

**FINAL REPORT OF INVESTIGATION  
FOR  
THE UNIVERSITY OF CHICAGO**

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## I. **BACKGROUND**

### A. **Issues Posed**

In March 2013, the University of Chicago (the “University”) retained Schiff Hardin LLP to conduct an independent investigation into:

- (i) the conduct by members of the University of Chicago Police Department (“UCPD”) in response to the protest that occurred at the University of Chicago Center for Care and Discovery (“CCD”) on January 27, 2013;
- (ii) the extent of direct participation (including in an “undercover” capacity) by the UCPD in the February 23, 2013 protest at the CCD;
- (iii) if such participation occurred, why any UCPD personnel participated in the February 23, 2013 protest;
- (iv) the extent of any direct participation (including in an “undercover” capacity) by the UCPD in any other student protest or demonstration;
- (v) whether direct participation by UCPD in a protest would violate any law, regulation, general order, training protocol, or policy of the University or the UCPD; and
- (vi) University and UCPD policies and procedures regarding, *inter alia*, student protests and the Dean on Call program.

The investigation concluded in April 2013.

### B. **Interviews Conducted and Information Reviewed**

Schiff Hardin requested documents and information from, and interviews with, students, student and community organizations, UCPD officers and command staff, and University employees and officials. The requests resulted in interviews of 32 individuals, including students, administration officials in Campus & Student Life, and UCPD officers and command staff. Schiff Hardin reviewed information obtained independently as well as documents and communications related to planning for the protests, video, photographic, and documentary evidence of the protests, and University, UCPD, and University of Chicago Medical Center (“UCMC”) policies and procedures. The University, UCPD, and UCMC promptly and fully responded to all requests for information. After several requests, student and community organizations that were involved in the protests provided some photographic and video evidence of the incidents.

## II. JANUARY 27, 2013 PROTEST

### A. **Factual Background**

A review of the facts and evidence revealed that on January 27, 2013, in the early afternoon, roughly 40 protestors, only a few of whom were later determined to be current University students, gained access to the lobby of the then-unopened Center for Care and Discovery (“CCD”) by purchasing a limited number of tickets to a sanctioned tour of the CCD sponsored by the Chicago Architecture Foundation. The protestors arrived at the CCD by bus, an intentional strategy employed to ensure the surprise-nature of the protest. The protestors intended to challenge the lack of a Level I trauma center on the South Side of Chicago. The protestors did not provide prior notification of the protest to any official of the University or UCMC. Further, the protestors enlisted the assistance of a known student whose role was to be a “police liaison,” in order to invoke the anticipated protection of the University’s Dean on Call program. In fact, the group planned for civil unrest and for certain protestors to be arrested.

At the time of the January 27<sup>th</sup> protest, the CCD was not yet opened to care for patients and was a construction site closed to the public. A locked construction gate was opened on January 27<sup>th</sup> only to allow the tour limited access to the building. Although the CCD was not open to the public and no patients were being treated there, the building is connected to a number of other UCMC facilities where hundreds of patients are housed, and the building was fully outfitted with medical equipment.

After several protestors gained access to the lobby of the CCD, the on-duty UCMC Public Safety Coordinator (“PSC”) contacted other supervisory Public Safety Officers (“PSOs”) and reported that a “fight” was in progress and that several persons had gained access to the closed lobby. The PSC’s characterization of the protest as a “fight,” as well as the large number of protestors at the scene, many of whom were chanting loudly and aggressively, and the protestors’ use of bullhorns with sirens all added to an atmosphere of confusion and chaos. Several PSOs responded to the call and upon viewing this chaotic scene, immediately notified UCPD of the need for assistance.

Upon arrival at the scene, UCPD observed the large crowd of protestors concentrated around the west exit of the CCD lobby. The PSOs told the UCPD officers that the protestors were trespassing and asked for assistance in having them exit the building. Over the course of the next several minutes, the UCPD and PSOs warned the protestors repeatedly that they were trespassing on private property, were required to vacate the private property, and would be arrested if they did not do so.

During this period, a student protestor introduced himself to one of the first UCPD officers who arrived on the scene and indicated he was a “police liaison,” a term unknown to the UCPD officer. The student protestor offered his identification to the UCPD officer and asked that the University’s Dean on Call be notified. The officer promptly reported the request for a Dean on Call to the Sergeant on duty, who in turn requested that dispatch notify the Dean on Call. In the meantime, the UCPD officers on the scene continued to request that the crowd disperse and leave the building while other UCPD officers arrived on the scene and began organizing official crowd control which consisted of officers forming a line creating a perimeter.

The officers then slowly ushered the crowd toward the lobby exit while continuing to notify the protestors that they were trespassing and therefore needed to leave the medical facility. However, the protestors refused to leave the CCD as they were reportedly waiting for the UCPD to issue a “formal order” indicating that they would be arrested for trespassing if they did not comply.

At some point, after being directed to leave the premises numerous times over a period of minutes by both UCPD and PSOs, a few of the protestors moved toward the elevators in an apparent attempt to breach other portions of the medical facility. A PSO then told a UCPD officer to arrest the protestors for trespassing. A second individual identified himself as a leader of the protestors and, following a brief conversation with a UCPD officer, surrendered himself for arrest. Upon his arrest, several protestors became unruly while others who were exiting the lobby began to sit in the doorway of the lobby. This action caused confusion on the part of several protestors and other UCPD officers as none were certain whether the two individuals fell or intentionally sat in the sole door being used for egress. Two UCPD officers then, for safety reasons, attempted to lift the two individuals from the ground in order to move them out of the way but were met with extreme resistance by the individuals, eventually having to pry them from the doorway and escort them outside. The UCPD officers and PSOs were eventually successful in ushering the protestors outside of the CCD lobby, but the protestors remained inside the construction gate. Confusion among the protestors and UCPD continued as the protestors chanted and used loud bullhorns but refused to exit the construction area. As the UCPD and PSOs continued to try and usher the protestors outside the construction gate, a UCPD officer shouted to the crowd to leave the premises and opened his regulation baton by aggressively swinging his arm high in the air with a downward motion rather than swinging with his arm down by his side as is regulation practice. Once the baton was opened, the officer continued to usher the crowd outside of the gate. Available evidence does not indicate that the officer struck anyone or otherwise used the baton in an inappropriate manner.

The UCPD continued to warn the protestors that they were trespassing on private property and were required to leave. However, the protestors still refused to exit the construction area. The weight of evidence supports that the self-identified student “police liaison” continued to instruct the protestors to remain on the CCD private property and to go back into the building. Further, the evidence revealed that the student attempted to approach an area where a UCPD Officer was communicating with another protestor. At that point, another UCPD officer told the student he was under arrest. The officer then attempted to handcuff the student but the student resisted causing the officer to request assistance from other UCPD officers. Due to the student’s resistance, the UCPD officers were forced to use regulation arrest procedures and trip the student to effectuate the arrest. The student was then handcuffed by these officers and remained on the ground for several minutes, while one UCPD officer monitored him and the other officers continued to attempt to control the crowd and usher them from the premises. The student was later charged with a misdemeanor for trespassing and, as a result of one of the arresting officers sustaining injuries during the course of the arrest, a misdemeanor for resisting arrest. Following arrests of two additional protestors, the remaining protestors eventually dispersed. The individuals who were placed under arrest were transported to Chicago Police Department facilities.

Prior to transporting the arrestees but after most of the crowd had dispersed, an individual arrived on the scene and identified herself as the Dean on Call. The University official who was responsible for supervising the Dean on Call program also came to the scene. The Dean on Call received a quick debriefing from the UCPD regarding what had occurred and learned that a student had been arrested and was being transported to Chicago Police Department District 2 Headquarters for formal processing. The Dean on Call indicated that she arrived at the scene within 20 minutes of being contacted by UCPD dispatch. She arrived in her own transportation as there were no UCPD squad cars, the common method of transportation, available to transport her to the scene. Like other University officials, the UCPD, and the UCMC, she had no prior knowledge of the planned protest. The evidence suggests that approximately 30 minutes passed from the outset of the protest until the time the protestors began to disperse.

## **B. Relevant Policies and Procedures**

Schiff Hardin reviewed a number of relevant University policies and statements, including the Kalven Committee Report on the University's Role in Political and Social Action, which address demonstrations and protests and the University's encouragement of open discourse and expression, as well as the UCMC policy applicable to civil unrest. There is no UCPD General Order or other policy specifically addressing demonstrations or protests.

Schiff Hardin also reviewed a variety of materials related to the Dean on Call program, including the resource guide and the purpose and goals of the Dean on Call program set forth on the University's website, as well as the Protests and Demonstrations Policy in the Student Manual.

## **C. Findings**

Schiff Hardin found no evidence that the conduct of University officials and members of the UCPD related to the January 27, 2013 protest violated any formal University or UCPD policy. In fact, the evidence revealed that the protestors, the majority of whom were not University students, were intentionally violating the law and had planned for civil unrest and for certain protestors to be arrested. As the UCPD and PSOs continued to try and usher the protestors outside the construction gate, a UCPD officer shouted to the crowd to leave the premises and opened his regulation baton by aggressively swinging his arm high in the air with a downward motion rather than swinging with his arm down by his side as is regulation practice. Once the baton was opened, the officer continued to usher the crowd outside of the gate. Available evidence does not indicate that the officer struck anyone or otherwise used the baton in an inappropriate manner.

There is no evidence that the arrests on January 27<sup>th</sup> were discriminatory or that the UCPD used inappropriate or excessive force. The student who was arrested remained on the ground for several minutes but was monitored by a UCPD officer. The evidence further reveals that the student was treated appropriately at all times. Moreover, the evidence supports that as the student was refusing to be handcuffed, the arrest was effectuated properly and in accordance with police procedure.

#### **D. Recommendations**

While there is no evidence of a violation of a University or UCPD policy, the events do highlight the need for review, assessment, and clarification of University and UCPD policies, practices and protocols related to demonstrations and protests, including the role of the Dean on Call program, followed by appropriate training and education of all involved parties.

### **III. FEBRUARY 23, 2013 PROTEST**

#### **A. Factual Background**

A review of the facts and evidence revealed that in early February 2013, the UCPD began planning for the patient move associated with the opening of the CCD on February 23, 2013. In the course of this planning, and following the January 27<sup>th</sup> protest, University and UCPD officials became aware of plans for a protest associated with the opening of the CCD as a result of at least one individual involved in the January 27<sup>th</sup> incident reaching out to UCMC officials to notify them of the planned protest. University and UCPD officials then reached out to protestors to discuss their plans and to ensure that the protestors were able to communicate their message without interference with or disruption to the patient move. Students and student groups that planned to protest on February 23<sup>rd</sup> participated in these meetings and worked with University, UCPD, and UCMC officials. All participants in the meetings spoke to the collaborative nature of the meetings and the recognition that all parties worked to strike a balance between allowing the protestors the freedom to communicate their message while respecting the interest of the UCMC in ensuring patient safety and security.

The UCPD developed a plan for oversight of the patient move and protest which included the involvement of three UCPD detectives who were to be in “plain clothes.” These “plain clothes” detectives were originally assigned to monitor the protest and be prepared to videotape any incidents that arose for later evaluative use. A number of other UCPD officers were assigned to monitor the protest and were stationed along the anticipated protest route. The February 23<sup>rd</sup> protest occurred peacefully and without any arrests.

Shortly following the February 23<sup>rd</sup> protest, the University of Chicago Maroon published an article regarding the role of a UCPD detective in the protest. The article included photos of the detective walking with the protestors, carrying a sign regarding the trauma center issue, and placing a sticker over her mouth consistent with other protestors. The detective stated that she undertook such conduct as a result of an order by the commanding officer who was responsible for the detectives’ work on February 23<sup>rd</sup> to “blend in and get intel,” a directive acknowledged and confirmed by the commanding officer and others. The commanding officer further instructed the detective to communicate to him contemporaneously any information learned by the detective while walking with the protestors. The detective confirmed that once she was among the protestors, she communicated with the commanding officer via text messages and at least one telephone call. There is further evidence that the commanding officer received and responded to the detective’s reports regarding her conduct walking with the protestors and reporting their activity. The commanding officer indicated a concern for the safety and security of the patients being moved based on the January 27<sup>th</sup> incident.

While the written plan for the UCPD response to the February 23<sup>rd</sup> protest used the term “plain clothes” to describe the assignments of three UCPD detectives, this phrase potentially encompassed a wide range of conduct. It was the intent of the officer who originated the demonstration plan that the term “plain clothes” would mean detectives in the ordinary course walking alongside the protestors for safety and concern, but with all identifiers indicating that they were police officials, as had been done with protests in the past. However, the commanding officer in charge of the detectives’ assignment interpreted the term “plain clothes” to be synonymous with an “undercover” or “covert” operation wherein the detective’s true identity would not be revealed, the detective would gather information as a result, and that information would be transmitted to this commanding officer for further evaluation. This incorrect assumption formed the basis for the commanding officer’s order to the detective to “blend in and get intel.” There is no evidence that the commanding officer’s interpretation of “plain clothes” or his order to the detective to “blend in and get intel” was sanctioned or known by any other commanding officer.

## **B. Relevant Policies and Procedures**

The same University policies and statements related to freedom and encouragement of expression apply here. Also relevant is the lack of a UCPD General Order on demonstrations and protests. Further, there is also no UCPD General Order or policy addressing the use of “undercover” or “covert” operations.

## **C. Findings**

Schiff Hardin found that the detective did not participate in any of the planning meetings for the February 23<sup>rd</sup> protest and would, therefore, have no knowledge or context for the orders she was given. The orders given, while arguably against University philosophy, were not unlawful and were not recognized by the detective to be in violation of a known UCPD policy, procedure, or general order. Therefore, it was reasonable for the detective to have followed the direct order of a high-ranking commanding officer. By contrast, the commanding officer who gave the instruction to “blend in and get intel” was a party to at least two planning meetings wherein the details of the UCPD’s response to the protest were discussed. He was, therefore, aware of and responsible for knowing the true intent of the plan. Further, he had participated in other such protests wherein he, himself, had been in “plain clothes” and had walked alongside protestors for their safety and security but had not participated in a covert manner in the protests. It was, therefore, unreasonable for the commanding officer to issue a counter-order to the detective to “blend in and get intel” and promote the behavior of the detective as indicated.

Further, Schiff Hardin found no evidence that the conduct of University officials and members of the UCPD relating to the February 23, 2013 protest, with the exception of the commanding officer who ordered the detective to “blend in and get intel,” violated any formal University or UCPD policy. In fact, Schiff Hardin found no evidence of any other “undercover” or “covert” involvement in any protest other than the protest occurring on February 23, 2013.

#### **D. Recommendations**

The miscommunications highlighted as a result of the February 23, 2013 protest demonstrate the need for review, assessment, and clarification of UCPD policies, procedures, and protocols regarding the use of “plain clothes,” “undercover,” or “covert” operations, followed by appropriate training and education of all involved parties.

#### **IV. CONCLUSION**

Schiff Hardin found no evidence that the conduct of University officials and members of the UCPD related to the January 27, 2013 protest violated any formal University or UCPD policy. In fact, the evidence revealed that the protestors, the majority of whom were not University students, were intentionally violating the law and had planned for civil unrest, including the arrest of several protestors. There is no evidence that the arrests effectuated on January 27<sup>th</sup> were discriminatory or that the UCPD used inappropriate or excessive force during these arrests. Schiff Hardin found no evidence that the conduct of University officials and members of the UCPD relating to the February 23, 2013 protest, with the exception of the commanding officer who ordered the detective to “blend in and get intel,” violated any formal University or UCPD policy. Schiff Hardin found no evidence of any other “undercover” or “covert” involvement in any protest other than the protest occurring on February 23, 2013.

While there is no evidence of a violation of a University or UCPD policy, the events on both days do highlight the need for review, assessment, and clarification of University and UCPD policies and protocols related to demonstrations and protests, including the role of the Dean on Call program, and use of “plain clothes,” “undercover,” or “covert” operations, followed by appropriate training and education of all involved parties.