

BEHIND THE CURTAIN:  
BIRGENEAU, BRESLAUER, and LE GRANDE'S PAST RESPONSE  
TO STUDENT PROTEST AND POLICE VIOLENCE

The Campus Rights Project (CRP), a student-led clinic at UC-Berkeley School of Law, obtained over 300 pages of internal University communications between top administrators relating to the Fall 2009 student protests. These documents provide an unusually candid look at how top University officials have responded to past incidents of police violence on campus. In light of the Faculty's upcoming "no confidence" vote, CRP is releasing these documents and a new summary of their contents.

A & E Protest – November 18, 2009

On November 18, 2009, thirty-seven students held a brief sit-in at the A&E Building to protest cuts to public education and fee hikes.

Immediately after the incident, UCPD Chief of Police Mitch Celaya e-mailed a large number of administrators, including Executive Vice Chancellor and Provost George Breslauer. Chancellor Birgeneau was not copied on the email, but his Chief of Staff promptly forwarded him the document. The email makes clear that UCPD had spoken with all four staff members inside the building at the time of the sit-in, and "according to staff (at the time) they were not threaten [sic]" by the sit-in. The e-mail goes on to state that "[t]he demonstrators were cooperative and compliant with the officers," and that the entire incident was resolved within two hours. Breslauer responded that he found the account "[v]ery informative and useful."

University officials spent over nine months pursuing charges against participants in the A&E non-violent sit-in – ostensibly based on UCPD referrals – despite the fact that Mitch Celaya's first-hand account directly contradicted most charges. Charges included "physical abuse including but not limited to rape, sexual assault, sex offenses, and other physical assault; threats of violence; or other conduct that threatens the health or safety of any person."

Wheeler Hall Occupation – November 20, 2009

On the morning of November 20, the day after the Board of Regents voted to raise student fees by 32%, scores of students occupied Wheeler Hall. Throughout the day, thousands of students and workers rallied in support outside the building. Video of police officers attacking non-violent student protesters outside the occupation quickly went "viral," sparking national and international outrage.

Two days after the incident, the Chair of the Academic Senate Christopher Kutz wrote Robert Birgeneau and George Breslauer beseeching them for "some public discussion and acknowledgment as soon as possible of the extent of the police use of force.... [T]he nationally and internationally broadcast video of baton use on prone protestors means that it still must be acknowledged right away." In a separate email, he emphasized, "I have

direct corroboration from a number of people, plus video, that clearly shows force being used against protestors who are not a threat to anyone, who are behind barricades (not pushing them), or lying prone. A Calmessage about regret – one that comes closer to the eyewitness experience of people on the scene than the messages on Friday – is surely appropriate but not nearly adequate.” Prof. Fiona Doyle authored a similar email, stressing the “urgent need to re-instate some level of trust, such that the campus community will have confidence in the conclusions of any reviews of alleged police brutality... Most of them are kids, who are looking for leadership from the campus administration, not beatings from police.”

Birgeneau’s initial response was dismissive. He privately wrote to Breslauer on the evening of November 22, asking, “What do you think about Chris’ concerns. As far as I am concerned, our only ‘invisibility’ was not going out Friday night in front of Wheeler.” (E-mail attached).

Breslauer’s response, twenty minutes later, reflects a disconcerting disconnect with community sentiment: “Hi Bob, Chris is apocalyptic, but may be right. He never answered my question re how he measures opinion out there.... I await your guidance. I don’t want to do anything that you think will undercut us. George.” (E-mail attached).

Birgeneau then authorizes Breslauer to speak with students in a short email, but makes clear: “You absolutely do not want to undercut the police so you should not moderate the charges without discussing it thoroughly with Mitch. Bob.” (E-mail attached).

Meanwhile, Breslauer corresponded with Christopher Kutz, hoping to persuade him to “reconsider the idea of a public or Senate meeting this week,” noting that “such meetings can take on a dynamic of their own.” He emphasized the importance of first conducting an investigation into “incidents of apparent or alleged excessive use of force,” but also noted that it was important to consider “the level or type of responsibility of those faculty who rile up the students to ‘take back their university.’”

On November 23, 2009, Birgeneau, Breslauer, and Vice-Chancellor for Student Affairs Harry Le Grande finally issued a statement indicating that the “videos [of police violence] do not reflect our and those of our entire campus community and may not accurately reflect the whole sequence of events.” Documents obtained by Campus Rights Project show, however, that before sending this document out, Chancellor Birgeneau solicited the “review and feedback” of a draft version from UCPD’s Mitch Celaya. (E-mail attached).

Administrators’ disregard for Berkeley faculty continued in subsequent e-mails. On the evening of November 23, 2009, Le Grande wrote to a group of colleagues: “The Provost has been meeting with some of the SAVE UC Faculty to see if they can help, but some seem a little on the fringe to me themselves and contributing to misinformation. At any rate below is the message we sent out today after being skewered last week for downplaying the police violence. Happy Thanksgiving.” (E-mail attached).

George Breslauer and Chancellor Birgeneau's private e-mails in the week following the Wheeler Hall occupation show greater concern with deflecting blame than assuming leadership to ensure political speech remained protected on campus.

On November 26, 2009, Birgeneau and Breslauer exchanged a series of e-mails dealing with a statement put forth the previous day by the Divisional Council (DIVCO) of the Academic Senate. In the first e-mail, Breslauer wrote to Birgeneau, "At first I found [the DIVCO letter] annoying and patronizing. But, on re-reading it, it seemed quite balanced and largely forward looking."

Later that day, Breslauer sent a second e-mail that emphasized that DIVCO could be used to shoulder partial blame in the event of further protest activity. In a second e-mail he wrote:

"The more I mull my earlier advice, the more appealing it sounds... [W]hy not ask DIVCO to recommend how much and how long such buildings should be allowed to be held before the threat of police intervention is made? And perhaps they can opine on the matter of whether charges should be filed after police intervention... If we follow their advice and it backfires, they will share the responsibility." (E-mail attached).

Chancellor Biregneau responded the next day: "Hi George, As usual, great minds think alike. I had been going down exactly this pathway... [But] we should make sure that we make it clear to them that whatever they do, it will only be advisory. Bob." (E-mail attached).

#### "Live Week" Arrests, December 11, 2009

In the week-long study period preceding Fall 2009 final exams – a period colloquially known as "Dead Week" – student activists hosted a week-long event in Wheeler Hall dubbed a "24-hour open university." Students made no effort to barricade the building, instead inviting the broader community to attend improvised classes, lectures, teach-ins, and celebratory events. After initially allowing students to remain in the building, University officials changed course on the final night of the event, ordering a surprise early morning raid on December 11, 2009 that resulted in over 60 arrests. Students were never informed that permission for Live Week had been rescinded; a federal civil rights lawsuit is currently pending.

E-mails between top administrators indicate that the University initiated plans for the early morning raid on Wheeler Hall beginning Wednesday afternoon, after learning about the planned Friday night concert. Breslauer and Birgeneau were warned about the public relations disaster that might result if the "closure" was not handled delicately:

“From a communications/media perspective, the most important element will be a rock solid explanation for why we allowed everything--- including amplified music and dancing---to happen during the week and drew the line at a concert scheduled to end well before finals... [W]e [need to] have our rationale lined up and ready for public consumption in the event things go off the rails.”

In the same e-mail, Breslauer and Birgeneau were advised that it would be important “for a relatively high-ranking ‘ambassador’ to sit down with these people tell where we’re drawing the line and why... and see if alternative arrangements can be devised.” As far as Campus Rights Project is aware, no such meeting ever occurred. (E-mail attached).

Thursday morning, the University’s Office of Public Affairs began circulating “core talking points” for “after the building is cleared.” Again, University officials solicited UCPD’s feedback and comments. In a last minute edit Thursday evening, Birgeneau insisted on changes to language in the press release:

“[W]e need to find a new word other than ‘activists’ to describe the protestors; that descriptor gives them too much gravitas. I prefer: intruders, occupiers, and/or protesters. Also, assuming everything goes according to plan, I would like a quote expressing my admiration for the very professional way in which the police managed to apprehend and remove the illegal occupiers.” (E-mail attached).

After the raid, it appears the University did all it could to suppress lawful student protest activity in response. At midday, Mitch Celaya informed a group of administrators, including Le Grande and Birgeneau’s Chief of Staff: “The good news is that the arrested protestors are still at Santa Rita getting booked so they won’t be able to participate in the [afternoon] rally.” (E-mail attached).