

April 9, 2010

LORI KLETZER
Chair, Senate Executive Committee

Re: Police Surveillance at Campus Demonstrations

Dear Chair Kletzer

On behalf of Chancellor Blumenthal, I am responding to your February 25, 2010 letter entitled "Police Surveillance at Campus Demonstrations." In your correspondence you have expressed concern regarding the presence of UCSC police officers during the February 17 demonstration in front of Kerr Hall. Specifically, you believe that a police officer with a camera was engaged in "police surveillance," and that his presence intimidated and chilled the demonstrators' exercise of their free speech rights. In addition, you request that UCSC police "refrain from engaging in the surveillance of individuals or groups of individuals based on their participation in activities protected by the First Amendment."

Prior to addressing your request, I think it is important to clarify the police practice on this campus. I have been assured that UCSC police do not engage in covert "surveillance" at demonstrations or protests. Neither do we have "undercover" police who target individuals based on the exercise of their First Amendment rights. Rather, UCSC police officers openly photograph or videotape individuals if there is a need to identify them or capture their images as evidence in connection with the possible violation of a law or University policy or regulation -- including the violation of campus content-neutral reasonable time, place and manner rules governing expressive activity. Police officers limit this practice to public areas only, where there is no expectation of privacy. In short, based on their expertise and experience, police determine whether photography or videotaping is necessary in furtherance of a legitimate law enforcement purpose.

Turning to the specific events of February 17, as I understand the facts, an officer approached a group on the Kerr Hall plaza, announced himself and actually asked if he could take photographs. He made no attempt to hide his intentions and no one objected to his actions. Under UCSC campus regulations, the area in front of Kerr Hall (as long as one is at least 10 feet from the building entrances or exits) is "open to the public generally." Clearly, the demonstrators had no expectation of privacy, either subjective or reasonable. (See Section 40.41 of the Policy on Use of University Properties, located at: <http://www2.ucsc.edu/judicial/handbook09-10/WebView/fulldoc/PolicyUniversityProperties.html>).

In summary, the campus police have a legitimate law enforcement purpose for their current practice. They do not target individuals because of their participation in lawful expressive

activity or single out protesters based on the subject matter content of a demonstration. In general if a demonstration is peaceful and consistent with campus rules, there is no need to photograph anyone. However, that is often not the case during these difficult times, and the police must be able to use their judgment and reasonable tools to document for evidentiary purposes, conduct that is potentially unlawful or violates University rules.

I trust I have been responsive to your request for information. Please do not hesitate to contact me if you wish to discuss this matter further.

Sincerely,

// signature //

Ashish Sahni
Assistant Chancellor/Chief of Staff

cc: Chancellor Blumenthal
CP/EVC Kliger
VC BAS Vani
Director Harhen