

## FINAL REPORT

To: Kelly Hannah-Moffat, Vice-President, Human Resources & Equity, and Scott Mabury, Vice-President, University Operations

From: Alexis Archbold, Assistant Dean, J.D. Program, Faculty of Law

Date: January 31, 2017

Re: October 11, 2016 - Incident Review

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### ***1. Introduction***

The October 11, 2016 incident was a student-organized rally ("the rally") that took place outdoors at Sidney Smith Hall on the St. George campus. Framed by the student organizers as a discussion about "Political Correctness, Bill C16, and HR & Equity Policy", the rally featured guest speakers and attracted large numbers of students and other individuals. The organizers were students aligned with Professor Jordan Peterson who can be broadly characterised as taking the position that freedom of speech is at risk from equity seeking communities. The group protesting the rally can be broadly characterised as students and others who believe that freedom of speech cannot be used to justify denying the equality rights of vulnerable groups. Many of those individuals were members of the transgender and Black communities. Several Campus Police officers were assigned to attend the rally.

Multiple contributing factors - including the outdoor setting, lack of clear organizer, use of white noise through loudspeakers by protesting students to disrupt the rally, the request by protesting students that another student group attend the rally to protect them, and the participation of individuals on both sides of the issue who instigated conflict and violence - led the rally to become chaotic and challenging. Several episodes of aggressive verbal and physical conflict occurred between people aligned with the opposing sides of the issue. Ultimately, Campus Police called the Toronto Police Services to assist, and two students from the protesting side were charged under the *Criminal Code* for allegedly committing assaults.

Shortly after the rally, the University of Toronto Students Union (UTSU) sent a letter to the Provost complaining that Campus Police failed to protect transgender and Black students from verbal and physical aggression. Another group of students issued an open letter complaining that the University failed to condemn the protesting students' conduct at the rally.

On October 26, 2016, the University initiated a review of the rally.

### ***2. Methods***

In conducting my review, I interviewed 21 individuals and consulted several online videos, social media sites, and documentary sources.

I interviewed most of the administrative staff and Campus Police officers who attended the rally. Several staff recommended that I reach out to particular student leaders who also attended the rally. When I met with those students, I asked them to suggest other students whom I should approach. I also sent emails to the student governments on the three campuses, and the Black Liberation Collective, Black Students' Association, and Students in Support of Free Speech student groups, inviting them to speak to me.

There are several online videos of the rally. The large majority of the videos are short segments and have been edited. To my knowledge, the rally was not filmed from the beginning to end by one source. Throughout the report, I attempt to clearly indicate where I refer to information I gathered from interviews and other sources of information.

### **3. Summary of Campus Police activities at the October 11th rally**

Campus Police learned about the rally from the Provost's office a few days before October 11th. Campus Police's investigative unit watched social media channels to determine whether neo-Nazi or other groups who might pose particular risks were planning to attend. These sources; in addition to Campus Police's contacts at related policing services, confirmed that there was no indication that such groups were planning to attend. Also, in the days preceding the event, Campus Police Associate Director Sam D'Angelo requested that Toronto Police Services 52 Division keep their bike patrol on stand-by near campus in case their assistance was required, as is the protocol in such circumstances.

Seven Campus Police officers, plus Associate Director Sam D'Angelo, attended the rally. Six of the officers were in uniform and one was in plain clothes. The uniformed officers were stationed around the perimeter of the rally space and the plain clothes officer moved around the centre of the rally space. The decision to station Campus Police officers on the periphery of the activity as in part informed by an understanding that some students at the rally may have particular sensitivities to policing. In addition, there was a concern about "officer-induced jeopardy", which refers to the risk that a strong police presence may inadvertently inflame conflict rather than reduce it.

Campus Police officers were given the standard instructions for a rally of this kind: if physical conflict looked like it was going to occur or was occurring, the officers were to move in from the perimeter and "show their colours" until things calmed down, and then move back again and let the event continue if safe to do so. This pattern of moving close to pockets of conflict and moving out again occurred several times during the rally. Campus Police officers also gave verbal instructions such as, "No physical contact", "Try to tone it down", and "Be civil". Several witnesses observed this pattern of Campus Police activity and noted that it appeared to be effective in deescalating incidents of conflict.

On two occasions, Campus Police officers responded to individual requests to make formal complaints against students who had allegedly committed assaults. Campus Police officers reported that a few students attempted to impede their ability to investigate the assaults. Some of this behaviour can be seen on video.

During the event, several students asked Campus Police why certain people weren't being arrested or removed from the event, and why certain activities were being permitted to continue. Campus Police were observed giving "friendly and respectful" responses to students in which they attempted to clarify the limits of their role and explain how to engage with the complaint process.

At approximately the mid-way point of the event, Associate Director Sam D'Angelo assessed that the situation required the presence of the Toronto Police Service and called them to attend. He made this determination after a false fire alarm was pulled in Sidney Smith Hall and hundreds of staff, students and faculty exited the building into the rally space. Five patrol cars from three different divisions arrived and stayed for approximately 30 minutes.

Subsequent to the event, Campus Police met separately with the two students about whom formal complaints had been made by non-U of T community members, and charged them with assault. As of January 27, 2017, no students had come forward to make formal complaints about other individuals at the rally.

#### **4. Key issues raised about Campus Police at the October 11th rally**

##### **a) Student confusion about the role of Campus Police**

Some students who attended the rally expressed confusion about why Campus Police did not take immediate actions such as stopping disruptive activities, removing individuals, laying criminal charges, and issuing trespass notices to ban individuals from coming onto U of T property. Some students felt that Campus Police failed to protect students on both sides of the conflict from offensive speech and physical assaults.

In addition, a few interviewees expressed concern that Campus Police appeared to take action only when non-U of T community members were being threatened. They suggested that it appeared that Campus Police were picking and choosing which conflicts to engage in. One interviewee pointed out that there were a few alleged assaults against students at the rally, but the only criminal charges laid involved the two alleged assaults by students against non-U of T community members.

These views appear to indicate that some students do not fully understand Campus Police's role and the scope of its powers. Specifically, there is a lack of awareness of the limitations on Campus Police's ability to take immediate action(s) against an individual(s) at an event such as the October 11th rally. These limitations include:

- Campus Police's actions are governed by a complaints-based process that requires an individual to give their name and contact information and make a formal statement of complaint against another individual. After an event is over, Campus Police will follow up on formal complaints and, if warranted, take action(s) against an individual(s); and
- Where Campus Police decide in their discretion to take immediate action against an individual(s), in many cases it would be unsafe to do so while the rally is in progress. Arresting or removing an individual(s) from a large, chaotic event can risk creating further conflict.

Campus Police officers expressed concern that many students seemed to expect them to take their side and protect them against other individuals at the rally, when in fact Campus Police's role is to deescalate conflict and maintain the peace in an unbiased manner.

#### **b) The number of Campus Police and their visibility at the rally**

Some witnesses felt that there should have been more Campus Police officers in attendance at a rally of that nature and size. One interviewee commented that they noticed that Campus Police officers were "standing out of the way and out of view", and was concerned that it looked like they were "too hands-off". On the other hand, some other witnesses, including members of Campus Police, noted that if they had been more visible and "hands on", there would have been complaints about them being too aggressive. One witness said that Campus Police's presence "acted as a deterrence", and without them there, the conflict would have escalated further.

#### **5. Additional relevant information about the October 11th rally**

Several factors made the October 11th rally unusual as a campus event and therefore presented challenges for Campus Police.

##### **a) The outdoor setting**

The outdoor setting made the rally more vulnerable to disruption and conflict for several reasons:

- It was easy to join and leave the rally without being noticed. This made it difficult to keep track of who was and was not a member of the U of T community;
- It was easy for an attendee to do or say something contrary to University policies and/or the *Criminal Code* and then leave without being noticed;
- Had it been determined that activities at the rally warranted the application of U of T's *Policy on the Disruption of Meetings*, the outside venue made it impossible to take some of the steps outlined in the policy to address the disruption (e.g. adjourning the meeting to another date and emptying the room);
- There was no fixed, centre of activity (e.g. a podium for speakers). In fact, there were several moving, shifting, tight clusters of interaction and conflict, making it difficult to effectively observe and monitor what was happening; and
- The east patio of Sidney Smith Hall was vulnerable to an unexpected influx of hundreds of students, staff and faculty when the fire alarm was pulled. The rally suddenly doubled in size when the alarm was pulled.

##### **b) The unofficial nature of the rally**

The rally organizers did not officially book the Sidney Smith east patio space as per U of T's *Policy on the Use of Main Public Spaces in Sidney Smith Hall*, and the organizers were not an officially recognized group as per U of T's *Policy on the Recognition of Campus Groups*. In usual circumstances, the event booking would have prompted the Provost's office to meet with the organizers to discuss their role and

responsibility and the University's role. Not knowing who the organizers were also meant that Campus Police and the Provost's office staff didn't know who to talk to when the rally devolved into conflict.

### **c) The use of white noise**

Many witnesses observed that the use of white noise by protesting student to disrupt the rally significantly increased the level of frustration and tension at the rally, and led directly to verbal and physical conflicts (e.g. conflicts over the loudspeakers and connected wires). Some people expressed concern that freedom of speech was impeded by the white noise, while other people expressed the view that the white noise served a positive function by assisting a small number of vulnerable students to effectively drown out what they considered to be hate speech.

### **d) The decision by some students to call in a student group to protect them**

At a certain point during the rally, some of the protesting students requested that a student group attend the rally to protect them. Several interviewees observed that the arrival of this student group led to an escalation in conflict.

### **e) The participation of individuals on both sides of the issue who instigated conflict**

Several witnesses observed that many people who attended the event seemed to be interested in engaging in a peaceful discussion. However there were individuals on both sides of the issue who appeared to attend the event to create conflict. There are dozens of online videos that document this conduct, including the two alleged assaults committed by two students that resulted in criminal charges.

Several interviewees also expressed concern that a few non-U of T community members behaved in a manner that was particularly problematic. These individuals appear on videos of the rally engaged in verbal and physical conflict. In the aftermath of the rally, some of these same people contributed online comments and views that several interviewees described as "offensive" and "hateful". Some students who attended the rally and appeared on posted videos later received threatening and harassing messages through social media, prompting a response from the Provost's office, and leading to a criminal investigation by the Toronto Police Service.

### **f) Offensive language and comments**

Many witnesses reported that they heard language and comments that they found to be offensive, and frequently described them as "racist", "transphobic", and/or "hateful". Several people reported that they observed individuals from both opposing sides of the conflict making offensive comments.

## **6. Other issues raised during the incident review**

### **a) Definition of campus safety**

Several witnesses wondered whether the appropriate definition of "campus safety" is being used in situations such as the October 11th rally. They asked questions including: "What does 'campus safety' "

mean? Does it mean safe from physical harm only? Does it also mean safe from emotional harm? What about affronts to dignity? What is the role of Campus Police in managing these questions?"

**b) The experiences of some students with regards to campus safety and campus policing**

Several witnesses noted that certain communities of students, particularly those who identify as' transgender, Black, and Indigenous, experience campus safety and campus policing differently from other students. It was suggested that the administration should continue to facilitate open discussions with students who identify with these communities to find out what they need to feel safe on campus.

**c) The role of the University administration**

Some people noted that several members of the senior University administration attended the rally but didn't do anything when it devolved into conflict. They described the senior University administration as seeming uncaring because "they just stood there and watched".

**7. Conclusions**

Based on the interviews and other evidence I reviewed, it is my view that:

- a) Multiple factors contributed to making the October 11th rally unusually chaotic and challenging;
- b) Campus Police attempted to maintain the peace in an unbiased manner and therefore performed its duties in accordance with the scope of its authority; and
- c) The concerns of some students about Campus Police's conduct at the rally indicate that there is a significant misalignment between the students' expectations of Campus Police and the reality of the scope of its authority. This misalignment led some students to expect that Campus Police would act in certain ways, and when it did not, those students concluded that Campus Police had failed in its duties.

**8. Recommendations**

**a) Create ongoing dialogue about campus civility and campus safety**

Difficult campus events like the October 11th rally may indicate that there are underlying issues at play in the campus community. Continued discussions between the University administration and students about freedom of speech, campus climate and civility, campus safety, and campus policing could help to surface the issues that allow incidents like October 11th to occur.

**b) Educate the U of T community about the role of Campus Police**

Campus Police's stated mission statement, mandate and values web page on the University's web site provides almost no guidance to students about what they can expect from Campus Police at an event like the October 11th rally. In addition, there is no information about the complaints-based process and how it works.

The University should develop publicly available information on this topic and disseminate it broadly to students through a variety of channels including the University web site, student government and student clubs.

**c) Review the complaint-based process**

The fact that several students approached Campus Police while at the rally to complain about certain behaviour, and yet no students have made formal complaints to Campus Police, may raise questions about whether there are issues with the complaints process. Students should be consulted about perceived obstacles that may prevent or dissuade them from making complaints to Campus Police about an individual(s).

**d) Create a process for reporting the behaviour of non-U of T community members to Campus Police**

The behaviour of some non-U of T community members towards students before, during and after the October 11th rally was very problematic, including making offensive comments, committing physical assaults, and making threats. It appears that some of these individuals attended the rally with the sole purpose of instigating violence. It may be helpful to create a process for reporting "persons of interest" to Campus Police so that it can effectively monitor their activities on campus.

**e) Educate students about the risks of outdoor events**

Student groups should be informed that outdoor events may entail particular risks (e.g. lack of control over the size of gathering and who attends, inability to shut down rally, and challenges to policing), and that, as organizers, they may be held responsible for outdoor events that go poorly. When there is a risk that conflict may occur (e.g. events that are political or controversial in nature), student groups should be strongly encouraged to book indoor spaces. If booking an indoor space is not desirable or practical, students should be expected to take steps in conjunction with the University administration and Campus Police to ensure that the rally is safe and respectful.

**f) Revise the *Policy on Disruption of Campus Meetings***

The Policy on the *Disruption of Campus Meetings* should be revised to include processes for addressing disruptive activities at outdoor events.

**g) Clarify the role and obligations of University administration at student events**

The administration should reflect on why they attend events like October 11th and what role they are playing. The reality is that if members of the administration are present, and the event goes awry, students will expect the administration to step in to help. One idea is to proactively assign one senior administrator to serve as the official point person. That individual will be expected to liaise with the student organizers and Campus Police if things get out of hand.

## ***9. Acknowledgement***

I would like to express gratitude to the members of the University community who took time to speak to me about the October 11<sup>th</sup> rally.