; RODRIGUEZ_KATYA; DRAKE_VICKI; HURLEY_DANIEL; DEHKHODA_ABBAS; GEDDES_JAMES
Cc: MYERS_ROBERT; RAMOS_PATRICIA; GREENSTEIN_NANCY; ADLER_EVE
Subject: Business Building Survey

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The Review Panel has been directed to consider all concerns raised about the College's response and make such recommendations as it deems warranted on the policies, practices and protocols relevant to the College's response to demonstrations and similar events.
1. yes, students voice
2. no, I was giving test.
3. I was in room 203 of Business Bld. Police ask us to leave right away.
I took the test we went down stairs on parking on the back of Business Bld. After 15 minutes
we told it is okay to go back to the class and we did. My student did the test and we left at
9:50.

Regards

Dr. Dehkhoda

-----Original Message-----
From: ADLER_EVE
Sent: Tuesday, July 31, 2012 3:26 PM
To: SCHAPA_ELEANOR; DANIEL_CHARLES; NAULT_WILLIAM; LU_MING_CHUN; SINDELL_STEVEN;
RODRIGUEZ_KATYA; DRAKE_VICKI; HURLEY_DANIEL; DEHKHODA_ABBAS; GEDDES_JAMES
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2. Did you lose any teaching time? If so, how much and why?

3. Any other observations about what happened on April 3, 2012?

Please return the answered questions by Thursday, August 9, 2012.

Thank you for your time,
Professor Eve Adler
On behalf of the Review Panel:
-----Original Message-----

1. From: SCHAPA_ELEANOR

Sent: Saturday, August 18, 2012 10:00 AM

To: ADLER_EVE

Subject: RE: Business Building Survey

Dear Eve~

My apologies for not getting this to you sooner.

I was teaching a class in the Business Building when the protests started on Tuesday. In no way, shape, or form was this demonstration peaceful. The student protesters were completely out of hand and pushing, shoving, and screaming. They were so disruptive that their shouts could be heard throughout the building and made it impossible for classes to be conducted. Both from inside my classroom and in the hallway, I could hear the campus police officers give the students many, many warnings--over and over again, over the course of several minutes--that the protesters needed to back up, that they were creating a fire hazard, etc. (Two unlawful acts right there.) The students escalated the situation nearly to the point of violence, NOT the campus police. The campus police showed great restraint. They did not indiscriminately use pepper spray, and I believe did so only under great threat and as a last resort. The news media and the videos conveniently manipulated the events and made the situation worse by giving erroneous and misleading information.

After the building was evacuated, I was told by a police officer that the building would be closed and to tell my students to go home for the evening. I lost two hours of instructional time with my students that evening--more like 2-1/2 hours including the time the demonstrating students interrupted everything.

Sincerely,

Eleanor Schapa

________________________________________

From: ADLER_EVE

Sent: Tuesday, July 31, 2012 3:26 PM

To: SCHAPA_ELEANOR; DANIEL_CHARLES; NAULT_WILLIAM; LU_MING_CHUN; SINDELL_STEVEN; RODRIGUEZ_KATYA; DRAKE_VICKI; HURLEY DANIEL; DEKHOODA_ABBAS; GEDDES_JAMES

Cc: MYERS_ROBERT; RAMOS_PATRICIA; GREENSTEIN_NANCY; ADLER_EVE

Subject: Business Building Survey
Summaries of Initial Set of SMC Review Panel Videos – June 27, 2012

A. Overview

This video is about 21 minutes long. It is included to provide context to the subsequent shorter views of the pepper spray incident. The video begins with the first group of protesters enter the building and ends after the police have abandoned their positions at the door of the board room allowing unfettered access to students.

After the students enter there is a long period during which students attempt to determine their goals for the protest and Sergeant Williams intermittently attempts to convince them to follow his directives about the procedures to be followed for the meeting. At approximately 16:55, the door to the board room is opened and the first group of students begin enter. Students surge towards the door.

At about 18:10 Sergeant Williams spins a woman back into the crowd. Although the view of this action on this video is partially blocked, it is an important reference point since the use of physical force appears to alter the mood of the crowd.

At 18:50, Officer Wilson and Sergeants Williams and Bottenfield can be seen speaking in the doorway, presumably about closing the door. Then at 18:53-18:54, Sergeant Williams moves assertively to secure the door. Just after 19:00, Sergeant Williams can be seen moving behind the door. He can be seen again, emerging from behind the door, briefly at 19:15-19:16. At 19:25, the crowd’s reaction suggests that he has deployed his pepper spray. Sergeant Williams re-emerges at 19:30, moving across the front of the door. He then turns and closes the door. At 19:38-19:40, he can be seen shaking his pepper spray. At 20:04 he enters the room with the other officers.

The camera then moves away from the door. When it pans back to the door at 20:55, no one is securing the door and students are entering unobstructed.

B. SMC Review Panel View 1

View 1 is a 3 minute 17 second outtake from the Overview video which begins at the opening of the board room door and ends when the officers retreat into the board room.

For comparison:

- At about 1:17 Sergeant Williams spins a woman back into the crowd.
- At 1:57-1:58, Sergeant Williams moves to secure the door.
- After 2:26, the crowd’s reaction suggests that he has deployed his pepper spray.
C. **SMC Review Panel View 2**

This view is shot from a below the stairs.

At 2:13, it shows Sergeant Williams knocking a woman to the ground. The shot is from directly behind the woman and appears to show her closing on him fast with her arm raised.

D. **SMC Review Panel View 3**

This is a lower resolution view of the event most of it is taken from quite close.

Notable aspects include:

- At 0:18, Officer Wilson’s lack of reaction to the student yelling in his face.
- At 0:40-0:46, a relatively clear view of Sergeant Williams spinning a woman back into the crowd.
- At 0:50, note the student in the white shirt behind Sergeant Williams. He is close enough, that at 0:54, Williams appears to move his hand to secure his gun.

The video includes a short amount of footage showing protesters treating the effects of the pepper spray outside the building.

E. **SMC Review Panel View 4**

A close view. Notable in this video:

- At 0:18 and following, student Harrison Wills behind the police speaking with the Chief of Police.
- At 0:46 and following, a very clear view of the woman’s head as Sergeant Williams pulls her backwards into the crowd.

F. **SMC Review Panel View 5**

This video is edited and posted to Youtube by the AP. Notable in this video:

- At 1:11, a clear view of Sergeant Williams shaking his pepper spray.
- At 1:22-1:25, Sergeant Williams knocking a woman to the ground. This shot is from slightly to the side and shows Williams stepping forward to close the distance between them prior to knocking her down.
- At 1:29 and following – although Officer Wilson has removed his baton, he neither raises it nor holds it in an aggressive manner.
- At 2:02 and following - students are knocking on the glass next to the door. A student comes out from the board room and opens the unsecured door for them.

A. Overview

These are unedited full-length versions of the videos taken by SMCPD interns and/or personnel on the evening of the incident. In addition, the last video referenced is of the interior of the Board of Trustees’ meeting room prior to the evacuation.

B. SMCPD Video 1, Part 1

This video is slightly over 26 minutes. It begins with the body of protesters marching across campus. The march reaches the business building at about 7:30. It includes video of the rally and speeches made outside of the building before the main body of protesters entered the building. The speeches begin just after minute 10 and continue until the protesters enter the building about 16:45. The video includes most of the lengthy deliberative process about goals undertaken by the protesters inside the hallway.

C. SMCPD Video 1, Part 2

This 23 minute video is a continuation of the first SMCPD video. The door to the boardroom is initially opened at approximately 1:10. Officers retreat into the meeting room just after 4:15. The bulk of the video occurs outside of the building after the incident. Of interest is the interaction between protesters and Sergeant Williams that begins at about 8:45 and continues intermittently for most of the rest of the video.

D. SMCPD Video 2

This is a 4 1/2 minute video that begins after the bulk of students have left the building. After the first minute the camera moves outside to the area in between the parking garage and the business building. At 1:35 two females who were seriously affected are shown. The young woman with glasses on the far left of the screen is Christine Deal. Of particular note is a brief statement made by a student beginning at 3:33 suggesting that the use of spray was inappropriate because “we were just holding the fucking door open.”

E. SMCPD Video 3, Part 1

This video is slightly over 26 minutes. It contains some video of students marching, but from 3:40 until about minute 18 it is mostly video of Sergeant Williams interacting with the group of students the SMCPD Report describes as the “Scouting Party.” Of particular note during this period are the numerous students who are clearly filling out the speaker cards. This is interesting in light of the SMCPD Report’s substantial treatment, including a picture, of one student who does not appear to write on her card, and its failure to mention the many students who did so. (See Report at 22-23.) At minute 18 most of the students leave the hallway to join the larger crowd that has assembled outside the building. At 25:17, students begin to enter the building.
F.  SMCPD Video 3, Part 2

This 21 minute video resumes a few seconds after SMCPD Video 3, Part 1, ends. It includes the entire period of discussion between Sergeant Williams and the students as well as the extensive discussions held among the students about their goals and intentions. At minute 16 the boardroom door opens. Chemical spray is deployed at approximately 18:25.

G.  Board of Trustees Meeting

This video was taken by College personnel from inside the meeting room; the camera was turned off when the room was evacuated.
Summaries of SMC Review Panel Videos – August 10, 2012

The following videos were downloaded from the internet:

1. *Santa Monica College students protesting at BOT meeting*, 7:27. Very good footage of Sergeant Williams’ interaction with students after they have entered the building.

2. *Santa Monica College BOT protest*, 1:57. Video taken inside classroom adjacent to board room. It begins immediately after pepper spray.

3. *SMC students pepper sprayed. Warning. Fractured arm*, 2:32. Footage of students interacting with Fire Department personnel. Some in distress and/or showing signs of the effects of the spray.


5. *Santa Monica Outcry*, 3:44. Occupy guy giving a lecture in the speech. At 2:17: “We did try to force our way in.”

6. *Student protesting fees pepper sprayed*, 1:26. CBS news report of the incident. Includes interviews with several students who were present.

7. *Santa Monica College Student Protest - 4/3/2012*, 5:24. Video taken outside the business building after it was evacuated. Sergeant Williams is visible intermittently students can be heard yelling at him to leave campus or yelling that he should be removed (see 3:40 and following for an example). His name is announced to the crowd by loudspeaker at the end of the video.

8. *High Tuition Protest at SMC*, 2:55. Shaky video taken after fire and police had arrived. At 1:10 and following, Wills talks with the crowd about whether to participate in the rest of the meeting and encourages them to talk to the press, describing the incident as “an opportunity to get our message out to the entire country.”

9. *Police pepper spray student protesters at Santa Monica College*, 2:04. Raw footage of incident. Appears identical to one of the main clips that the panel has already seen. At 1:30-1:33 there is a relatively clear view of who was behind the door when Sergeant Williams moved towards it.


11. *California students pepper sprayed for protesting*, 2:11. English language broadcast on RT News, a Russian Government funded international news station. Calls incident similar to Davis and plays tape of Davis. Notes that military grade pepper spray was used at Davis and that “it’s still not clear what type of pepper spray was used at the Santa Monica incident.”

12. *Santa Monica College Students Protesting Tuition*, 2:38. Students marching on campus after incident. As they march they gradually pass the extensive response personnel/vehicles.

14. EE. UU.: Policía disuelve manifestación estudiantil con spray pimienta, 0:43. Spanish language RT (second in U.S. viewers only to BBC) satellite television news report on the incident.

15. Estudiantes de EE. UU. piden clases baratas y reciben gases lacrimogenos, 0:56. Slightly longer posting of video with no commentary from RT news. Footage seen elsewhere.

16. SMC Police Pepper spray students, demanding to enter a Trustee meeting to have their voices heard!, 9:31. “Youth for Truth Media” report from SMC on the night of the incident. Footage of emergency response vehicles. Includes a good amount of video of the students marching around campus after the event. Shows them entering the library beginning at 1:34. Brief Interview with Christine Deal beginning at 7:14.

17. Student Protest Santa Monica College, 1:52. After incident, outside building. Speaker on bullhorn.


19. Protest Santa Monica College 4/3/2012, 3:01. Student speakers filmed outside well after the incident.

20. Fox Guest Wants Pepper Strayed Students Expelled, 4:10. Online news show commenting on David Horowitz saying that pepper sprayed students are example of mob rule and should be expelled. Mostly a discussion of Fox News.

21. Mossad trained police curb US protests, 3:46. Alan Roland, online columnist, interviewed on PressTV.com. Describes the incident as an example of “the militarization of our police forces” and goes on to suggest that the SMC police may have been trained by Mossad. The students were treated like terrorists and “the Constitution has been shredded.”


23. Students Pepper Sprayed at Santa Monica College, 7:41. Online news program report of the incident. Poorly informed analysis of the program.


25. Re: Small Child; 30 people pepper-sprayed at Santa Monica College course fees protest, 3:32. Reposted Elsewhere.


27. Raw Video: Calif. Students Pepper-sprayed, 2:12. Edited version of video that has been seen elsewhere.

28. Santa Monica College students escape barrage of pepper spray, 1:37. Seen elsewhere.

30. *Santa Monica College students pepper-sprayed by police, 7:06.* Edited compilation of footage seen elsewhere.
Summaries of News Video -- September 20, 2012

Tuesday, April 3, 2012

1) KTLA – 5, 10:00pm: Lengthy overview with a confused description of Contract Education. Report incorporates several videos that are already before the panel. Interesting statement by reporter at 1:10 and following: “What has been described to us is that one of the Police Officers stepped out, may have sort of lost his balance, and at some point started to pepper spray the students.”

Includes interview with student Kayleigh Wade starting at 2:10. She states that no warning was given prior to use of spray.

At 2:22 there is an interview with student Michael Burnett who states that “police officer sort of stumbled and lost his balance, got back up and I guess he panicked and just started, pulled out the pepper spray and just started spraying this crowd indiscriminately.”

2) FOX – 11. General overview with several student interviews. At 0:49, a student states: “all of a sudden one of the Officers, he pepper sprays right into the crowd.”

3) ABC – 7. Spraying is lead story on 11:00 news. Interview with Kaileigh Wade at 1:18 restating that there was no warning.

Very interesting still shown at 1:31-33 which is an image from behind Sgt. Williams after Delgado is on the ground.

Interview with Christine Deal at 1:40.

4) NBC – 4. Lead story on 11:00 news. Interview with Christine Deal at 1:10 discussing Sgt. Williams’ use of force on her.

Wednesday, April 4, 2012

5) KTLA – 5, 7:01am. Interview footage identical to that shown in “News 1” above. Reporter repeats the loss of balance claim.

6) KTLA – 5, 8:01am. Interview with student, Claudette Colbert, in addition to footage and interviews recycled from “News 1” and “News 3” above.

7) FOX – 11, 8:00.

8) FOX – 11, 8:11. Fair explanation of difference between state-funded courses and the proposed Contract Education classes.

9) CBS National Morning News broadcast. Very brief coverage that relies mostly on LA Times article about the incident.


12) NBC – 4, 7:27am. Offers several quotes from unnamed SMC sources.


15) KCAL – 9, 12:01pm. Interview with Christian Cordova. Reasonable explanation of Contract Education including interviews with students in support of the courses.

16) FOX– 11. Interview with Natalia Toscano at 1:15.

At 2:33, host also notes that order to disperse is normal procedure prior to use of less than lethal weapons.

17) KTLA – 5, 1pm. Confused reporting surrounding interviews from above.

18) KCAL – 9, 2:04pm. Replay of 15 above.

19) NBC – 4, 5:09pm. Not a repeat of earlier reports.


21) CBS 2, 5:00pm. Abbreviated report.

21, part 2) CBS 2, 5pm. Continuation of 21.

22) CBS 2, 11:09pm. Includes interviews with students. Including some in support of SMCPD.

23) KCAL – 9, 10:15pm. Almost identical to 22.

**Thursday April 5, 2012**

24) KTLA – 5, 1:16pm. Shows protest march and discusses Chancellor’s reaction to Contract Education program.

25) NBC – 4, 12:06pm. Abbreviated report from student rally.

26) KCAL – 9, 2:06pm. Brief coverage of rally.

27) NBC – 4, 5:29pm. Shows footage of protest rally and march.

**Friday April 6, 2012 – (SMC Emergency Board of Trustees Meeting)**

28) CBS – 2, 8:55am. Brief discussion of the fact that the emergency BOT meeting was being held and what occasioned the meeting.

29) CBS – 2, 11:03am. Similar to 28 with the addition of on-site reporter who announces the SMCPD and Review Panel investigations.

30) CBS – 2, 5:06pm. Substantial piece. Describes the meeting and the decision to delay the program.
31) CBS – 2, 6:10pm. Brief report on the meeting.

32) CBS – 2, 11:16pm. Discusses opening of investigations and delay of Contract Education.

33) NBC – 4, 12:01pm. Brief discussion of the fact that the emergency BOT meeting was being held and what occasioned the meeting. On-site reporting from meeting. Notes opening of investigations.

34) NBC – 4, 6:02pm. Reporting on meeting. Includes brief clips from several speakers at the meeting.


36) KTLA – 5, 1:02pm. Discusses postponement of program. Fairly full piece.

37) KTLA – 5, 6:33pm. Basically the same at 36.

38) KTLA – 5, 10:17pm. Noting postponement.

39) ABC – 7, 8:26am. Discussing upcoming meeting with brief overview of issues and initial incident.


42) ABC – 7, 4:00pm. Fairly full report.

43) KCAL – 9, 2:00pm. General coverage.

44) KCAL – 9, 3:00pm. General coverage.

45) KCAL – 9, 4:00pm. General coverage.

46) KCAL – 9, 10:12pm. General Coverage.

47) FOX – 11, 11:03pm. Discussion of the postponement of program. Brief overview.

48) FOX – 11, 12:05pm. Overview with onsite reporting during meeting.

49) FOX – 11, 10:00am. Reporting from campus prior to meeting. Some footage of rally and march on April 4.

50) FOX – 11, 9:04am. Report from campus on the morning of the emergency meeting. Basically the same as 49 Interview with student at 1:40.

51) Telemundo – 52, 6:00pm. Discussing the “victory” of students in obtaining postponement. A few interviews. Anchor suggests that Contract Education might cause the spiritual death of our society.
52) Univision – 34, 4:00pm. Full treatment
Group 1

02_08_296_72 – 02_22_750_75: Notifying Sgt. Williams (SAM4) of the presence of Brown Berets in front of the business building.

07_26_718_78: Sgt. Romano (SAM1) noting presence of approx. 20 demonstrators with banner marching from library into quad towards business building.

23_41_703_97: Initial group of “approximately 20 protesters” entering business building.

28_40_046_99: Sgt. Bottenfield telling Sgt. Williams “if they fill out those speaker cards and give them back to you as completed I’ll take them back from you.”

38_13_546_110: Sgt. Romano (SAM1) notifying “Staff1” that about 20 protesters are coming towards the building from steps of Arts and Letters.

38_41_281_111: Notification repeated by Sgt. Bottenfield.

38_52_390_112: Initial group within the business building leaves building to join larger group outside.

39_32_593_115: Report that as the group left the building they stated, “we’re not getting in. They’re not gonna let us in.”

41_51_609_119: Notification that about 40 protesters were approaching business building.

52_03_421_133: Protesters entering business building.


57_41_328_139: “SAM4 they opened the door down there.”

Group 2

00_41_281_143: Discussion the overflow room. Followed by the statement “we have space for 12 once people come in with numbered cards and that’s it.” “Crowd is demanding everyone in here.”

01_47_406_144: SMPD on standby.

12_12_046_150: “Open the door.”

13_12_593_153: “I hope you’re ready man.”

16_39_531_161: “We had a pepper spray attack in the Business building here just inside the North door.”

18_11_328_166: Sgt. Bottenfield asking Sgt. Romano if SMPD has been contacted.
20_07_250_172: Sgt. Romano notifies Sgt. Williams that 4-6 SMPD units are on their way. Corresponds to communications log entry at 19:26:28.

20_36_343_175: Report from within boardroom of injured person.


40_15_484_206: “Incident commander is SAM2 (Bottenfield).”

57_58_718_231: Protesters leave building and start towards library.

**Group 3**

04_30_156_251: Students enter library.

13_17_140_7: Students leaving library.

20_04_218_29: Having marched through quad and past business building, the students are marching East on Pico past Drescher Hall.

42_00_546_57: Students return and re-enter business building.

**Group 4**

07_10_625_88: VP Tuitasi letting people into meeting room.
APPENDIX H
Report on April 3, 2012

Santa Monica College Police Department

Prepared by: Sergeant Jere Romano
Executive Summary
Executive Summary

On April 03, 2012 at approximately 7:05 pm, a hostile mob led by leaders of the Student Organizing Committee (SOC) of Santa Monica College (SMC), were attempting to physically force their way into a regularly scheduled Santa Monica Community College District Board meeting which was being held in the District's Board Room in the Business Building. A Santa Monica College Police Sergeant, who had explained the procedures for entering the Board Room and being able to speak to the Board during the meeting, was ultimately surrounded by the members of the mob who were pushing, shoving, and pulling at the police personnel stationed as part of the security detail. The actions of the mob were in direct violation of California Penal Code 403 which states: "Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 302 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor".

Upon the mob's continued escalation of violent physical activity and refusal to obey any lawful orders, the Sergeant released a total of three, short (one to two-second) bursts of pepper spray in order to disperse the crowd directly in front of the Board Room entrance and within the alcove leading to a classroom that was "in-session". The Sergeant, fearing for his safety and the safety of others, chose to use pepper spray in order to disperse the hostile crowd. This mob posed a continuous threat not only to the uniformed police officers attempting to control access into the Board Room, as requested by the District's Senior Staff, but also to those individuals who were at the front of the crowd being shoved and crushed by those from the rear. Three of the four uniformed police officers and the Chief of Police were injured during the melee occurring at the beginning of the Board of Trustees regularly scheduled meeting. Approximately thirty
(30) people, some involved in the protest and others who were spectators or witnesses, were treated for direct contact or cross contamination, by the Santa Monica Fire Department as a result of the use of pepper spray.

Based on personal interviews conducted by Sergeant Jere Romano and video evidence, the subsequent investigation of the evening of April 3, 2012 has led to the following conclusions:

Prior to opening the door to the Board Room:

- Prior to the Board of Trustees meeting, clear, concise and detailed instructions were given to the SOC Leaders, an unregistered student group at SMC, on several occasions on how to participate lawfully in the Board of Trustees meeting.
- Participants failed to follow the instructions of uniformed police officers controlling access into the Board Room to ensure compliance with the room capacity limits set by the State Building and Fire Safety Marshal.
- At the SOC gathering just east of the Business Building prior to the beginning of the BOT meeting, members were advising each other of the process to address the BOT during “Public Comments”; the video of the gathering resulted in the identification of SOC Leaders who conspired and planned to disrupt the meeting for purposes of postponing it by encouraging students and others to mimic the behavior of taking over a Board of Trustees meeting; this action is similar to an April 2011 incident in Tucson, Arizona where students seized a school board dais, resulting in the cancellation of that Board meeting.
- Regular classroom instruction was taking place in the Business Building while the protestors, using bullhorns, illegally marched into the building. Both faculty and students who were interviewed in
adjacent rooms within the Business Building have stated that instruction was immediately disrupted or discontinued due to the disturbances of the protestors in violation of PC415.5 - *Disturbing the Peace of College or University*.

- Individual members had no intention in participating civilly in the Board of Trustees meeting as they feigned compliance in completing the “Purple Speaker Card” that was given to them prior to entering the meeting.
- At the time of print, no formal Police Complaints have been filed against any member of the Santa Monica College Police Department.

After the Board Room door was opened:

- Despite having received specific and direct verbal orders from the police to “Get Back”, mob participants pressed against, pushed and in a number of instances, repeatedly struck at a uniformed police officer’s arm in an attempt to overwhelm the Board of Trustees Security Detail and forcefully enter the Board Room.
- Participants were witnessed repeatedly attempting to signal or wave on followers to “Push through the Cops”.
- The SOC Leaders and protestors in the mob deliberately sought out a confrontation with police including the culmination of deployment of pepper spray. “We won; we won; they pepper sprayed us - we won!”
- After the deployment of pepper spray, one participant angrily charged at the Sergeant who defended himself by placing his arm straight out in a defensive motion. The charging protester fell to the ground after running into the Sergeant’s arm.
- The deployment of pepper spray successfully terminated the assault on uniformed police officers and dispersed the “hostile mob”.
- Shortly after, the Board Members were moved into the “Safe Room” and several of the protestors rushed into the Board Room and
attempted to get past the Chief of Police and Campus Counsel who were standing by the double glass doors after the Board Members were escorted outside the Board Room to the Safe Room.

Immediately after the deployment of pepper spray, the Santa Monica College Police department personnel initiated contact with the Santa Monica Fire Department in order to treat all individuals affected by the release of the pepper spray.

Likewise, the Santa Monica Police Department was contacted for assistance in restoring order in the immediate area around the Business Building. The protestors then marched to and entered the Santa Monica College Library while utilizing a number of bullhorns and disrupted the students who were studying or attempting to complete projects in the computer labs.

Within an hour and twenty minutes, order had been fully restored and the Board of Trustees President and Vice President sat in the original “overflow” room, B111, and listened to the concerns of the protesting students. All of the previously protesting students wishing to participate by speaking were allowed to do so. All those who had been affected by the pepper spray deployment returned to the meeting; even those who were originally transported by the SM Fire Department for observation.

The Board Meeting and public comments section held after the deployment of the pepper spray were similar to the original Operational Plan developed by SMCPD allowing for all participants to be able to speak to the Board of Trustees.

**Identification of Non-Santa Monica College students:**

Among the mob of 80-100 protestors, 24 protestors have been positively identified and confirmed as students from El Camino College,
Pasadena City College, LA Mission College, LA Valley College, UCLA, CSULA and CSUN. Interviews have been conducted with several of the protestors in order to develop a more "complete" picture of the incident.
Santa Monica College Police Department

Full Report
I. Introduction

The Santa Monica College Police Department was directed to prepare a report detailing the facts and circumstances that led to the confrontation between campus police and protestors at the entrance lobby of the Santa Monica Community College District Board Room, and the deployment of pepper spray on a hostile crowd whose participants were actively assaulting College employees, and to provide analysis and recommendations related to those facts.

The attached report is based on personal interviews conducted by Sergeant Jere Romano and video and computer evidence he obtained during the course and scope of his criminal investigation.

Specific details are omitted in certain circumstances as the information is part of the criminal complaint under the purview of the Santa Monica City Attorney’s Office.

This report will be provided to the SMC Review Panel, chaired by District Legal Counsel, Robert Myers, which is charged with issuing recommendations to SMC President Dr. Chui Tsang on policies, practices and protocols relevant to the College's response to demonstrations and similar events.
II. Pre-April 3, 2012 Activities

This section provides an account of facts and events leading up to the April 3, 2102 Board of Trustees regularly scheduled meeting which began at 7:00 p.m.

A. The Global Issues and The Occupy Movement

Some world events and background may be helpful in understanding the actions of April 3, 2012 as the protest occurred in the context of a global social movement and under very specific historical circumstances, which are only partially delineated here:

- Tunisian Revolt-Beginnings of the Arab Spring
- Arab Revolution-Arab Spring
- Spanish Indignados Movement (Also known as M15)
- Occupy Wall Street Movement(s)(OWS)

These events depict a social mobilization of the people in solidarity to protest against and demonstrate their anger against corruption in politics, corporations, and social injustice.

On October 1, 2011 on the front lawn of the Los Angeles City Hall, yet another example of this social and global movement, known as the Occupy Los Angeles, took place closer to Santa Monica. The Occupy Los Angeles Encampment succeeded in attracting thousands of protestors including many students from Santa Monica College. (Patch Article dated: October 27, 2011) Appendix Item #1

Many of the SMC students participating in the Occupy LA movement would also be those same students involved in the April 3, 2012 incident at SMC. This group also developed a philosophy of encouraging and executing the assault on Santa Monica College Police
Officers on the night of April 3, 2012. One particular participant was noted to be Santa Monica College Associated Student President, Harrison Wills.

The specific involvement in the Occupy Los Angeles movement allowed for alliances in "solidarity" to be made between Santa Monica College students, other college and university students, and participants of Occupy LA, Occupy Venice, Occupy San Fernando Valley, the Green Party and many others.

One of the benefits of the solidarity and association with these groups is it permitted the Santa Monica College students to be mentored in protest tactics and occupy methodology that they would later employ on the Santa Monica College campus.

On the morning of November 30, 2011, approximately 1200 Los Angeles Police Officers and 130 Fire personnel evicted the Occupy LA demonstrators from the City Hall lawn resulting in 293 arrests and only three documented incidents of the use of force. One of these incidents occurred after repeated and unsuccessful attempts to force a subject to surrender from a tree and police officers utilized less lethal bean bag projectiles from shotguns in order to gain compliance from the individual. With the Occupy LA encampment dismantled, the leaders of the various factions were now free to focus on their own particular agendas.

The City of Santa Monica has long been coined, "The People's Republic of Santa Monica" and Santa Monica Community College is representative of the views and political landscape of the community it serves. Santa Monica College, much like the University of California at Berkeley, has a long standing tradition of community activism which continuously invigorates the educational environment and makes Santa Monica College the premier community college institution in California.
For Santa Monica College, a transition was taking place from the Student Unity Project (2011) to the Student Organizing Committee (SOC) (2012); both of these groups are student-run but with different political agendas and modes of operation. The former Student Unity Project group was willing to engage in dialog with not only the College Administration but the Santa Monica College Police Department in order to reach compromises that were mutually beneficial to all parties concerned. However, the SOC group adopted the OWS ideology and approach towards the Santa Monica College Administration and Santa Monica College Police Department.

The OWS ideology subscribes to the principals of “No Cooperation” and “No Compromise”. Even though the OWS harbors no real hatred for police, they perceive law enforcement to be an obstacle in the attainment of their objectives and believe police act as the “Protectors of the Corporatocracy”.

Since 2009, demonstrations and civil disobedience at University of California Regents meetings and the California State University Trustees meetings are more commonplace and in some cases, have resulted in violent confrontations with University Police. Some law enforcement experts believe that since the OWS Movement, these types of demonstrations have become more confrontational or in OWS terms, they employ more “direct action” or tactics to acquire their objectives.

Examples of this philosophy were evident prior to the Santa Monica College Board of Trustees April 3, 2012 meeting as Associated Student Body President, Harrison Wills, spoke to the crowd of protestors gathering outside the Business Building. He incited the group by telling them to take “direct action” like they did in Arizona; this was his reference
to an event that occurred at a Tucson Unified School District Board meeting in Tucson, Arizona in 2011. During this incident, students and demonstrators took over the Board Meeting by running up to the dais and then chaining themselves together. After holding the Board Room for over two (2) hours, the meeting was subsequently cancelled and rescheduled for a later date.


Harrison Wills' speech outside of the Business Building prior to the regularly scheduled Board Meeting continued to encourage other students and demonstrators to follow this ideology when he spoke about interfering with a "system that doesn't serve us" in which the crowd responded with chants of "shut it down, shut it down". (SMCPD video Title 1 Ch. 15, 14:15)

B. SMC Police Activities leading up to the Board Meeting

Over the last 20 years, the Santa Monica College Police Department has actively participated in the protection of diverse ideologies and has fully supported all forms of free speech and expression even those that may be distasteful and/or controversial. The Santa Monica College Police have regularly been called upon to protect those individuals expressing themselves from those individuals who disagree with the speaker. The resolution of these incidents has always been successfully carried out without the use of force by any employee in the police department.

Around the same time the University of California at Davis and University of California at Berkeley incidents against student demonstrators were occurring, the Santa Monica College student activists
returned from winter break and shared their experiences of Occupy LA with fellow students. There appeared to be a strong interest and gravitation towards emulating the actions of other student movements across the state by the Santa Monica College student group as they began to organize and act as a collective group.

Additional inspiration for the formation of a more robust student movement came in the form of the Quebec Student Strike which began on February 13, 2012. The Quebec Student Strike and the actions of the students supported by labor unions and left-wing opposition groups, at times had successfully shut down the downtown Montreal area.

As a result, in February, 2012 the Santa Monica College Police Department endeavored to monitor the activities of the international groups via the Internet and media for any potential spillover to our student members especially those remaining members of the Student Unity Project and subsequent creation of the SOC.

The SOC, a non-Associated Student (AS) recognized organization, initially began utilizing the Clock Tower area to hold "General Assemblies". The General Assemblies were similar to the OWS leaderless movement as well as those held at University of California at Berkeley and University of California at Davis to discuss how students should organize, mobilize, and protest the cuts to education in the state of California.

During this student organizing month of February, 2012, the Santa Monica College Police obtained information that a larger venue would be a suitable alternative for the March, 2012 Board Meeting, rather than its normal meeting location in the Board of Trustees Room within the Business Building. Due to information obtained by the Police Department, it appeared the "Contract Education" agenda item for
discussion and a vote was increasingly controversial with much misinformation being disseminated by members of the SOC.

The Santa Monica College Police Chief, after consulting the Police Command Staff, requested a larger venue for the meeting via appropriate administrative channels. The request for a larger venue for the upcoming Board of Trustees meeting anticipated an increase in attendance due to the controversial nature of the agenda item, referred to as "Two-Tier Contract Education" by the SOC. The request was denied by the College Administration and the meeting was held in the Board Room. The Board Room and B111 (hereinafter called the "overflow room") were full and the March 2012 meeting proceeded without any violence or incidents.

Throughout the month of March, especially after the Board of Trustees approved the Contract Education proposal, the Santa Monica College Police maintained a "monitor only" approach as it pertained to SOC activities throughout the campus. Many of the groups' actions were in direct conflict and violated the Santa Monica College Administrative Regulations and Board Policies; the violations-such as amplified sound, creating a disturbance in the Library, using chalk to write on cement and walls, and posting flyers-did not rise to the level that required immediate and direct police intervention.

Santa Monica College Police Officers were instructed by the Command Staff to maintain a respectful distance so as not to interfere with any students protesting, marching, or participating in the General Assemblies. The College Police Department position was communicated to Senior Staff and was agreed upon by those members.

The only Police involvement of note, occurred at the General Assembly held on March 28, 2012 during the Free Speech Hour in front
(southwest side) of the Letters and Science (LS) Building, west staircase, when members of the SOC removed District property (Chalkboard) from the lobby of the LS Building after being denied permission to use it by a faculty member.

SOC student members asked Communications Professor, Brad Lemonds, to use the chalkboard and he denied their request. When Professor Lemonds discovered that students had taken the chalkboard, he telephoned the Santa Monica College Police Department in an attempt to have the property returned. It was this action, to retrieve the chalkboard, by the Santa Monica College Police that directly impacted the SOC speakers and leaders, Mikhail Pronilover and Harrison Wills. The retrieval of the chalkboard by the Police Department caused them to state the following:

**Mikhail Pronilover:** “That the Santa Monica College Police have been harassing the committee ever since they began holding public meetings two weeks ago”. Pronilover stated, “being harassed during a recent meeting with his counterparts by the Clock Tower on the main campus”.

“There are fifteen of us sitting down with pieces of paper, and we’re being watched like home grown terrorists,” said Pronilover. “It intimidates people.” (Corsair Article dated: March 30, 2012) Appendix Item #2

**Harrison Wills:** Associated Student Body President, Harrison Wills told the college newspaper, the Corsair, after the assembly that he was upset with the police interference. “I feel that the police presence was overbearing and unnecessary,” Wills said. “We were peacefully assembling. The question is who were the police protecting and serving?”(Corsair Article dated: March 30, 2012) Appendix Item #2
The Santa Monica College Police Department was made aware of the activities of the SOC in the days leading up to the April 3, 2012 Board of Trustees meeting. In adherence to the principals of "Free Speech", the Police Department was able to display restraint even though student, Mikhail Pronilover, regularly used a bullhorn without a permit throughout the main campus and inside buildings in violation of Board Policy. The Chief of Police was updating the Administration of the ongoing activities involving the SOC on a regular basis.

Through monitoring of the SOC activities on campus, it became clear that the SOC was receiving support and aid from the Santa Monica College Faculty Association. In one instance, a bullhorn was confiscated from a female student who stated the bullhorn belonged to the Faculty Association. The SOC was also continuing to gain recruits from AS recognized Student clubs which were identified as M.E.C.H.A., A.L.A.S. and I.D.E.A.S.

The SOC's recruitment campaign, along with its increasing rhetoric detailing escalation, resulted in the drafting of the Santa Monica College Police Department's obligatory Operations Plan. The Operations Plan involved the utilization of mutual aid from the City of Santa Monica Police Department and the University of California at Los Angeles-University Police Department for the April 3, 2012 Board Meeting taking into account Free Speech and other Constitutional rights.

Prior to the Board of Trustees meeting of April 3, 2012, during a Closed Session presentation about the planning for the Board Meeting, Santa Monica College Chief of Police, Dr. Albert Vasquez, had been reassured that as a result of a recent meeting between Board of Trustee members and the Associated Student body leaders, the escalation of
tensions had potentially been diffused, therefore the presence of both the Santa Monica Police Department and/or the University of California at Los Angeles-University Police Department might not be necessary for the meeting.

The Operation Plan design, without the mutual aid request, had the provision for security that the minimal number of Santa Monica College Police officers be assigned as necessary to maintain order as would generally be provided for a normal and regular Board of Trustees meeting.

In attendance at the Board Meeting of April 3, 2012, were three (3) uniformed Santa Monica College Police, not including the Chief of Police whose dress attire was a two-piece suit, supplemented by three (3) uniformed Parking Enforcement Officers. The members took their respective positions in and around the Board Room and the Overflow Room at approximately 5:30 p.m.

III. Facts of the evening of the Board Meeting April 3rd

A. Description of Business Bldg, Main Board Room and "Overflow room"

1. Business Building:

The Business Building is a two-story 36,183 square foot facility housing 25 classrooms and 45 faculty offices. The following programs reside there: Accounting, Business, Computer Information Systems, Cosmetology, Fashion Design and Photography.
*** On the night of April 3rd the student computer lab (B231) was open and there were 12 classes in session, and in particular, the room next door to the Board Room***

2. Business B117 Main Board Room

The Board Room is a 995 square foot conference room and has a state mandated capacity limit of 50.
- 11 seats on the dais
- 13 seats for Senior Staff and Assistant
- 6 seats guest speakers for agenda items
- 20 reserve seats for the public

3. B117 Entrance (Here in after, the "Alcove")

The area around the Board Room entrance is also the entryway for the Digipix Lab located in Business Building, Room 131, adjacent to the Board Room. The area measurements are as follows:
- Widest point: 16' 6"
- Shortest point: 6' 0"

Appendix Item #3

4. B111 "Overflow Room"

The Business Building Conference Center is 1,022 square feet and has a state mandated capacity limit of 60.

A. SOC and their supporters actions prior to the meeting

The leadership members of the SOC by utilizing Facebook, e-mail, and other forms of Social Media publicized their struggle against Contract Education along with successful efforts in recruiting participants from many of the local community colleges, universities, labor, and political groups.
California State University Northridge (CSUN) student, Ankur Patel, a known leader of the Occupy California State University Northridge movement stated he had learned of the Santa Monica College Protest via Facebook and invited similar “like-minded” individuals to participate in the protest against the Santa Monica College Board of Trustees.

The participants, led by the SOC, began gathering at approximately 5:50 p.m. on the Library Promenade, the area between the SMC Library and Letters & Science (LS) Building.

Joining the participants at about 6:02 p.m., were five (5) members of the “Brown Berets” (Chicano Nationalist Activists) from Los Angeles Mission College and their elected Associated Student Body President, Daniel Campos, who since the April 3rd incident has been elected as the Los Angeles Community College District Student Trustee.

About 6:07 p.m., approximately 25-30 people had gathered and were fully immersed in what appeared to be a “General Assembly” in front (southwest side) of Letters & Science (LS) Building.

On or about 6:19 p.m., the “General Assembly” evolved into a full rally, led by Mikhail Pronilover, and with numbers exceeding 40, they began to march throughout the main campus while aggressively attempting to recruit additional students.

Coincidently, during the main campus demonstration, another group of students (later also protestors) led by Arturo Menses, Natalia Toscano, Jesus Vasquez, Monte Marable, Ivette Martinez, Priscilla Omon, and an as yet to be identified Santa Monica College Student, entered the Business Building at 6:23 p.m. to what can be perceived as “gathering information” related to the security preparations for the Board Meeting.
As she was approaching the Board Room entrance, MECHA Vice President, Natalia Toscano, is recorded as answering a reporter’s inquiry about non-Santa Monica College students and she responds with, “Pasadena and ELAC”. These were not the only non-Santa Monica College students in attendance. Subsequent investigation revealed the identification of students from UCLA, CSULA, CSU Dominguez Hills, LA Mission College, LA Valley College, and El Camino College.

The students are repeatedly observed actively engaging with Sergeant Williams while obtaining one of the pre-designated 20 available admittance seating cards which were available for the Board Room. During this time, Sergeant Williams provides great detail of the admittance process, how it is to be conducted, the reasons for such restrictions, and specifically citing limited seating capacity as regulated by the California State Building and Fire Safety Marshal.

Sergeant Williams continued to explain the additional room made available-B111, the “overflow room”; and how individuals could address
the Board of Trustees via the purple speaker cards he was distributing to whoever desired one and wanted to speak during the comments section of the meeting. Sergeant Williams reassured the students and others that those in the "overflow room" would still be able to participate in the meeting even though they were not seated inside the Main Board Room.

Sergeant Williams is seen and heard to be answering not only the questions of the students waiting in line; but those of student club A.L.A.S. faculty advisor, Patti de Valle, who is frequently seen on video consulting with the students while they wait in the hallway of the Business Building.

Prior to the "scouting" party leaving the Business Building to join the main body of demonstrators; an observation is made on video of a student who had earlier taken a purple speaker card, feigning compliance with the instructions given to complete it. The student, while police
officers were present in the hallway, pretends to be writing on the card. This action or inaction is not only an attempt to mislead the officers into believing that the student has the intention of following the parameters that have been put in place, but also is indicative of the student having no intention of participating within the guidelines of civility provided for in the Board Meeting.

![Image of a card and a pen]

On or about 6:39 p.m., the scouting party leaves the Business Building to join up with the main protest body which was now walking towards the Business Building via the HSS Building north from the Quad. Both groups came together at about 6:42 p.m. and held another rally just outside the east entrance of the Business Building and well within earshot of the Closed Session component of the Board Meeting taking place within the Business Building.

It is at this point in the rally that Mikhail Pronilover, Natalia Toscano and Harrison Wills incite the crowd (PC 404.6) to disrupt the Board meeting (PC 403) with statements like:
**Pronilover**: This is a bureaucratic machine that has nothing in common with the students or staff and if they must they would take it onto the campus where if they had to they would shut the campus down. They were going to give the Board of Trustees until the weekend to respond to their demand for a campus-wide referendum and if the Board did not, "they would escalate". (SMCPD Video Title 1 Ch.11, 10:10).
**Toscano:** “They are really cracking down on how many students can go inside. We have about 17 speaker cards and we are going to give out 17 speaker cards to whoever has priority to go inside and the rest of us, well we just “gotta bombard and go in”. There is an overflow room but we deserve to be in the main room. We have the right as students to be inside, unintelligible, on the side, but we’re going to try to get in anyways”. Note: Ms. Toscano has a numbered card in her hand. *(SMCPD video Title 1 Ch.13, 12:09)*
**Wills:** “I refuse to sit out here quietly; now we need to think about how we can do something to shake the meeting up like they did in Arizona...right? We need to think about, think about, if you want to allow a system that doesn’t serve you to function, then we sit quietly on the sideline. I say we need to interfere with a system that doesn’t serve us. Now I think we can do that in a direct way, that’s also peaceful, but is direct and it confronts power with other forms of power. So, thank you all for coming out and I promise you, we will not wait out here quietly all night I know I won’t so please join us”. (SMCPD video Title 1 Ch. 15, 14:15)

At approximately 6:52 p.m., the protestors unlawfully entered the Business Building, chanting, yelling, using megaphones and whistles in violation of California Penal Code, Section 415.5(a)(2); Any person who maliciously and willfully disturbs another person within any of these buildings or upon the grounds by loud and unreasonable noise is guilty of a misdemeanor.
B. Protestors and Police Confrontation

Once inside, the protestors numbering less than 75, not including faculty and staff who were not involved while waiting for the Board meeting to commence, approached the Board Room entrance chanting, "Referendum", "Lets us in", "Students United, will never be divided", "Shame on you".

After approximately 10 minutes of chanting, Sergeant Williams attempts to address the crowd and explain the admittance process but is shouted down by members within the crowd.

Santa Monica College photography student, Jeffery Cote, recorded Sergeant Williams using his personal cellular telephone while inside his classroom, the Digipix Lab - B131. The recording by Cote reveals Sergeant Williams giving directions to the protestors and providing an explanation on the process for speakers.

(http://www.youtube.com/watch?v=siO-dmjKY5M)

Sergeant Williams implored the crowd repeatedly to cooperate in order to facilitate a safe entry of those who already possessed entry cards. When the crowd did not get the answer they wanted they began to chant very loudly, "Let us in".

Simultaneously while Sergeant Williams attempted to illicit assistance and or cooperation from Harrison Wills, who was standing directly along side of him, in front of the Board Room door; the crowd of protestors repeatedly argued amongst themselves on what course of action to take, particularly in regards to the change of venue that they were requesting from the Board of Trustees and the Board’s refusal to capitulate and move the meeting to an alternate venue that was larger.
Harrison Wills, in response to the loud chanting, yells to the crowd, "But, but, if they don’t move to a bigger room, then we have to decide what we’re gonna do because a school of 35,000... [interruption], we’re gonna do something". Santa Monica College student Ivette Martinez is heard yelling to the crowd, "We have to try and co-operate. If the Board doesn’t want to cooperate then we’ve got to do what we gotta do and you all know what we have to do". The crowd excitedly responded positively and one of the protestors said, "Bigger room or shut it down".

It’s very clear on the College Police Department video that the crowd was organized, to a point and was hostile; yet had one goal which was, "Get inside" or "Shut it [the meeting] down".

Evidence of this is when, a female student, later identified as Arlene Harrison, is having extreme difficulty exiting and returning to her class located inside the DigiPix Lab (Bus 131). (SMC PD video Title 4, Ch. 36 35:33)

Ms. Harrison would later provide statements describing the crowd as "a rude and hostile mob". When asked if the crowd could accurately be described as a peaceful demonstration, she replied, "Oh, certainly not".

After Arlene Harrison is seen re-entering her classroom, Harrison Wills is heard telling Sgt. Williams, "If they [Trustees] are gonna try and shut us out, we’re not going to sit here".

As various student leaders addressed the crowd with a bullhorn, Harrison Wills is seen speaking with a number of students, one of which was AGS President, Ernie Sevilla. It is at this time, according to Sevilla, that Harrison Wills informs him, that when the door opens, everyone is to push forward and try to get inside and past the police officers. In one frame of video, Harrison Wills is clearly seen to signal with his hands to other
C. Assault on the Uniformed Police Officers

In the course of this investigation, the authorization and admittance of students to the Board Meeting via the Board Room door was given by Chief Vasquez. Although Chief Vasquez was inside the Board Room when the door was opened, there had been some dialog with Senior Staff members and Chief Vasquez about opening the door so the meeting could actually begin and the speakers could be heard.

Moreover, even though Sergeant Williams had been unsuccessful in clearing out the lobby area of the Business Building, and even less successful in separating the individuals in possession of numbered admittance cards from the general crowd, the door was opened to allow admittance into the meeting.

Prior to the Board Room door being opened, multiple video of the protest reveals students and protestors without admittance cards
signaling to the other protestors to come and press forward in preparation to "surge through" the uniformed personnel positioned at the Board Room door. As the Board Room door is opened to allow those individuals with the numbered admittance cards access (Natalia Toscano, Ivette Martinez, Harrison Wills and an unidentified female), the initial surge is ignited and carried out by Santa Monica College students: Arturo Menses, Jesus Vasquez, Oscar Sanchez, Arthur Torres, Jasmine Delgado, Christine Deal and CSUN student, Ankur Patel as they aggressively and forcibly attempt to push past Sergeants Bottenfield and Williams.

Sergeant Bottenfield, sensing, feeling, and seeing the surge by the students and protestors, immediately blocked the Board Room doorway entrance with his own body. This action subsequently diverts Menses, Vasquez and Sanchez, who with the assistance of Santa Monica College student Ruben Martinez, pin the Board Room entrance door into the fully open position into the "Alcove".

Becoming aware of the critical situation as the Sergeants were being overwhelmed by at least 40 protestors and students, uniformed Police Officer Wilson and uniformed Parking Officer Williams rushed toward the front of the door to aid the Sergeants. As soon as Officer Wilson and PEO Williams entered the Business Building lobby area, Officer Wilson and PEO Williams were immediately pushed and shoved by individuals in the crowd as they attempted to get into position in order to assist the Sergeants who where now surrounded and engulfed by the angry crowd. Officer Wilson can be seen, on video, pulling Jasmine Delgado and Ankur Patel off the backside of Sergeant Williams. Jasmine Delago had been attempting to push past and through Sergeant Bottenfield, who was being assaulted from the right hand side of the door from "Alcove" area.
Christine Deal, who during the initial surge positioned herself between Sergeant Bottenfield and Sergeant Williams, continued to attempt to push past and through Sergeant Bottenfield. Her continued persistence to enter caused Sergeant Williams to turn his back to the surging crowd to address her actions, thereby relieving Sergeant Bottenfield.

Sergeant Williams attempted to grab Deal and pull her straight back away from the door but Deal resisted. In an attempt to overcome her resistance, Sergeant Williams was forced to grab her opposite shoulder in a control hold to spin her back and away from him and then released her back into the crowd. This action has been referred to as a "headlock" by individuals in the crowd but at no time did Sergeant Williams' arm go completely around Deal's neck or head. Nevertheless, this move by Sergeant Williams further sparked the crowd and led to yet another surge which by now was against all the uniformed personnel. It was during this second surge that Sergeant Williams described a confrontation with an extremely agitated African-American male who led him to believe that a physical altercation was imminent and Sergeant Williams now feared for his personal safety.

Based on the police video, the African-American subject was identified as the son of a Santa Monica College Police Officer. This individual is known to the SMC Police Department, as Monte Marable but due to Sergeant Williams short tenure, he was not known to him. Marable can be seen, on video, yelling into the face of Sergeant Williams for a number of minutes then subsequently retreating back into the crowd. After the incident, Marable stated he was very apologetic for his behavior but refused to cooperate with the investigation further. He was upset
over how his friend, Christine Deal was treated when she was spun around by Sergeant Williams.

Once the additional surge stopped, Jasmine Delgado can be heard, on video, telling the crowd, “to stop; everyone’s getting hurt at the front; this isn’t going to solve anything”. At the same time this is occurring, the uniformed officers repeatedly yell out to the crowd, to back up. Although, the crowd is admonished, the crowd failed to back up and away from the uniformed officers.

It was during this lull that Sergeant Williams made the decision to close the Board Room door. Sergeant Williams also informed Sergeant Bottenfield of his decision to regain control of the door and pushed through the crowd in an attempt to grab the Board Room door by moving into the Alcove area.

Initially Sergeant Williams was successful in clearing Vasquez, Sanchez and Martinez away from the Board Room door, however once Sergeant Williams began to push forward on the door in an attempt to close it, Jasmine Delgado and another female student, placed their backs against the Board Room door effectively preventing its closure by Sergeant Williams. Consequently, the lack of communication of the impending actions by Sergeant Williams with Officer Wilson and PEO Williams created a breach in the line that allowed additional protestors to surge again and fill the void.

As a direct result, with one less officer to assist with the crowd at the Board Room door, the assault on Sergeant Bottenfield was reinitiated more violently. As a result, Sergeant Bottenfield sustained numerous physical injuries, most notably his right arm, which was extended in an attempt to reach the door handle, as Sgt. Williams pushed the door closed.
Protestors hammered at his arm to prevent him from grabbing a hold of the inner door handle and pulling the door closed. His heavy metal key ring was bent when it was stripped from his belt from the force used by the protesters in the angry mob. Sergeant Williams’ cellular telephone was taken from his uniform and all of the officers were tugged and pulled at during the course of this incident. Sergeant Williams now found himself trapped behind the door in the alcove as the crowd continued to press forward. Sergeant Williams, fearing for his personal safety and the safety of his fellow officers, who continued to be assaulted by the crowd, deployed a 2-second burst of pepper spray directed at those immediately around the door. Due to the violence occurring, Sergeant Williams was not able to give a warning of his impending use of pepper spray.

Sergeant Williams, based on his training and experience, believed the initial deployment of pepper spray did not have any effect on the targeted protesters within the mob. He noted they and others covered their faces and continued to push those in front of them toward the Board Room door opening. Based on his observations and the potential threat of serious injury, he deployed two more 1-second bursts of pepper spray into the crowd to stop the further assault on the Board Security Detail - Sergeant Bottenfield, Officer Wilson, Parking Officer Joel Williams, and Chief of Police, Dr. Vasquez.

The additional deployment of pepper spray was effective enough to disperse the hostile mob and to be able to achieve the objective of closing the door. However, Officer Wilson and Sergeant Williams remained outside at the entrance of the Board Room maintaining a defensive position instead of joining the other police personnel inside of the Board Room in order to maintain and secure the Board Room.
Unfortunately, this decision provided an additional opportunity for confrontation with the angry mob that was still out in front of the now closed Board Room door.

During this time period, CSUN Student Ankur Patel can be heard saying, "We Won! We Won! They peppered sprayed us, we won!" (SMC PD video Title 4 Ch.45 44:55)

Sergeant Williams, having deployed his pepper spray, had no other alternative but to remove his collapsible baton from his gun belt in order to defend Officer Wilson and himself from the continued assault. As a number of the remaining protestors, less than 20, threw objects—a water bottle propelled at Sergeant Williams is seen clearly on video. The crowd continued to yell profanities, like "Fuck the Police". Sergeant Williams commanded the crowd to "stand back" and to "back up". In spite of numerous commands, Jasmine Delgado is seen charging towards Sergeant Williams with a raised right arm as if getting ready to swing in a downward motion. The video clearly shows Sergeant Williams extending his arm straight out, similar to a stiff arm in football, which allowed Jasmine Delgado to run into it. The sudden and abrupt stop caused her to bounce back and fall to the ground.

It was not until this contact with Jasmine Delgado that Officer Wilson deployed his collapsible baton. Officer Wilson deployed the baton in light of his experience with pepper sprayed subjects. In Officer Wilson’s experience and training, pepper spray either subdues a subject or infuriates them. Since the crowd had not fully dispersed and instead had become more hostile and violent, Officer Wilson felt he had to defend himself from further assaults. Shortly after Jasmine Delgado fell to the
ground, Sergeant Bottenfield opened the Board Room door and pulled Sergeant Williams and Officer Wilson inside.

It was determined by the Chief of Police, Dr. Vasquez, that the Board of Trustees and Senior Staff would be evacuated in accordance to the Operations Plan to Business Building, classroom 133.

Due to an operational oversight, as the entire Board Security Detail assisted in the evacuation process to room 133, the protestors were allowed into the Board Room by Santa Monica College student, Ivette Martinez, one of the authorized attendees with a seat card. This oversight allowed the protestors to fill the Board Room and subsequently pursue the Board and Senior Staff out of the room. District Legal Counsel Robert Myers and Chief of Police Dr. Vasquez had to hold the glass double door exit on the east side of the Board Room as the protestors attempted to push through them in pursuit of the Board of Trustees. One of the angry students attempting to push pass, was Harrison Wills.

Once the Board and Senior Staff were safely inside classroom 133, Sergeant Jere Romano organized the Mutual Aid response by the Santa Monica Police Department and Santa Monica Fire Department to gain control of the area and to render all necessary medical aid to those exposed to the pepper spray. In total, approximately 30 people were treated by the Santa Monica Fire Department for exposure to the pepper spray. Although we were advised that several people were transported to local hospitals, fire records show only two were transported. Not all of the 30 pepper spray exposures came from the hostile crowd. There were two uninvolved students upstairs on the 2nd floor who had been exposed to the pepper spray aerosol and required medical attention for a bloody
nose and difficulty breathing. Those two cases were from the cross-contamination versus direct contact with the aerosol pepper spray.

At the time of the request, the Santa Monica Fire Department was not able to provide a total of the number of with direct contact versus inhalation of the aerosol. Much was publicized of the "4 year old girl being pepper sprayed". Officer Wilson made contact right after the incident and prior to the Fire Department’s arrival to check on the status of the child. The mother reported her child had not been directly contacted by the spray but was suffering from the pepper aerosol that hung in the air.

IV. Investigation

A. Use of Force

The Security Force Detail on duty had the total average of 17 years of law enforcement service. Every member on the Security Detail had successfully passed the basic academy; where the proper use of chemical agents is taught and in some cases, trainees are exposed to the chemical agents in order to understand their effects.

All members of the Security Detail understand and believe in the Use of Force Philosophy that the Santa Monica College Police Department subscribes to:

"Officers are involved on a daily basis in numerous and varied human encounters, and when warranted, may use force in carrying out their duties". Officers must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to officers overcoming resistance while engaged in the performance of their duties". [SMC PD Policy 300.11]
"It is the policy of this Department that officers shall use only that amount of force that appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control". [SMC PD Policy 300.2]

**Less Lethal Control Devices:**

"To reduce and minimize altercation-related injuries to officers and suspects, the Department authorizes the use of selected less lethal control devices. Certain less lethal control devices are provided in order to control violent or potentially violent suspects. It is anticipated that the use of these devices will generally result in fewer altercation-related injuries to officers and suspects".

[SMC PD Policy 308.1]

**To summarize the circumstances of the evening:**

A hostile group of individuals unlawfully entered an SMC Community College building and disrupted the regularly scheduled period of instruction. The group failed to follow the lawful orders of uniformed law enforcement officers of the State of California, assaulted and battered them in violation of the California Penal Code in order to disrupt a regularly scheduled public meeting.

Based on the totality of the circumstances and Sergeant Williams’ observations, the overwhelming concern for his safety, and the safety of his fellow officers as well as others, the deployment of pepper spray, as regrettable as it may be, was in keeping with the SMC PD Use of Force Policy and Philosophy.

Minimal use of force force was utilized necessary to regain control of a clearly out of control situation.
Recommendation:

1. All Police Officers undergo Chemical Deployment Update training as it pertains:
   a.) Environmental restrictions (indoor vs. outdoor)
   b.) Tactical considerations (Communication-fellow officer(s) or suspects

2. Standard Issue of District-approved OC Pepper Spray

3. Update Santa Monica College Police Department Policy Manual to reflect current best practices in law enforcement.

B. Interviews

Based on a number of interviews conducted, it was made clear that the goal of the SOC was merely to “get inside” however they could. If in the process, they disrupted or “shut the meeting down”, that would be considered an added victory.

The crowd was not a peaceful demonstration but described repeatedly as a “hostile mob” or a “chaotic scene”. A member of the group who is a candidate for a Congressional seat, called the incident a “riot at SMC” on his blog. Appendix Item #4

There are a number of student interviews that still need to be conducted. The students are aware that Sergeant Romano is conducting these interviews and although he has requested to speak to them, many have not shown up to be interviewed.

V. Conclusion

During the course of the investigation, it became apparent that some “tactical” missteps or errors occurred during the weeks leading up to, and including, the night of the April 3, 2012.
The Santa Monica College Police Department has historically and continues to support all manners of free speech and free expression that occur within the Santa Monica Community College District. The U.S. Constitution, the U.S. Supreme Court, and the College Board Policy allows for the determination as to the time, place, and form of such expression.

The participants of this assault would have you believe that this was a very peaceful demonstration, which was their Constitutional and unalienable right to assault uniformed police officers controlling an entrance to a Board Meeting. The venue was too small to accommodate them even when an additional "overflow room", where they could still participate, was provided.

Faculty and students who were trying to learn in their classes during this time agree their period of instruction was disrupted by the mob; the students inside the Business Building classrooms were scared, apprehensive, and suffered prolonged anxiety throughout this incident. What of their rights and their desires to be educated in a learning environment free from violence? The moment the protesters entered the Business Building as a mob and disrupted the learning environment of those students inside the classrooms, the protesters' actions were unlawful.

The protesters should have never been allowed to enter the building. They could have been locked out and directed to the patio next to the Board Room where they could have communicated to the Board all night. Eventually they would have been allowed in one at a time through an exterior Business Building door, but this potentially could have deteriorated into what happened at Long Beach State, where UCLA student and April 3, 2012 participant, Seth Newmeyer allegedly caused $30,000 worth of damage when he broke the glass door, while trying to force past University Police controlling the door.
The moment the crowd failed to respond to Sergeant Williams' repeated requests, all available College Police Units should have been summoned and the Dispersal Order deeming the mob to be an unlawful assembly announced. Failure to disperse would have allowed Mutual Aid to be summoned from SMPD and UCLA PD thereby providing sufficient units to make arrests, if necessary.

The fact that Chief of Police Dr. Vasquez, Sergeants Bottenfield and Williams held the notion that the protesters would acquiesce to the process, utilize the "overflow room" and participate civilly in the meeting right up to the moment the Board Room door opened displays their faith in the student body of Santa Monica College.

Chief of Police Dr. Vasquez stated that pepper spray would only be used as a last resort. Sergeant Williams truly believed that he and the others were in danger of serious injury if he did not deploy his pepper spray in order to gain control of a very fluid and chaotic situation.

Once order had been restored the Board of Trustees meeting continued with the majority of the protesters in the "overflow room" without further incident.

Officer Wilson was the only member of the Security Detail to not suffer a reported injury. As a result of struggling with the protesters, even the Chief of Police suffered a laceration on his hand.

Ultimately, the confrontation would never have occurred if the Police Department's earlier request for a larger venue through proper channels, in March 2012, had not been denied. This was the center piece of the protesters' demands. Had the Santa Monica College Administration acquiesced to the
demand for a larger venue, the SOC, in particular, Harrison Wills and Natalia Toscano would have lost a major dynamic in their ability to inflame participants in assaulting the police officers and disrupting the Board of Trustees meeting.

VI. District Staff and Police Recommendations

With the full support of the College Administration, the College Police Department must take a firmer approach in dealing with the SOC and other groups in the future that are desirous of organizing large gatherings without a District Event permit. These unscheduled events utilize space normally open to all students; especially those not associated with the group.

Due to the extensive use of bullhorns during periods of instruction, the College Police Department must take Policy Enforcement action which may require students being processed for Code of Conduct violations through Judicial Affairs; or for non-students to be prosecuted criminally for violations of California Penal Code 415.5: disturbing the peace of a community college or university.

Even though the “monitor only” approach provided timely and useful information, it provided the members of the SOC a false sense of confidence that they could do whatever they wanted without any negative consequences. Their activities, left unchallenged, consistently emboldened them to escalate each subsequent demonstration and or confrontation until finally they battered uniformed police officers at a Board of Trustees meeting.

It does not matter what ones political or philosophical views on law enforcement officers, and specifically police officers, there is only one time a person may “touch” a police officer and that is in self-defense. None of the officers assigned to the Board Security Detail were the advancing aggressors. The members of the College Police Department were attempting to control an
admission entrance into a lower capacity meeting room after being placed into an untenable situation.
Appendix 1
Santa Monica Patch

Students Helping 'Occupy LA'

Students talk about what they've witnessed at the protest—and what's inspiring them to keep going back.

By Kurt Orzeck
October 7, 2011

A week into Occupy Los Angeles—the grassroots protest formed in solidarity with New York's anti-corporate Occupy Wall Street movement—it's showing no signs of letting up. And Santa Monica College students, in part, are to thank for it.

Marches took place Thursday and Friday, and during the former one, 11 protestors were arrested at a Bank of America branch. (A protest is planned for this coming Thursday at a BoA in Santa Monica.) This weekend, Occupy Los Angeles could gain even more traction. A music festival is scheduled to take place on Saturday at noon at City Hall, and additional actions are expected.

While Occupy Los Angeles continues to increase in size, multiple SMC students were there from day one—in fact, even earlier. After hearing about the inception of Occupy Wall Street three weeks ago, a handful of students, in a show of solidarity, camped out on the lawn at City Hall in Santa Monica on Sept. 19.

"Our idea was that we were going to stay up all night, analyze news data [from Occupy Wall Street] and publish our findings about the movement," said Isis Enriquez, who is a member of LA Volta, an activist think tank that includes other SMC students. "But then we realized how much was going on with the movement, so we decided to occupy Santa Monica City Hall.

"Before we even set foot there, we went and talked with Santa Monica Police and made sure we understood the rules of what we could and could not do," continued Enriquez, who is graduating from SMC in July and majoring in international relations.

Enriquez has visited Occupy Los Angeles a few times and, like the other SMC students who spoke with Santa Monica Patch, plans to return.

"At first it really didn't do it for me," said Kendal Blum, who is majoring in political science and flying to New York to participate in Occupy Wall Street this weekend. "But when we got a general assembly of 300 people governed by consensus, I was like, 'Holy sh--; this is what democracy looks like.'"

Second-semester student Jahynny Lee was at the protest Sunday through Wednesday and participated in a related nationwide student walkout on Wednesday. (Another one is planned for this coming Wednesday.)

"I asked myself the first day, 'What am I getting into?" he said. "The second I got [to downtown], you get this feeling, 'This is what I'm meant to be doing. The power of the people draws you in right away.'"

(Go here to read a journal entry Lee wrote after walking out of class on Wednesday.)

Each night at 7:30 p.m., Occupy Los Angeles' general assembly gathers near City Hall to vote en masse on proposals the committees developed over the course of the
day. Facilitators call on committee leaders to go to the microphone and propose an idea—when and where to march, for example—to the assembly.

Using hand gestures, protesters express approval or disapproval for the proposal. If anyone disagrees, they have to take to the mic and make their case to the assembly—which "eliminates the tyranny of the majority," Blum said. Then, compromises are reached.

Contrary to some media reports, "There's a lot of organization and it's very democratic," said Harrison Wills, who was at Occupy Los Angeles from day one. "People are sitting down and having these discussions ... it's really exciting."

Wills—who is the president of SMC's Associated Students, the college's student government—has been making periodic visits downtown, then returning to SMC to recruit more students. On Monday, he and other students are planning to dumpster-dive for pieces of cardboard, create templates for signs and distribute them. They want students and faculty to write messages on the signs, which would then be posted across campus.

Wills has already gained some surprising recruits, including Parker Jean, an 18-year-old who just started attending SMC and is from a conservative background.

"Being that I'm young ... you really don't have much of a voice," he said. "When you're on the same page as other people, it gives you more leverage."

When he went downtown, he was surprised not just by the size of the gathering but by some of the characters he saw. "There was some pretty crazy costumes. Some dude had just underwear on and an afro."

Occupy Los Angeles has been facing some challenges, no doubt. Initially, protesters had to sleep on sidewalks, due to restrictions at Los Angeles parks.

"It was hard to do that every night and keep chanting and organizing," Blum said. But then, police decided they wouldn't enforce the 10:30 p.m. closing time and that protesters could sleep on the grass.

"There's been a lot of cooperation with police here," she said.

Also, despite all the congregating happening downtown—not to mention the chatting on Facebook and Twitter—the means of communication are still being established. Occupy Colleges, a new branch of the broader movement that has come to be known as "Occupy Together," recently sprung up, and some of the SMC participants who spoke with Santa Monica Patch were not aware of it.

Many of the aforementioned SMC students are hoping to collaborate with Occupy Colleges. On Thursday night, Lee launched a new Facebook page called "Occupy Santa Monica College."

Regardless of one's perspective about Occupy Los Angeles or the views expressed by its participants, it's clear that they have no shortage of enthusiasm—and even optimism. From all indications, they're in it for the long haul.

"Basically, the goal is that everyone wake up and realize that something is happening in your community that you're not OK with and you just haven't had the voice to say it," Enríquez said. "Now we have that voice."
Appendix 2
Police disrupt student assembly

Vanessa Barajas  
March 30, 2012  
Filed under Contract Ed, News, Top Stories

About 30 members of Santa Monica College's Student Organization Committee, along with other student activists, formed a general assembly on the steps of the Letters and Science Building at SMC's main campus Thursday morning.

The student committee, which opposes the two-tier tuition system approved by the Board of Trustees earlier this month, congregated at the steps to generate ideas, discuss proposals, and hold an open forum for students to voice their opinions.

However, the SMC Police Department dispersed the crowd, because the committee's chalkboard, showing the various demands for budget funding and strategies to stop contract education, was set on the upper staircase of the building's main entrance.

According to Michael Pronilover, a speaker for the Student Organizing Committee, police officers told the committee that the chalkboard blocking the staircase and wheelchair ramp to the building was a fire hazard. The forced removal of the group of students caused a great deal of upset, however the students ultimately complied with the officers' demands.

AS President Harrison Wills told the Corsair after the assembly that he was upset with the police interference. "I feel that the police presence was overbearing and unnecessary," Wills said. "We were peacefully assembling. The question is who were the police protecting and serving?"

Pronilover said that the SMC police have been harassing the committee ever since they began holding public meetings two weeks ago. Pronilover stated being during a recent meeting with his counterparts by the clock tower on the main campus.

"There are fifteen of us sitting down with pieces of paper, and we're being watched like home grown terrorists," said Pronilover. "It intimidates people." The SMC police have so far been unavailable to comment.

The Student Organizing Committee laid out a Proposed Action Plan of Proposed Demands. Part of their plan is to reduce administrative and managerial salaries to 2007-
2008 pre-bonus and pre-raise levels, investigate the savings and revenue ideas passed by the District Planning and Advisory Committee, and to diminish the presence of campus police to a minimum during student mass action.

The police “make it harder for us to organize,” said Pronilover. “And we are organizing for something just.”

“We, the students, make the school. Without the students and faculty, the school has nothing. The students have absolutely no input. It isn’t right,” said Kirill Panov, an activist.

According to Wills, the goal of the assembly was to bring a critical awareness about the “privatization of public education.” He claimed that students are fighting nationwide for equal access to education, and that the price hike of $200 per unit creates a disparity between rich and the poor students.

“People who are making the decisions are claiming to represent us, but they aren’t listening,” said Wills.

The two-tier system, which raises tuition costs for the most-in-demand classes for summer and winter sessions, has received nationwide attention. According to an article by The New York Times, it “may be the first system of its kind in the country, college officials and other higher education experts say.”

The Student Organization Committee plans to meet on noon on Saturday, March 31, at the Virginia Avenue Park to further discuss their plans to repeal the two-tier system.

“This is not a one day protest,” said Wills. “This is an ongoing student grassroots movement. The Student Organizing Committee will work diligently to outreach the student movement.”
Appendix 3
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Appendix 4
Politics in the Zeros – Political Blog

Riot at Santa Monica College over two-tiered fees

Bob Morris, on Apr 4, 2012, 8:34 am

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Green Congressional candidate David Steinman got pepper-sprayed at Santa Monica College. The increased fees will not help the college but instead go to feed the bloated state budget, he says. Worse, the much more expensive fees on some classes (which are needed to graduate) means well-off students will be able to pay but low income students won’t, or they will go into debt to do so. I used to live near SMC which was once a friendly little community college in the liberal / progressive bastion of Santa Monica. I guess those days are gone. The SMC Board of Trustees by their ignorant and deliberately repressive actions have guaranteed that Occupy will come to SMC.

Steinman reports.

On Tuesday April 3 at around 7 PM, a riot broke out on the Santa Monica College campus. The Board of Trustees for the college is completely to blame. Don’t blame the students. I was there. I was maced. I saw everything.

The students are of every color and every race. The students are only asking for democracy and justice. The Board of Trustees disrespected the students. The students—there were hundreds—met in front of the library about an hour before the Board of Trustees was to meet. They had grievances. Stupidly, the Board is backing a plan to charge $200 a unit for some courses, whereas right now most courses cost around $36.00. The trouble is the courses for which the higher fees are proposed to be charged—and it certainly looks like a done deal—are those in high demand and ones that the students need to complete their studies.
The students are not rich. They are all different colors of humanity but I can tell you from being among them they are not wealthy—and one thing they don’t want, nor do I, is to further perpetuate a wealthy vs. poor scenario. The wealthy students will obviously be able to afford the higher fees. The poor students won’t be able to and if they try to get the more expensive classes, they will go further into debt.

Community college education, according to the California Master Plan of 1960, was supposed to be tuition-free. Community colleges are the way kids fight their way into the middle class. But now even these colleges are being given away to the wealthy. All the students wanted was to attend the Board of Trustees meeting and speak on the agenda. The cowardly out of touch Board of Trustees knew far in advance how important this issue was going to be and that there would be a lot of students. For this reason, they had asked the Santa Monica Police to show up including Sergeant J.B. Williams, the main perpetrator in the macing of the students.

The students marched carrying signs and shouting, “Always United Never Divided,” from the library to the business building where the meeting was to be held. And this is where the board was cowardly. They knew the students wanted to contest this tuition hike but instead of holding their meeting in a room large enough to accommodate the students, who lives they are affecting, the Board decided to hold its meeting in which only 45 people could be admitted—and to make matters worse about 20 of those people were administrators and assistants, meaning very few of the students could actually sit in on the meeting.

Williams tried to tell the students they could watch the meeting on a video monitor in the overflow room but that a violation of the fire code would occur if they all went into the actual room. He never mentioned a violation of their rights of the desecration of our democracy. But that wasn’t satisfying anybody. After all, they weren’t really going to be at the meeting, then. The Board wouldn’t see their expressions or face the heat of hundreds of upset students. Cowards, I tell you. And fools. I began snapping pictures and videotaping. I was right there with them, shouting, “Close the Meeting Down.”

The anger was everywhere, students crowding in on the double doors, the police trying to hold them back. The students talked among themselves and took turns addressing each other on the bullhorn. They respectfully asked Williams to go to the board and ask them to move the meeting to a larger room. All they wanted was to participate, not to be so absolutely disrespected. But instead Williams began letting in the chosen few of the 45 (who had been given numbered cards). Big mistake. When he opened the door, we rushed the door to go inside. The cops began manhandling the women first throwing them up against the walls, choking them, and as people saw what was happening, we all rushed toward the door.

Williams was bulldozed against the wall, panicked—and he pulled out his mace and began spraying the women and the men and the students and any children there. My campaign manager Nnaemeka Alozie was sprayed most heavily. I was sprayed heavily. Soon, many people were being sprayed. The anger grew and the cops began disappearing, afraid of the people? Is this a new spring? A new awakening? Obviously it is.
APPENDIX I
The United States Constitution protects freedom of expression. Generally, expression may not be banned or restricted because of its content (what is said). However, the time, place, and manner of free expression can be regulated.

Santa Monica College has many outdoor areas where students may gather for discussion, communication of ideas, distribution of literature, and collection of signatures on petitions. These activities do not generally require prior approval by the College. In engaging in such activities, all laws must be complied with, such as not blocking pedestrian passage ways (Penal Code Section 647c) and not disturbing the peace (Penal Code Section 415).

To prevent disruption of educational activities, amplified sound requires a permit from Dean of Student Life and the Events Office. (Administrative Regulation 4430.)

Use of classrooms and other facilities requires a permit from the College. (Administrative Regulation 4430; Board Policy 6310.) Approved student groups have priority for use of available College facilities. Outside groups may be required to provide insurance and pay a fee. Because of fire codes, public assemblies cannot take place inside building hallways.

Distribution of literature or the collection of signatures cannot occur in classrooms, hallways, the Library, or parking lots. No literature may be placed or left on vehicles. (Administrative Regulation 4432.)

Posting of literature is prohibited on all structures, such as buildings, sidewalks, walls, windows, doors, blackboards, lawns, trees, phone booths, and vending machines. (Administrative Regulation 4432.) Posting on bulletin boards requires approval by an authorized person and must comply with Administrative Regulation 4432.

Chalking on sidewalks, walkways, buildings or other property not designated for chalking (e.g., chalkboards) constitutes a criminal misdemeanor. (Penal Code Section 594(a)(1).)

While participating in any picket line or public assembly, you cannot possess any length of wood unless that object is one-fourth inch or less in thickness and two inches or less in width or, if not generally rectangular in shape, such object shall not exceed three-quarter inch in its thickest dimension. (Santa Monica Municipal Code Section 4.08.789.)

Camping is not permitted on school grounds. (Santa Monica Municipal Code Section 4.08.095.) Refusing to leave any College facility during hours that it closed to the public constitutes criminal trespass. (Penal Code Section 602(q).)

For more information, contact the Dean of Student Life
APPENDIX J
The purpose of this Training Bulletin is to set forth policy and procedures regarding crowd management and crowd control.

I. Policy

The Oakland Police Department crowd management and crowd control policy is to

- apply the appropriate level of direction and control to protect life, property, and vital facilities;
- maintain public peace and order; and
- uphold constitutional rights of free speech and assembly while relying on the minimum use of physical force and authority required to address a crowd management or crowd control issue.
II. Definitions

A. Crowd Management

Crowd management is defined as techniques used to manage lawful public assemblies before, during, and after an event for the purpose of maintaining the event’s lawful status. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.

B. Crowd Control

Crowd control is defined as those techniques used to address unlawful public assemblies, including a display of formidable numbers of police officers, crowd containment, dispersal tactics, and arrest procedures.

C. First Amendment Activities

First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression.

Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, use of puppets to convey a message, street theater, and other artistic forms of expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution (First Amendment) and the California Constitution (Article 1, Sections 2 & 3).

All persons have the right to march, demonstrate, protest, rally, or perform other activities protected by the First Amendment of the United States Constitution and the California Constitution.

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.

D. Demonstration

Demonstration is used generically in this Training Bulletin to include a wide range of First Amendment activities which require, or which may require, police traffic control, crowd management, crowd control, crowd dispersal, or enforcement actions in a crowd situation.

As used in this Training Bulletin, the term, demonstration, means a public display of a group’s or individual’s feeling(s) toward a person(s), idea, cause, etc and includes, but is not limited to, marches, protests, student walk-outs, assemblies, and sit-ins. Such events and activities usually attract a crowd of persons including participants, onlookers, observers, media, and other persons who may disagree with the point of view of the activity.
E. Crowd Event or Crowd Situation

This Training Bulletin covers all crowd events or crowd situations, including sporting events, festivals, concerts, celebratory crowds, and demonstrations as defined above.

III. General Principles

The Oakland Police Department’s Crowd Management/Crowd Control Policy consists of the general principles discussed below.

A. Planning

1. Command staff shall be notified immediately of large or potentially disruptive demonstrations and/or crowd events.

2. The Incident Commander shall be responsible for the development of a written operations plan.

3. The Incident Command System shall be used for managing crowds and acts of civil disobedience.

4. OPD shall make every effort to follow the principle of establishing contact and communication with the event or demonstration planners.

Stakeholder involvement is critical to the overall success of managing crowd events and/or civil disobedience during demonstrations. If knowledge exists that a demonstration or crowd event may happen or will happen, OPD shall proactively and repeatedly make every reasonable attempt to establish and to maintain communication and cooperation with representatives or leaders of the demonstration or crowd event, without regard to whether a permit has been applied for or issued.

When planning for and responding to demonstrations, crowd events, and civil disobedience situations, Incident Commanders assigned to these incidents shall facilitate the involvement of stakeholders. If and when communication is established, personnel shall make every effort to identify representatives or leaders of the event and identify a primary police liaison. The primary police liaison should be requested to be in continuous contact with an assigned police representative, preferably the Incident Commander or someone with continuous access to the Incident Commander.

A group’s failure to respond to OPD attempts to establish communication and cooperation prior to a demonstration shall not mitigate OPD’s efforts to establish liaison and positive communication with the group as early as possible at the scene of the demonstration or crowd event.
5. Spontaneous demonstrations or crowd events, which occur without prior planning and/or without prior notice to the police, present less opportunity for OPD planning and prevention efforts. Nonetheless, the same policies and regulations concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder apply to a spontaneous demonstration or crowd event situation as to a planned demonstration or crowd event. Incident Commanders shall involve representatives of demonstrators or crowd events when planning and responding to both planned and spontaneous events.

B. Deployment

1. Decisions about crowd dispersal and general strategies about crowd containment or crowd redirection, multiple simultaneous arrests, planned individual arrests, or planned use of force shall be made at the level of the Incident Commander or higher.

   a) If such decisions are made by higher ranking off-site OPD officials, it is required that the Incident Commander first be consulted about the state of affairs in the field and the potential consequences of the decision.

   b) All such decisions shall be documented in writing with regard to time, the identity of the person making the decision, and the precise decision and directions given. Such documentation shall be made at the time of the decision or as soon thereafter as possible and included in an After Action Report.

   This directive shall not preclude individual commanders, supervisors, and officers from defending themselves or others from imminent danger when the delay in requesting permission to take action would increase the risk of injury.

2. OPD recognizes that the designated police liaison may change during the course of an event and that leadership of certain groups may not exist nor desire to be identified. No retaliatory practices or adverse action shall be taken by OPD against a group because it has failed or refused to appoint a police liaison or otherwise establish lines of communication with OPD.

3. Communication with the identified police liaison shall continue even if enforcement actions commence.

4. As staffing permits, officers should be deployed to the best available vantage points to observe and report crowd actions.

5. Lines of control should be established, especially in events that involve protesters with opposing views. Whenever possible, hostile factions should be separated.

6. Considering the type of crowd involved is an important factor in responding properly to its behavior.

Crowds may vary from cooperative or celebratory to non-compliant, hostile, and combative. Organized demonstrations in which some engage in coordinated, nonviolent civil disobedience should be distinguished, to the extent possible, from crowds in which substantial numbers of people are engaged in other types of unlawful acts.
C. Policing a Crowd

1. Sufficient resources to make multiple simultaneous arrests should be available at demonstrations where such arrests are a reasonable possibility. However, this need must be balanced against the fact that a large and visible police presence may have a chilling effect on the exercise of free speech rights.

Where additional resources are needed, they should be deployed to the greatest extent possible so they are not readily visible to the crowd. When possible, officers should be at their posts well in advance of arriving participants. If possible, officers should be positioned at a reasonable distance from the crowd to avoid a perception of intimidation.

2. In general, OPD officers shall work together in squads or platoons when policing a demonstration.

3. Each officer shall wear a badge, nameplate, or other device on the outside of his or her uniform or on his or her helmet which bears the identification number or the name of the officer, as required by Penal Code § 830.10.

The number or name shall be clearly visible at all times. The letters or numerals on helmets, jackets, and vests shall be clearly legible at a distance sufficient to provide a measure of safety for both officers and demonstrators/observers and, in no case, shall be less than two inches in height on helmets.

4. Crowd control and crowd dispersal, as well as a show of force in crowd control situations, should be accomplished whenever possible using specialized units of OPD rather than on-duty patrol officers.

5. Regardless of whether a parade permit has been obtained, OPD officers will try to facilitate demonstrations that may temporarily block traffic and/or otherwise use public streets subject to time, place, and manner of circumstances, by regulating and/or rerouting traffic as much as practical.

For a demonstration without a pre-planned route, the Incident Commander shall evaluate the size of the crowd with regard to whether demonstrators should be required to stay on the sidewalk or whether demonstrators should be allowed to be in one or more lanes of traffic.

This directive does not mean demonstrations must be allowed to deliberately disrupt commuter traffic and/or bridge approaches.

The Incident Commander shall balance the level of disruption to traffic against the OPD policy of facilitating First Amendment activity, the practicality of relegating the crowd to sidewalks or an alternate route, the expected duration of the disruption, and the traffic disruption expected in making a mass arrest if demonstrators refuse to leave the street.

OPD shall seek to communicate with organizers through their police liaison to resolve a problem if possible. Traffic control may also be essential at varying points in a demonstration and may help accomplish crowd containment, crowd isolation, or crowd dispersal.
6. It is essential to recognize that all members of a crowd of demonstrators are not the same. Even when some members of a crowd engage in violence or destruction of property, other members of the crowd are not participating in those acts. Once some members of a crowd become violent, the situation often turns chaotic, and many individuals in the crowd who do not want to participate in the violent or destructive acts may be blocked from leaving the scene because the crowd is so large or because they are afraid they will move into a position of heightened danger.

This understanding does not mean OPD cannot take enforcement action against the crowd as permitted under this policy, but OPD shall seek to minimize the risk that force and arrests may be directed at innocent persons.

7. OPD officers shall avoid negative verbal engagement with members of the crowd. Verbal abuse against officers shall not constitute a reason for an arrest or for any use of force against such individuals.

8. Officers must not be affected by the content of the opinions being expressed nor by the race, gender, sexual orientation, physical disabilities, appearances, or affiliation of anyone exercising their lawful rights.

9. Department personnel must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members. Unprofessional police behavior can inflame a tense situation and make control efforts more difficult and dangerous.

Strong supervision and command are essential to maintaining unified, measured, and effective police response. A response incorporating strong leadership and based upon teamwork is crucial to maintaining control and safety. Impulsive or independent actions by officers are to be avoided.

10. Officers in non-violent crowd situations shall not display weapons before a dispersal order is given or other enforcement action is implemented.

11. OPD officers shall not be sent into an obviously hostile crowd solely for the purpose of communication. OPD officers shall not penetrate a crowd for an individual arrest unless the targeted individual is involved in serious criminal conduct and the decision to move into the crowd is made by a supervisor or commander.

12. The Incident Commander and supervisors shall make every effort to ensure that the police mission is accomplished as efficiently and unobtrusively as possible with the highest regard for the human dignity and liberty of all persons and with minimal reliance on the use of physical force.

The use of force shall be restricted to circumstances authorized by law and to the degree reasonably necessary in light of the circumstances confronting members. This directive does not preclude police officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and employ the physical force necessary to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.
IV. Responses to Crowd Situations

A. Spontaneous Event or Incident

1. The Watch Commander shall respond to the scene of spontaneous events, when practical, and take command of the incident as the Incident Commander until relieved by a ranking officer.

The Incident Commander shall declare over the police radio that he or she has assumed command of the incident. When practical, a command post shall be established as soon as possible.

2. An immediate assessment of the situation is essential for effective police response. The Incident Commander must ascertain the following information at the earliest possible time:

   a. The location and type of event.
   
   b. First Amendment activities will be evaluated by the Incident Commander to determine lawfulness of the actions by groups and individuals.
   
   c. The approximate number of specific individuals engaged in unlawful conduct.
   
   d. The likelihood that unlawful behavior will spread to other crowd participants (mimicking).
   
   e. Immediate threats to the safety of the public and/or police officers.
   
   f. The number of structure(s) or vehicle(s) involved.
   
   g. The size of the involved area.
   
   h. The number of additional officers and police resources needed as well as requirements for specialized units (Traffic, Tactical Operations Team, Crime Reduction Teams, etc.).
   
   i. The appropriate manner of response (Code 2 or 3).
   
   j. The staging area.
   
   k. The location for a media staging area.
   
   l. The ingress and egress routes.
   
   m. Additional resources needed (paramedic, fire department, outside agencies, etc.).
B. Planned Event Involving Potentially Large Crowds

1. Upon notification, the Special Operations Division Commander or designee (Incident Commander) shall develop a written operations plan.

   The Incident Commander of planned events shall be responsible for the overall coordination of the event as well as for crowd control and management.

   Operations plans for large events requiring the redeployment of personnel from regular assignments shall be approved by the Deputy Chief of Field Operations.

2. The following factors shall be considered and addressed in developing the operations plan for a large crowd event, including but not limited to:

   a. What type of event is to occur?

   b. Who are the organizers? What is their past record of conduct (peaceful, violent, cooperative, etc.)?

   c. Will outsiders visibly and/or physically oppose the planned event?

   d. Will the event involve the use or abuse of alcohol or other substances?

   e. Where is the event to occur? Consider the size, location, and ingress and egress points.

   f. What is the optimal site for a command post as well as staging areas?

   g. Have the appropriate permits been issued?

   h. Have other agencies, bureaus, and divisions been notified and included in the planning process (paramedics, fire department, Communications, Intel, etc.)?

   i. Will the EOC be needed? Is Mutual Aid needed?

   j. Will off-duty personnel be involved? Has the commander of any off-duty personnel been made part of the planning process?

   k. Is it possible and appropriate to coordinate with group organizers and explain the Department's mission, preparation, and potential responses?

      Information considered sensitive or confidential shall not be released to group organizers if it will jeopardize the safety or effectiveness of police personnel.

   l. Have the proper number of personnel been scheduled to safely handle the event? Should a reserve force be available?

   m. Has an enforcement policy been formulated and communicated to affected personnel?
3. The OPD Event Coordinator shall perform the following tasks.

   a. Gather and analyze intelligence information about future crowd events, including review of information from both internal and external sources.

   b. Coordinate with Special Events regarding permits and various Department sections, including bureaus, divisions, and specialized units, to prepare for a planned special event.

   c. Meet in advance with event sponsors and group leaders to exchange information and to present the Department's philosophy and intent. Details of the department plan and preparation shall not be disclosed except when necessary to ensure success of the operation.

   d. Coordinate with affected bureaus, divisions, police service areas, and special units to prepare and coordinate the development of an operations plan for a given event that details assignments, traffic and crowd flow, communications, tactics, and training.

   e. Prepare operations plan as requested.

   f. Coordinate inspection of protest/event area prior to an event to locate any pre-positioned equipment staged by demonstrators.

   g. Ensure that appropriate equipment and supplies are available.

   h. Ensure that a video team(s) is established and required video equipment is available (see Section IX).

   i. Establish protocols and procedures for the processing of arrestees and collection of evidence.

4. Personnel creating an operations plan to address a large crowd event should anticipate a variety of scenarios and devise a police response for each. Such scenarios and responses should be made part of the final plan and communicated to the affected personnel.

5. When practical, personnel preparing for a large event with the potential for violence shall be retrained; training to include physically practicing various aspects of crowd management and crowd control.

   Topics may include but are not limited to Mobile Field Force (MFF), multiple simultaneous arrest procedures, functioning in a tear gas environment, use of specialty impact munitions, applicable ordinances and statutes, protected speech, etc.

6. Personnel shall be briefed on the operations plan and their particular assignments before deployment.

   Specific instructions covering topics such as applicable laws, community concerns, appropriate enforcement actions, chain of command, tactics, traffic patterns, etc., shall be clearly presented to personnel. All personnel shall be given a copy of the operations plan.
V. Permissible Crowd Control and Crowd Dispersal Techniques

A. In the event of a declared unlawful assembly, it is the general policy of the OPD to use multiple simultaneous arrests to deal with a non-violent demonstration that fails to disperse and voluntarily submits to arrest as a form of political protest rather than dispersing the demonstrators by using weapons or force beyond that necessary to make the arrests.

B. The Incident Commander shall make the final decision as to what control action, if any, will be taken to address a given crowd situation.

Crowd size and available Department resources will also factor into the police response. The following factors will be considered prior to determining what action to take:

1. Will police action likely improve the situation?
2. Will targeting specific violent or disruptive individuals for arrest be more effective or appropriate than applying control tactics to the entire crowd?
3. Are sufficient resources available to effectively manage the incident?
4. Have clear and secure escape routes been established for both the crowd and the police?
5. Has the dispersal order been given (loudspeaker, personal contact, etc.)?
6. Have contingency plans been established in the event initial police efforts are ineffective?

C. Commanders shall constantly reassess and adjust tactics, as necessary, as the crowd’s actions change.

D. The Incident Commander shall consider and take reasonable and appropriate steps to ensure the safety of bystanders.

E. When officers take action to move or disperse a crowd, steps should be taken to ensure that the crowd is not moved into a position or place that could be dangerous to persons in the crowd or bystanders, such as pushing them up against glass windows.
F. When an Unlawful Assembly May Be Declared

1. The definition of an unlawful assembly has been set forth in Penal Code Section 407 and interpreted by court decisions. The terms, “boisterous” and “tumultuous,” as written in Penal Code Section 407, have been interpreted as “conduct that poses a clear and present danger of imminent violence” or when the demonstration or crowd event is for the purpose of committing a criminal act.

   The police may not disperse a demonstration or crowd event before demonstrators have acted illegally or before the demonstrators pose a clear and present danger of imminent violence.

2. The mere failure to obtain a permit, such as a parade permit or sound permit, is not a sufficient basis to declare an unlawful assembly. There must be criminal activity or a clear and present danger of imminent violence.

3. The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts on prior occasions or demonstrations is not grounds for declaring an assembly unlawful.

4. Unless emergency or dangerous circumstances prevent negotiation, crowd dispersal techniques shall not be initiated until after attempts have been made through contacts with the police liaisons and demonstration or crowd event leaders to negotiate a resolution of the situation so that the unlawful activity will cease and the First Amendment activity can continue.

5. If after a crowd disperses pursuant to a declaration of unlawful assembly and subsequently participants assemble at a different geographic location where the participants are engaged in non-violent and lawful First Amendment activity, such an assembly cannot be dispersed unless it has been determined that it is an unlawful assembly and the required official declaration has been adequately given.

G. Declaration of Unlawful Assembly

1. When the only violation present is unlawful assembly, the crowd should be given an opportunity to disperse rather than face arrest.

   Crowd dispersal techniques shall not be initiated until OPD has made repeated announcements to the crowd, asking members of the crowd to voluntarily disperse and informing them that, if they do not disperse, they will be subject to arrest.

   These announcements must be made using adequate sound amplification equipment in a manner that will ensure that they are audible over a sufficient area. Announcements must be made from different locations when the demonstration is large and noisy. The dispersal orders should be repeated after commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. The announcements shall also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced.

   It is the responsibility of the on-scene OPD commanders to ensure that all such announcements are made in such a way that they are clearly audible to the crowd.
2. Unless an immediate risk to public safety exists or significant property damage is occurring, sufficient time will be allowed for a crowd to comply with police commands before action is taken.

3. Dispersal orders should be given in English and in other languages that are appropriate for the audience.

4. The Incident Commander should ensure that the name of the individual making the dispersal order and the date/time each order was given is recorded.

5. Dispersal orders should not be given until officers are in position to support/direct crowd movement.

6. Personnel shall use the following Departmental dispersal order:

   I am (rank/name), a peace officer for the City of Oakland. I hereby declare this to be an unlawful assembly, and in the name of the people of the State of California, command all those assembled at _____________ to immediately leave. If you do not do so, you may be arrested or subject to other police action, including the use of force which may result in serious injury. Section 409 of the Penal Code prohibits remaining present at an unlawful assembly. If you remain in the area just described, regardless of your purpose, you will be in violation of Section 409. The following routes of dispersal are available (routes). You have _______ minutes to leave. If you refuse to move, you will be arrested.

   *If you refuse to move, chemical agents will be used. (Provide the chemical warning only if use is anticipated).

7. When a command decision is made to employ crowd dispersal techniques, attempts to obtain voluntary compliance through announcements and attempts to obtain cooperation through negotiation shall both be continued. At any point at which a crowd is dispersing, whether as a reaction to police dispersal techniques, through voluntary compliance, or as a result of discussion or negotiation with crowd leaders, OPD dispersal techniques shall be suspended and the crowd shall be allowed to disperse voluntarily. This directive does not preclude a command decision by OPD to reinstate dispersal techniques if crowd compliance ceases.

H. Approved Tactics and Weapons to Disperse or Control a Non–Compliant Crowd

If negotiation and verbal announcements to disperse do not result in voluntary movement of the crowd, officers may employ additional crowd dispersal tactics, but only after orders from the Incident Commander or designated supervisory officials.

The permissible tactics to disperse or control a non-compliant crowd include all of the following (not in any specific order of use):

The use of these crowd dispersal tactics shall be consistent with the Department policy of using the minimal police intervention needed to address a crowd management or control issue.
1. Display of police officers (forceful presence).

Once this tactic is selected, officers should be assembled in formation at a location outside the view of the crowd. The formation may be moved as a unit to an area within the crowd’s view. This tactic should not be used unless there are sufficient personnel to follow through with dispersal. Do not bluff a crowd. If a display of police officers, motorcycles, police vehicles, and mobile field forces, combined with a dispersal order, is not effective, more forceful actions may be employed.

Generally, officers should be assigned to squads of sufficient size to be effective. At larger events, the crowd can be divided (with a commander in charge of each squad).

2. Encirclement and Arrest

If the crowd has failed to disperse after the required announcements, officers may encircle the crowd or a portion of the crowd for purposes of making multiple simultaneous arrests (see Section VII).

Persons who make it clear (e.g., by sitting down, locking arms) that they seek to be arrested shall be arrested and not subjected to other dispersal techniques, such as the use of batons or chemical agents.

Arrests of non-violent persons shall be accomplished by verbal commands and persuasion, handcuffing, lifting, carrying, the use of dollies and/or stretchers, and/or the use of control holds including the bent-wrist control hold and twist-lock control hold (See Training Bulletin III-I.1, “Weaponless Defense,” at pages 28-31.).

Control holds should only be used when a Supervisor or Commander determines that control holds are necessary to accomplish the policing goal after other methods of arrest have failed or are not feasible under the circumstances and when the use of control holds would be a lawful use of force.

In the event control holds are necessary, precautions should be taken to assure that arrestees are not injured or subjected to unnecessary or excessive pain (T.B. III-1).1).

A decision to authorize control holds and the reasons for said decision should be documented.

3. Police Formations and Use of Batons

a. If a crowd refuses to disperse after the required announcements, the police may use squad or platoon formations (skirmish line, wedge, echelons, etc.) to move the crowd along.

b. Batons shall not be used for crowd control, crowd containment, or crowd dispersal except as specified below.
c. Batons may be visibly displayed and held in a ready position during squad or platoon formations.

When reasonably necessary for protection of the officers or to disperse individuals in the crowd pursuant to the procedures of this policy, batons may be used in a pushing or jabbing motion. Baton jabs should not be used indiscriminately against a crowd or group of persons but only against individuals who are physically aggressive or actively resisting arrest. Baton jabs should not be used in a crowd control situation against an individual who is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle.

d. Batons shall only be used as set forth in General Order K-3 and Department Training Bulletin III—H.2, “Use of the Long Baton.”

Officers shall not intentionally strike a person with any baton to the head, neck, throat, kidneys, spine, or groin or jab with force to the left armpit except when the person’s conduct is creating an imminent threat of serious bodily injury or death to an officer or any other person. Batons shall not be used against a person who is handcuffed.

4. Non Hand–Held Crowd Control Chemical Agents

a. Crowd control chemical agents are those chemical agents designed and intended to move or stop large numbers of individuals in a crowd situation and administered in the form of a delivery system which emits the chemical agent diffusely without targeting a specific individual or individuals.

b. Chemical agents can produce serious injuries or even death. The elderly person or infant in the crowd or the individual with asthma or other breathing disorder may have a fatal reaction to chemical agents even when those chemical agents are used in accordance with the manufacturer’s recommendations and the Department’s training. Thus, crowd control chemical agents shall be used only if other techniques, such as encirclement and multiple simultaneous arrest or police formations, have failed or will not accomplish the policing goal as determined by the Incident Commander.

c. Members shall use the minimum amount of chemical agent necessary to obtain compliance.

d. Indirect delivery or crowd dispersal spray and/or discharge of a chemical agent shall not be used in demonstrations or other crowd events without the approval of a supervisor or command officer.

e. Chemical agents shall not be used for crowd control or dispersal without first giving audible warning of their imminent use and giving reasonable time to the crowd, media, and observers to disperse.

f. If chemical agents are contemplated in crowd situations, OPD shall have medical personnel on site prior to their use and shall make provision for decontamination and medical screening to those persons affected by the chemical agent(s).
5. Hand-thrown chemical agents or pyrotechnic gas dispersal devices
   
a. Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall not be used for
crowd control or crowd dispersal without the approval of a supervisor or command offi-
cer.

b. The use of hand-thrown chemical agents or pyrotechnic gas dispersal devices may pres-
et a risk of permanent loss of hearing or serious bodily injury from shrapnel. Said
devices shall be deployed to explode at a safe distance from the crowd to minimize the
risk of personal injury and to move the crowd in the direction that will accomplish the
policing objective.

c. Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall not be used for
crowd control without first giving audible warnings to the crowd and additional reason-
able time to disperse.

d. Hand-thrown chemical agents or pyrotechnic gas dispersal devices shall be used only if
other techniques such as encirclement and mass arrest or police formations have failed
or will not accomplish the policing goal as determined by the Incident Commander.

VI. Weapons Prohibited for Crowd Control and Crowd Dispersal Purposes

A. Lethal Force

The use of lethal force by OPD members is governed by the Department’s Use of Force Policy.
Nothing about a crowd control situation eliminates or changes any of the constraints and criteria
governing the use of lethal force in the Department’s Use of Force Policy.

B. Canines

Canines shall not be used for crowd control, crowd containment, or crowd dispersal.

C. Horses

Horses shall be used only for purposes of crowd control in the event of a riot involving substan-
tial numbers of people actively engaged in violence or serious property destruction. Horses shall
never be used to disperse non-violent crowds, including persons who are seated or lying down.

Horses may be used for crowd management during festivals and sporting events.

D. Fire Hoses

Fire hoses shall not be used for crowd control, crowd containment, or crowd dispersal.
E. Motorcycles

The technique referred to as the Basic Use of Motorcycle Push Technique (B.U.M.P.) outlined in Special Order No. 7088 is prohibited (See Special Order No. 8135 prohibiting said technique enacted April 5 2004.). Motorcycles and police vehicles may not be used for crowd dispersal but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a crowd event.

F. Specialty Impact Less–Lethal Weapons

1. Skip Fired Specialty Impact Less–Lethal Munitions (Wooden Dowels and Stinger Grenades) are prohibited.
   a. Any and all less–lethal specialty impact weapons designed to be skip fired or otherwise deployed in a non-directional non-target specific manner, including but not limited to the Multiple Wood Baton Shell (264W) manufactured by Armor Holdings, Inc. shall not be used at all by OPD during demonstrations or crowd events (See Special Order No. 8135 prohibiting indirect fired less–lethal munitions and withdrawing said ammunition, enacted April 5, 2004.).
   b. The use of the Stinger Grenade containing rubber pellets designed to be deployed in a non-directional non-target specific manner is also prohibited for all crowd control use.

   a. Direct Fired SIM are less–lethal specialty impact weapons that are designed to be direct fired at a specific target, including but not limited to flexible batons (“bean bags”), and shall not be used for crowd management, crowd control or crowd dispersal during demonstrations or crowd events. Direct Fired SIM may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.
   b. The use of Direct Fired SIM must cease when the violent or destructive actions cease. These weapons must not be used for the purpose of apprehension or to otherwise prevent escape unless escape would present a substantial risk of continued imminent threat to loss of life or serious bodily injury.
   c. Members shall only deploy Direct Fired SIM during a demonstration or crowd event under the direction of a supervisor.
d. When circumstances permit, the supervisor on the scene shall make an attempt to accomplish the policing goal without the use of Direct Fired SIM as described above, and, if practical, an audible warning shall be given to the subject before deployment of the weapon.

e. Any person struck by a round shall be transported to a hospital for observation and any necessary treatment. Ambulance service, if required, shall be ordered per General Order I-4. First aid, when necessary, shall be administered per Training Bulletin III-K.

f. No member shall use Direct Fired SIM without formal training.

g. Direct Fired SIM shall not be used against a person who is under restraint.

h. Members shall not discharge a Direct Fired SIM at a person’s head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.

G. Electronic Immobilizing Devices (EID’s)

EID’s such as tasers, stun guns, and stun shields shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events.

H. Aerosol Hand–held Chemical Agents

Aerosol, hand–held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.

Members shall use the minimum amount of the chemical agent necessary to overcome the subject’s resistance.

Officers must be familiar with OPD Training Bulletin V-F.2, “Use of Oleoresin Capsicum,” and, specifically, the risk factors associated with aerosol chemical agents and the treatment for individuals subjected to them.

Aerosol chemical agents shall not be used in a demonstration or crowd situation or other civil disorders without the approval of a supervisor or command officer.

When possible, persons should be removed quickly from any area where hand–held chemical agents have been used. Members shall monitor the subject and pay particular attention to the subject’s ability to breathe following the application of OC. As soon as practical, members and employees shall obtain professional medical treatment for all persons who have had OC applied to them. Paramedics in the field may administer treatment if no other medical treatment is required. If paramedics are not available in a timely manner, subjects shall be transported to a hospital for treatment within 45 minutes of the application of OC.

A subject who has been sprayed with hand–held chemical agents shall not be left lying on his/her stomach once handcuffed or restrained with any other device.
VII. Arrests

A. Multiple Simultaneous Arrests

1. When a large-scale event involving possible arrests is to be conducted, OPD planners will estimate the number of potential arrestees and will configure arrest teams capable of managing multiple arrests safely.

2. When arrests are necessary, the Incident Commander shall attempt to ensure that sufficient numbers of police officers are present to effect arrests. This tactic can be effective in dispersing the remaining crowd members wanting to avoid arrest.

3. When multiple arrests are contemplated in advance and it is impracticable for arrestees to be cited at the scene as further discussed below, pre-arrangement of transportation shall be made.

4. The Incident Commander shall make the decisions to engage in selective individual arrests or multiple simultaneous arrests as a crowd control technique with consideration given to the following factors:

   • The likelihood that police action will improve the situation relative to taking no action.
   • The seriousness of the offense(s) as opposed to the potential for the arrest to escalate violence or unlawful activity by crowd members.
   • Whether individual or mass arrests will be more effective in ending the criminal activity at issue.
   • Whether clear and secure escape routes have been established for the crowd and police.
   • Whether communication has been established with crowd representatives.
   • What contingency plans are available.
   • What types of force can be used in effecting the arrests, if necessary.

5. Probable cause for each individual arrest:

   Individuals may not be arrested based on their association with a crowd in which unlawful activity has occurred. There must be probable cause for each individual arrest.

   This principle means the officer must have objective facts based on his own knowledge or information given him by other officers sufficient to believe that each specific individual being arrested committed the offense. Thus, the only proper basis for a multiple simultaneous arrest of all the individuals encircled at a demonstration is failure to disperse (Pen. Code §409), when the dispersal was properly ordered based on the existence of an unlawful assembly and adequate notice and opportunity to disperse has been given.

   To make arrests for violating Vehicle Code §2800 (noncompliance with lawful police order), the officer must have probable cause to believe that each individual arrested willfully failed or refused to comply with a lawful order.

6. The Incident Commander shall ensure that evidentiary items are recovered and preserved, when possible, to corroborate unlawful acts observed by personnel.
B. Arrests for Civil Disobedience

1. Some demonstrators commit “civil disobedience,” by sitting down or otherwise blocking streets, intersections, sidewalks, and/or entranceways or by occupying a targeted office.

   The proper response to such actions is to verbally advise the demonstrators that they will be subject to arrest if they choose to remain, allow time for some or all the demonstrators to cease the unlawful activity, and to arrest those who deliberately remain in violation of the law.

   When practical, demonstrators committing civil disobedience shall be persuaded into compliance rather than being forcibly removed.

2. Passively resisting arrestees (i.e., arrestees who go limp) shall be arrested by handcuffing and then either by verbal persuasion, lifting, carrying, the use of dollies or stretchers, and/or control holds (See Training Bulletin “Weaponless Defense” III-I.1 at pages 28 – 31), depending on the circumstances and the decision of the Supervisor.

   Control holds should be used only when the Supervisor determines that control holds are necessary to accomplish the policing goal after other methods of arrest have failed or are not feasible under the circumstances and when the use of control holds would be a lawful use of force.

   In the event control holds are necessary, precautions must be taken to ensure that arrestees are not injured or subjected to unnecessary or excessive pain.

   A Supervisor’s decision to authorize control holds and the reasons for said decision should be documented.

   Planning for demonstrations where civil disobedience and passive resistance to arrest are a possibility should take into account these different arrest techniques for passive demonstrators.

3. In some cases, demonstrators may lock arms or use lock boxes to slow down the arrest process.

   Where such demonstrators have been advised that they will be subject to arrest if they choose to remain and refuse to disperse, a member of the arrest team shall individually advise each demonstrator that he or she is under arrest prior to the application of any force to remove locking devices or to move the demonstrators. The officer shall continue to give verbal directions to give the arrestee a chance to comply before force is used to unlock arms or implements used to remove lock boxes.

4. Although dealing with passive resistance may frustrate officers, civil disobedience is usually a nonviolent means of making a political statement, and officers shall remain neutral, non-antagonistic, and professional at all times in their response.
C. **Use of Handcuffs**

1. All persons subject to arrest during a demonstration or crowd event shall be handcuffed in accordance with department policy, orders, and Training Bulletins.

2. Officers should be cognizant that flex-cuffs may tighten when arrestees’ hands swell or move, sometimes simply in response to pain from the cuffs themselves.

   Each unit involved in detention and/or transportation of arrestees with flex-cuffs should have a flex-cuff cutter and adequate supplies of extra flex-cuffs readily available. The officer applying flex-cuffs shall write his serial number in indelible marker on the cuffs whenever used. When arrestees complain of pain from overly tight flex cuffs, members shall examine the cuffs to ensure proper fit.

D. **Arrest of Juveniles**

   Juveniles arrested in demonstrations shall be handled consistent with OPD policy on arrest, transportation, and detention of juveniles.

**VIII. Cite/Release and Booking Procedures**

A. Individuals arrested for minor offenses may be cited and released in compliance with Penal Code §853.6 and Department General Order M-7, “Citations for Adult Misdemeanors,” III, A-N.

B. When it is impractical to cite arrestees at or near the site of the demonstration because of a substantial risk that this procedure would allow the unlawful activity to continue or because of specific geographic factors, individuals may be held at police stations or jails for the duration of the cite and release process.

C. An officer seeking to book a misdemeanor arrestee into jail must have an articulable basis to believe that one of the specified statutory exceptions to mandatory cite and release applies to that individual. This basis must be documented in the police report.

D. The mere fact that further demonstrations are likely to be held in the near future is not a proper basis to apply subdivision (7) of P.C. 853.6 (“reasonable likelihood that the offense may continue or resume”) to individual demonstrators.

E. There must be an articulable objective basis to believe that, if cited out, those specific individuals would continue the same illegal activity for which they were arrested.

F. Individuals may not be booked into jail on the sole basis of a felony charge consisting of conspiracy to commit a misdemeanor.
IX. Documentation

A. Video and Photographic Recording

1. It is the policy of the Department to videotape and photograph in a manner that minimizes interference with people lawfully participating in First Amendment activities.

   Videotaping and photographing of First Amendment activities shall take place only when authorized by the Incident Commander or other supervisory officer.

2. Individuals should not be singled out for photographing or recording simply because they appear to be leaders, organizers, or speakers.

3. Each camcorder operator shall write a supplemental report at the end of his/her duty assignment documenting the camcorder operations.

4. Unless they provide evidence of criminal activity, videos or photographs of demonstrations shall not be disseminated to other government agencies, including federal, state, and local law enforcement agencies. If videos or photographs are disseminated or shared with another law enforcement agency, a record should be created and maintained noting the date and recipient of the information.

5. If there are no pending criminal prosecutions arising from the demonstration or if the video recording or photographing is not relevant to an Internal Affairs or citizen complaint investigation or proceedings or to civil litigation arising from police conduct at the demonstration, the video recording and/or photographs shall be destroyed in accordance with Department and city policies.

   This directive shall not prohibit the OPD from using these videos or footage from such videos as part of training materials for OPD officers in crowd control and crowd dispersal techniques and procedures. The destruction of any such videos or photographs shall be documented in writing with regard to the date of the destruction and the identity of the person who carried it out.

6. Nothing in this section is intended to alter the disclosure requirements of the California Public Records Act (Government Code §6250 et seq.) or the City of Oakland’s Sunshine Ordinance (O.M.C. §2.20 et seq.).
X. Reporting

A. The Incident Commander shall ensure that the Deputy Chief of the Bureau of Field Operations is notified of the incident in a timely manner.

B. OPD officers involved in demonstrations or crowd events shall prepare reports as required by Department policy.

XI. Public Information and the Media

A. The media have a right to cover demonstrations, including the right to record the event on video, film, or in photographs.

B. OPD members shall accommodate the media in accordance with Department policy.

C. The media shall be permitted to observe and shall be permitted close enough access to the arrestees to record their names. Even after a dispersal order has been given, clearly identified media shall be permitted to carry out their professional duties in any area where arrests are being made unless their presence would unduly interfere with the enforcement action.

D. Self-identified legal observers and crowd monitors do not have the same legal status as the professional media and are, therefore, subject to all laws and orders similar to any other person or citizen.

Said personnel must comply with all dispersal orders similar to any other person or citizen. A supervisor or commander may allow a person who self-identifies as a legal observer or crowd monitor to remain in an area after a dispersal order if circumstances permit and if the person’s presence would not unduly interfere with the enforcement action.

E. On request, the Incident Commander or a supervisor may inform the media, legal observers, crowd monitors, police liaison, and/or organizers about the nature of any criminal charges to be filed against arrestees, the location where arrestees are being taken, and the Department’s intent for arrestees to be cited out or booked at a custodial facility.

F. The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.
XII. Training

A. All OPD crowd control policies and procedures shall be set forth in a Crowd Control Training Bulletin.

All other OPD orders and Training Bulletins will be reviewed to ensure consistency with the new policy and Training Bulletin.

B. All officers must receive training consistent with these new policies and procedures.

All training on crowd control shall include substantial coverage of these Department policies. No officers shall use less-lethal weapons unless they have received the training required by Department policies.

C. Every OPD officer shall receive this training.

Either independently or in conjunction with other scheduled training, each officer shall receive periodic instruction regarding the key elements of this policy. The Department will seek to improve its ability to manage crowd control events through study and evaluation of past incidents occurring in Oakland and other jurisdictions. Training in crowd management is crucial and shall be an ongoing process. All members of OPD shall be trained in these crowd control policies and procedures and shall then receive additional periodic crowd control refresher training thereafter. Crowd control training shall also become an integral part of the recruit academy curriculum.

D. All training called for in this section shall be documented with regard to individual officer attendance, dates of training, test scores or other evidence of successful completion of training, and identity of each instructor, and copies of both student curriculum materials and instructor curriculum materials shall be archived.