

**DePauw University**

**Independent Review  
Committee Report**

## **DEPAUW UNIVERSITY INDEPENDENT REVIEW COMMITTEE REPORT**

### **I. Formation, Charge and Work of the Independent Review Committee**

President Brian W. Casey – with the support of Greencastle Mayor Sue Murray and the City of Greencastle – charged a committee of external advisors (to be known as the Independent Review Committee) to review the events of September 23, 2015, at DePauw University and offer forward looking recommendations designed to improve the safety and security of all those who are a part of this community. The Independent Review Committee (“IRC” or “the Committee”) consists of Troy Riggs, Myra C. Selby, and Joseph Slash. The formation of the IRC was announced in the *DePauw* on October 6, 2015.

The work of the IRC consisted of:

- Reviewing applicable University policies, practices and procedures;
- Conducting over 30 interviews of students, key University personnel, Greencastle Police, Greencastle City officials, and student affinity group leaders;
- Conducting a campus-wide hearing to receive information and comments from students, faculty and staff;
- Establishing a confidential e-mail address to receive information from anyone in the University community from November 16, 2015 – March 4, 2016; and
- Viewing Greencastle Police Department Bodycam video footage, including seven separate video segments.

#### **A. Timeline**

On October 21, 2015, the IRC had an initial meeting with John Neighbours, University counsel and President bRIAN Casey for a briefing on the events of September 23, 2015, as well as to discuss a proposed work plan.

On October 23, 2015, the IRC was presented with a proposed Charge. The IRC reviewed and commented on the proposed Committee Charge and their comments and suggestions were accepted.

On November 9, 2015, the IRC met on campus and held the first round of interviews. The interviews were with the following: Brian Casey, President; Christopher Wells, Vice President for Student Life; Cara Setchell, Dean of Students; Angela Nally, Director of DePauw Public Safety; Sue Murray, Mayor of Greencastle; Laurie Hardwick, City Attorney; Tom Sutherlin, Greencastle Chief of Police; and Brian Hopkins, Assistant Chief, Greencastle Police Department.

On November 16, 2015, the Committee held an open hearing inviting DePauw students, faculty and staff. The event took place in the Union Building. Several students spoke of the considerable confusion, anguish and pain they were feeling as a result of the September 23, 2015 incident. Many of these remarks referenced the fact that students of color, international students and LGBT students do not feel safe on the campus. Faculty and staff who spoke at the hearing seemed to be very supportive of students and concerned about student life. Several faculty provided valuable information about the history of the University's relationship with the Greencastle community.

The IRC briefly reconvened and met after the public hearing. All members agreed that the comments and information coming out of the hearing clearly demonstrated that the September 23, 2015 incident was the proverbial straw that broke the camel's back. In other words, most of the concerns and complaints from students grew out of experiences that occurred well before the Campus Ministry USA visit. The tension of that day acted to spark many of these underlying concerns and feelings. As a result of the hearing, the Committee requested additional information and interviews.

On November 17, 2015, the IRC met with the Diversity and Equity Committee and the Division of Student Life.

On February 16, 2016, the third and final round of interviews were conducted with various student affinity groups.

**B. Information Gathered**

The IRC reviewed over 400 pages of documents, including Greencastle Police Department Reports; DePauw University Department of Public Safety Reports; DePauw University Student Handbook; notes from Division of Student Life regarding preparations for second visit of Campus Ministry USA; DePauw University website; Campus Ministry USA website; transcript of IRC hearing. In addition, the IRC viewed extensive video of the September 23, 2015 incident from Greencastle Police Department Bodycam.

Information was gathered from across a wide variety of campus inputs. The IRC spoke with and/or interviewed dozens of individuals, in addition to those who spoke at the IRC hearing. Additionally, the Committee gained information and input from responses to the confidential e-mail that was established on November 16, 2015. Each member of the Committee visited the campus several times and at various points throughout the Committee's work in order to familiarize themselves with the campus and some specific locations mentioned in interviews.

**II. Background and Factual Summary**

At or around noon on September 23, 2015, the Campus Ministry USA set up in an area at the intersection of Hanna and Locust Streets on the DePauw University Campus. The leader of the Campus Ministry USA, George Edward Smock, Jr., so-called "Brother Jed", began to "preach" to DePauw students crossing in the intersection. The time was at or around noon so many students and others were crossing the campus through this intersection during the lunch hour. Brother Jed uses what he calls confrontational evangelism which consists of shouting and yelling at students with messages targeted to their identities – racial, sexual, gender, immigration

status, country of origin, and the like. Brother Jed targets students with deeply personal rebukes in the hopes of forcing students to repent. In addition to the preaching, the Campus Ministry USA protestors carried signs with messages indicating that certain behavior condemns students to hell. Although Campus Ministry USA usually lists college visits on its website calendar, the DePauw September 23, 2015 visit was not listed on their website calendar, nor was it previously announced to the University.

DePauw Student Life staff were the first University personnel on the scene. As Cara Setchell and others approached the intersection there a small group of between three and five students. More Student Life staff arrived at the location and they began to enlist certain students to assist them in an effort to redirect students away from the area. The redirection consisted of a plea to ignore the hateful and offensive words of the protestors and to simply move through the area and on to another point on the campus. At 11:59 A.M., Director of Public Safety, Angela Nally, received information from public safety dispatch and from Assistant Director Charlene Shrewsbury that the Campus Ministry USA group was on the campus. Nally also spoke with Cara Setchell and Setchell gave her additional explanation and background on what was happening at the scene. Chief Nally arrived at the intersection at 12:07 P.M., and spoke with Brother Jed. At this time she established that the group had not made prior arrangements with any University department or officials and that they had set up their protest and had an intention to stay for several hours.<sup>1</sup> At this point in time, congestion in the intersection was increasing. As the number of students in the intersection grew, tempers also grew and students were expressing frustration with the University for not taking steps to remove the Campus Ministry

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<sup>1</sup> When she received the dispatch call, Chief Nally was off duty and off campus with her daughter for a doctor appointment. She responded to the call and came to the scene immediately. However, she was not in uniform.

USA individuals from the scene. During this time, several members of the Student Life staff were attempting to maintain a peaceful atmosphere by forming a barrier between the protest group and the students while continuing to attempt to divert students away from the area. Shortly before 12:30 P.M., an effort to create a counter demonstration was underway with students and support from Student Life staffers.

Chief Nally called Greencastle Police Officer Wilson after 12:07 P.M., and asked for assistance with closing the streets. Officer Wilson arrived and provided assistance at that time. Chief Nally also placed a call to Tom Sutherlin, Chief of Greencastle Police Department, and received his voicemail. Chief Nally also contacted a former colleague of hers, Officer David Barber, at Indiana State University. Barber was a prior public safety officer at DePauw. Nally explained to Barber that the Brother Jed group was on the DePauw University campus knowing that the group had visited the Indiana State University campus previously and were frequently on that campus. She asked how Officer Barber and the ISU police force had handled the Campus Ministry USA protestors. Barber responded that ISU set up barricaded space for the protestors and that students usually just ignored them.

Over the next two hours, the crowd at the intersection of Locust and Hanna swelled. The protestors continued with their invective and incendiary messages and students grew increasingly frustrated that the protestors were not silenced or removed. Additionally, students were increasingly determined to confront the protestors.

Students believed that the protestors should have been removed from the intersection because they seemed to be an uninvited, outside group engaging in hate speech. Students were questioning why the University was not doing more to silence the protestors or remove them. Students also directed comments at University administration questioning why the actions and

strategies applied for crowd control seemed to be aimed at protecting the protestors and leaving students feeling unsafe. President Casey arrived at the scene as events were unfolding. He stood clear of the crowd and at one point was talking with Mayor Sue Murray. Students were looking to President Casey for answers to complex questions about the basis for the protestors' conduct and whether their messages were protected speech. Students did not understand or accept the fact that the Campus Ministry group was lawfully situated on a public street on the campus and that their speech, although repugnant and deeply offensive, was indeed protected.

At some point during this time, Assistant Chief of Greencastle Police Department, Brian Hopkins, advised DePauw Chief Nally that there would be an option to disperse the crowd by lining up all of the police cars and turning on the sirens so that no one could hear the protestors and the reverse. Following this, officers could position themselves between the crowd and the protestors. Chief Nally rejected this approach because she feared it would exacerbate tensions. At about this time, Chief Nally saw that J.C. Lopez was attempting to mount an alternative counter protest event near the stairs of the Union Building. He was assisted in this effort by other Student Life staff, as well as student leaders. As this counter demonstration activity got underway, Chief Nally approached President Brian Casey at the northwest corner of the intersection and suggested that a non-law enforcement intervention was needed.

The law enforcement agencies present on site on September 23, 2015, included the following: DePauw Public Safety (two officers and Chief Nally); Greencastle Police Department (six to seven officers); Putnam County Sheriff's Department (three officers); Indiana State Police (six troopers); and Fillmore Town Marshal (one).

At approximately 1:30 P.M., a student identified herein as Student 1 approached the protestors and the officers protecting them and threw contents of a cup of coffee over the top of

several people, including Greencastle Police Department Officer Darrell R. Bunten's head, barely splattering him, and dousing one of the protestors. The coffee spill also caught the uniform shirt of DePauw Public Safety Officer Demmings and the uniform shirts of Assistant Chief Hopkins and Fillmore Town Marshall Nichols Easthams and the patrol car of Indiana State Police Trooper Jim Hayes. Officer Bunten immediately detained Student 1 and escorted her away from the area to his patrol car. He advised her that he would prepare a report to the Putnam County Prosecutor for charges. He then spoke with Officer Demmings who advised him that they would discipline all students and forward the report.

Shortly after this, the yelling of obscenities back and forth between the protestors and students grew. Several students attempted to intimate the protestors by blowing smoke in their face, physically pressing up against them and not giving them space. One student, herein referred to as Student 2, grew very upset and other students around and near him tried to calm him down. Student 2 was yelling at the protestors something to the effect of "what do you mean black lives don't matter?" and he started to flail his arms around in a wild fashion. As efforts to calm him by staff and students did not succeed, Assistant Chief Hopkins directed Officer Lee to execute a hook-up to remove Student 2 from the crowd and detain him. Some students and University employees attempted to intervene as this was occurring. Assistant Chief Hopkins and Officer Lee handcuffed Student 2 and double-locked the cuffs and helped Student 2 off the ground and escorted him away from the scene. Officer Lee explained to Student 2 that he had been removed because he had become physical and removal was for the safety of the crowd. Andrew Smith, of the DePauw University Office of Alumni Engagement, went to the ground along with Student 2. After officers removed Student 2, Smith continued to yell at the officers,

specifically at Chief Nally saying “see, Angie, see what happens? This can’t happen.” Smith was blocked and restrained by Officer Demmings.

Shortly after Student 2 and Smith were detained, Chief Nally met with Chief Parker and Trooper Robinson to discuss how they might move the protestors to an area that could be boxed off or barricaded. At that time, Officer Demmings approached and informed Nally that he had just spoken with Brother Jed and he agreed that he would gather the group to leave in approximately 15 minutes. Chief Nally immediately informed Brother Jed that officers could safely escort him and his group to their vehicle at that time. Brother Jed joined his group at their vehicles and the Campus Ministry USA group departed. The crowd gradually dispersed and students and others left the intersection.

After the protest event ended, several student leaders met with President Brian Casey and others in the administration to discuss and process events of the day. During this discussion, the group planned to hold a campus-wide forum later that afternoon. The forum took place at 4:00 P.M., just hours after the Campus Ministry USA preachers departed. During the forum, many students expressed anger and frustration about what had occurred. Several persons present questioned the response of law enforcement and some even made allegations of police brutality directed at Greencastle Police. Some students spoke of not feeling safe on the DePauw University campus. Efforts by President Casey and Mayor Murray to address the students and have a discussion about recognizing the right to free speech even when the words offended were not successful. At this point it was clear that minds were fixed without full knowledge of all of the facts.

The next day, September 24, 2015, the University undertook preparations for the second visit of Campus Ministry USA. This included a meeting of Student Life Deans and directors to

debrief on the day, initiate appropriate follow-up with and begin the process of preparing for another visit or similar event. Between September 24 and the return of Campus Ministry USA on October 1, 2015, a great deal of work and planning went into making sure that the University was prepared. Student Life provided the IRC with a document entitled “Student Life Logistics for Responding to Student Demonstrations Considerations for Staff Roles/Support.” The plan included details on staffing coordination, periphery crowd and safe space locations, messaging and student resources, inner crowd and lines of communication. Also included in documents provided was one entitled “Responding to Outside Group Demonstrations: Considerations for How to Respond.” This document includes important factual and background information on the subjects of freedom of speech, public property, and the role of public safety.

On September 28, 2015, there was a community gathering for DePauw faculty, staff and students of color. At the same time, there was a program to learn about positive ally behaviors. This gathering was for those who wished to support members of the community most affected by the confrontational evangelists and the law enforcement responses.

When Campus Ministry USA returned to the campus on October 1, 2015, the plan for a counter protest was activated. Public Safety set up a barricaded area within which the demonstrators would stand surrounded by a neutral buffer zone. Several students and student groups set up counter protests with music, chants, dancing and fundraising for support of groups affected by the presence of Campus Ministry USA. The day was peaceful with no incidents and no non-University public safety agencies were needed – although the City police were nearby in the Union Building.

It is critically important to note that the events of September 23, 2015 took place during a time in the nation when concerns about institutional racism and excessive use of force in policing

were a part of ongoing public dialogue. This backdrop was noted by several students when they spoke about the police action on September 23, 2015. Although the IRC was engaged with a focus on the events relating to just one day, there is no question that all of the people involved (students, staff and law enforcement officers) were aware of and for some deeply touched by the events of Ferguson, Missouri: Trayvon Martin and Michael Brown.

### **III. Findings and Conclusions**

#### Preparedness:

*To what degree was DePauw University prepared for the events of September 23<sup>rd</sup>, and the ways in which it engages Greencastle during such events. How might University and City officials improve preparedness for future events and should a defined University protocol be developed?*

DePauw University was not well prepared for the events of September 23, 2015. There was an overall lack of command and control at the event and this led to everyone (students, staff, faculty and police) not knowing who was in charge. This was exacerbated by the fact that many staff were not wearing any type of identification leading to confusion for those responding. When the Student Life staff was first to the scene, they were not organized or following any sort of plan or protocol. Chief of Public Safety, Angela Nally, was not prepared to handle an event such as this. She did not have command of the situation from beginning to end, and when she called for assistance and the Greencastle Police Department responded, she continued to ask questions and seek guidance from several other sources. When Nally was provided answers and/or suggestions, she did not follow them. Although she explained to the IRC that she rejected each suggestion for specific reasons, she did not communicate this to the other officers and staff on the scene, thus contributing to the overall confusion and lack of control. It also appeared as if the Student Life staff was involved both from the standpoint of carrying out their role in keeping

students safe, as well as becoming involved in the incident itself. Thus, there was a question of who holds students accountable for their actions.

The University and City officials might improve preparedness for future events by engaging in active conversations by and among DePauw Public Safety, Greencastle Police and the Sheriff's Department. The foundation for such a collaborative process already exists. Several of the Greencastle Police Officers know the DePauw Public Safety Officers and the reverse and they live and work in the community. The DePauw University Office of Public Safety acknowledges on its website the following:

DePauw Public Safety maintains a collaborative relationship with all local law enforcement agencies ensuring the most effective law enforcement services. Local agencies share reports involving students off campus and contribute to the Annual Report and disclosure of crime statistics.

Greencastle City Police, Putnam County Sheriff's Office, Indiana State Police and Federal Agencies all have jurisdiction on the University Campus. Aid from these agencies is available as necessary to assist the DePauw Public Safety Office. Officers from the Public Safety Office may assist Greencastle Police as requested in Officer safety situations or within the perimeters of the defined jurisdiction. (Emphasis added).

These law enforcement agency conversations should be focused on the question of who is in charge when there is an incident such as the Campus Ministry USA demonstration and the agreed protocol to follow. Any agreement reached as a result of this conversation should be memorialized in writing and committed to by all of the involved public safety agencies. This could take the form of a Memorandum of Understanding ("MOU") or a less formal document. The University could improve its preparedness for future similar events by adopting a protocol that includes a detailed description of lines of authority, chain of command and communication. This should include addressing the question of who is in charge when there is an incident and the appropriate chain of command. In order to be effective, the protocol should be tested in live

exercises from time to time, including tabletop exercises and the like. The University protocol should address what to do in situations where top leaders are absent from the campus.

The Division of Student Life staff who were on the scene on September 23, 2015, understood their role and responsibility to be to keep students safe. Each staff member carried out this role in a dedicated manner but without a great deal of coordination and direction. Although it is clear that Student Life staff as well as all University staff, faculty and administration were committed to maintaining a peaceful and safe atmosphere, the lack of preparedness and overall coordination added to the spark that occurred. Roles and responsibilities should be spelled out very clearly in whatever protocol documents the University adopts to deal with demonstrations like this in the future. As for the roles and responsibilities of other responding offices and agencies, if the MOU mentioned above is achieved, it should address roles and responsibilities in a manner that would clarify this going forward. This should include a definition of the circumstances under which Greencastle Police Department would assume control over a situation based on threat to public safety.

Internal Communication:

*To what extent did University and City communication activities – both formal and informal – comport with best practices and how might efforts be improved in similar situations?*

The committee did not specifically address best practices as this did not seem to be necessary under the circumstances described above. However, the informal communication used by all of the actors in the incident was not the most effective. Calling individuals on cell phones while in the middle of a heated demonstration that is quickly deteriorating is not the most effective in any situation. Several people mentioned the existence of a campus alert system; however, only one person seemed to be knowledgeable about it. This system or something

similar should have been utilized so that authorized lines of communication were clear and available at all times.

The Greencastle Police Department communication seems to have been consistent with applicable best practices as far as could be determined.

Student Safety and Security:

*How did the response to the day's events, by both the University and the public safety officers, affect the sense of safety and security felt by students? How might this be improved? Did local law enforcement respond appropriately to the situation and was its use of force appropriate?*

The Campus Ministry USA September 23, 2015 demonstration event occurred over several hours and swelled from a handful of students passing by to several hundred jammed into a very congested area at the intersection of Hanna and Locust Streets. The resulting intervention and action by Greencastle Police is a sharp contrast to what generally occurs when Campus Ministry USA visits college campuses across the country. On most campuses, the Brother Jed and his group are ignored by students and/or perhaps a handful of students who interact with the demonstrators and then walk away. The response of DePauw University Public Safety Officers and Student Life staff sent mixed messages to students that day. Many students were looking to the University to answer their questions about whether or not the demonstrators had a right to be on the campus and believed that their rights as students to be on the campus overrode any rights of the "peaceful protestors." While public safety officers were actively attempting to maintain a peaceful atmosphere and maintain space between the demonstrators and the students, this was not achieved. Based on all of the information reviewed by the IRC, the Greencastle Police Department action in taking down and retaining the individuals who became physical did not appear to be in violation of any Greencastle Police Department policy and specifically was consistent with Rule IIIB Justification for Use of Non-Deadly Force.

### Equality of Treatment:

*Did any aspect of the incident or the University's or public officials' responses to it raise concerns that the treatment of students and community members was related to their color, gender and/or LGBTQ status?*

As it relates to the incident, many of the Campus Ministry USA messages to students were directed or targeted to a particular identity, race, status, and the like, including LGBTQ. Many students who were in a particular targeted group or status did feel hurt or threatened. It is not surprising that this would be a concern given the fact that Brother Jed's approach to his campus ministry is to single students out and direct hateful and invective speech toward individual students in the most offensive manner. As it relates to the University or public officials, the IRC did not find any evidence of disparate treatment of students and community members relating to color, gender and/or LGBTQ status concerning the events of September 23, 2015. Indeed, the IRC recognizes that there are many issues and concerns that have emerged during their investigation that are not directly germane to the Charge given to the Committee. Some of these concerns include the disparity in student housing availability and quality between Greek houses and culture houses; diverse students not feeling comfortable in the classroom (relating to their identity); lack of support to achieve diversity and inclusion on campus among students and faculty. These topics and concerns related to them emerged in almost every interview, conversation or communication. They are noted here for purposes of completeness.

### **IV. RECOMMENDATIONS**

The IRC commends the University for its prompt response to the September 23, 2015 incident insofar as the planning and preparation for the return visit of Campus Ministry USA. The approach of creating a barricaded space for the demonstrations surrounded by a buffer zone

worked well and seems to align with the benchmarking of other public safety entities. The IRC would recommend that this protocol be shared with other public safety agencies.

The Independent Review Committee makes the following recommendations:

1. That the University and the City of Greencastle enter into a Memorandum of Understanding (“MOU”) that specifically addresses and delineates areas of control when both agencies are indeed on the DePauw campus. The MOU should be made applicable to any agency with jurisdiction on the DePauw campus. Additionally, the IRC recommends that training applicable to demonstrations crowd control and other similar incidents be provided to all agencies covered by the MOU.
2. That a Campus-Community Liaison Committee be established for the purpose of ongoing discussions about efforts to enhance and improve the relationship between the City, Greencastle Police Department and the University. The University members should include students, faculty and staff.
3. That the DePauw new student orientation include a session about the City of Greencastle and that the Greencastle Police Department be invited to make a presentation to the students.
4. That key University leaders develop and implement an on-call system to ensure coverage and availability for campus incidents.