

**Prince Lobel's Report on Review of University of
Massachusetts Amherst Response to Spring 2024
Gaza Protest Encampments**

January 13, 2025

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EXECUTIVE SUMMARY

The bulk of our report tells the story of the April 29 and May 7 Encampments, as well as the events leading up to the Encampments, from the perspectives of the major constituencies involved. These detailed (and often, very personal) accounts cannot be fairly summarized in a few paragraphs, and we do not attempt to do so here. Rather, in this executive summary, we provide an overview of our findings and conclusions, which are narrowly tailored to answer the main questions of our charge: 1) what was the basis of the Administration’s decision to direct law enforcement to remove the May 7 Encampment; and 2) was that decision reasonable and prudent?

To begin with, we found that the key decision was made on April 29, 2024, the day of the First Encampment. On April 29, the Chancellor decided that an unauthorized encampment-style protest would not be allowed to remain on University property in violation of the University’s Land Use Policy, which requires pre-authorization of any structures, and that protesters who refused to remove encampment structures after several explicit warnings would be subject to arrest for criminal trespass. The plan was documented by the UMPD after a meeting of key Administration staff on April 29.

We also found that the primary considerations for the Chancellor were “safety” and “precedent.” The Chancellor was concerned that an unauthorized encampment presented several unacceptable risks. He was particularly concerned about the polarizing nature of the Israel-Gaza/Palestine issue causing: i) some members of the community to feel threatened and alienated by the encampment, and ii) the significant potential for violence between encampment supporters and opponents. His understanding of the risks on April 29 was profoundly impacted by the chaos engulfing some other college campuses at the time. The Chancellor was also concerned that allowing a protest encampment to remain in violation of the Land Use Policy would tie the University’s hands in the future.

We found that the Administration consistently explained to the demonstrators that they were welcome to continue to protest, just not with structures, and thereby left ample alternative methods of communication and protest by the protesters. Thus, the Chancellor’s decision to enforce the pre-existing, content-neutral prohibition on unauthorized “structures” did not constitute a prohibition on protesting the war in Gaza.

The First Encampment was removed by the protesters on the morning of April 30. When another encampment was erected a week later on May 7, some members of senior leadership were surprised, partly because they overestimated the “success” of the Administration’s interventions with the protesters on April 29-30. In fact, the protesters remained committed to using this tactic (an encampment) to pressure the Administration to meet their demands for divestment from defense contractors and elimination of the University’s dealings with/support for Israel.

While the Administration may have been caught off guard by the May 7 Encampment, it was not caught without a plan. That plan was the one developed by UMPD on April 29. It anticipated the removal of encampment structures – in the first instance, with the cooperation of the protesters; but, if necessary, and as occurred here, by UMPD and members of the State Police.

The May 7 Encampment presented a different, more complex set of challenges: many more people were present; there was an obvious resolve on the part of the protesters to defy the Administration's directives to remove the encampment (including a willingness to be arrested); and, significantly, the construction of a wooden fence/barricade around the core encampment, with only one way in or out. Without question, the Administration perceived significant risks with the Second Encampment, most notably, from potential violence between counter-protesters and protesters.

Despite the Chancellor's apprehension, in examining the actual characteristics of the First Encampment, we did not find that there was a significant risk of violence by protesters, counter-protesters or others. We do not minimize the pain and anxiety experienced by some Jewish students and faculty who felt threatened by the protesters' chants and slogans seemingly in support of violence against Israelis, if not supporters of Israel generally. However, there was no imminent risk of violent clashes between protesters and counter-protesters as of the decision to remove the First Encampment on April 29, nor any other obvious threat to the safety of the University community. We found the same to be true of the Second Encampment, where protesters and counter-protesters alike described the atmosphere as "peaceful" for most of the day, until the imminence of a major police intervention became evident. Overall, we find that the dynamics of the UMass protest and counter-protest movements were unlike the comparators at Columbia University and UCLA. In making this finding, we fully recognize that we have the benefit of information and distance that the Administration did not enjoy.

In short, on May 7, there was a pre-existing decision that no unauthorized encampment would be allowed to remain on campus, *and* the Chancellor and others in leadership *believed* that particular characteristics of the May 7 Encampment reflected an urgent health and safety risk. Events on other campuses, particularly the violence at UCLA on May 1, were fresh in the minds of the Chancellor and others in leadership on that day and reinforced their earlier decision to order police intervention. Some experienced officers within UMPD did not share the Chancellor's dire safety assessment of encampments in general. However, it cannot reasonably be disputed that there was some risk, and it was not negligible. Yet, there are also risks to health and well-being by having the police conduct a complex operation to arrest, transport, and detain a large and dedicated group of assembled protesters, especially as their numbers increased during the evening.

The Administration tried several methods to accomplish the removal of the May 7 Encampment without direct police intervention. First, it had the Demonstration Response and Safety Team engage with the protesters. Next, the Chancellor met with student protesters; however, no agreements were reached.

An unanticipated consequence of the Chancellor's meeting with protest leaders was that the next stage of the Administration's planned intervention (final warnings, followed by police response, if necessary) was delayed. As a result, a very large police force, including many members of the State Police, was visibly positioned in a parking lot approximately 1/4 mile from the encampment for an extended period. This became known to the protesters, who called for reinforcements. The delay, which precipitated the assemblage of more protesters and State Police, likely resulted in many more arrests than would have occurred otherwise. Although a core group of protesters was,

without question, prepared to be arrested as part of an act of civil disobedience, to a person, the protesters described their encounters with the police that night, especially the State Police, as traumatic.

In the aftermath of these painful events, some senior administrators acknowledged having been surprised by the size and scope/intensity of the police operation. They lamented not having asked more questions about the police plan (e.g., size, composition and roles of the assembled police forces), and they worry about lasting damage to the students' relationship with campus authorities. For these reasons, we find that there was a lack of communication and coordination within and between the Administration and the UMPD about the planned police response.

Based on all of the above (and as described more fully in the body of our report), we have little difficulty concluding that the Administration acted reasonably when it decided to remove the April 29 and May 7 Encampments. Its assessment of the risks, especially of violence, was understandable based on the information it had about the Encampments on its own campus and the chaos that was engulfing some other college campuses where encampments had been established. However, nearly all participants recognized that damage has been done to important institutional interests: first and foremost, the trust between many students and the institution has been eroded. As one faculty member remarked, "you do not call the cops on your kids!" Of course, there may be circumstances where a university is forced to do so, but it should only be as a last option. Indeed, the Chancellor, in his May 7 campuswide statement, said "involving law enforcement is the absolute last resort."

For these reasons, even if (as we have found) the Chancellor's decision was reasonable, there is still a question of whether another road should have been taken. The Administration pursued several methods of "de-escalation," all with the aim of having the encampment organizers immediately undertake the disassembly of the encampment. Instead, the Administration might have adopted a "wait and see" approach that would have given the Chancellor and others the opportunity to assess whether events were moving in a positive or negative direction. In this regard, we were struck by the analysis of one of the protest leaders, who felt the Chancellor had an easier way out by simply letting the Second Encampment remain. When we asked her if the encampment had a "natural end point," she quickly replied, "Oh my god, *yes*, finals were next week." In her estimation, the Second Encampment may have just "petered out." This assessment was shared by a UMPD official. For us, these observations – whether an accurate prediction or not – underscore the potential for another path, although we recognize that the "let it dissipate on its own" approach would not have addressed all of the Administration's concerns, especially regarding safety risks posed by letting the fenced-in encampment remain for an extended period.

Overall, the approach taken by the Chancellor was marked by a certain amount of inflexibility, even though it was informed by understandable concerns for safety and precedent. Decisiveness has its place, but so does flexibility. In this instance, alternatives *may* have emerged with more time to evaluate dynamics within and outside the encampment (e.g., size and intensity of the protesters and counter-protesters), continued communication between the DRST (or other members of the Administration) and encampment leaders, and coordination within and between

the Administration and UMPD. While we decline to speculate about whether more communication would have resulted in different outcomes, we have no trouble concluding that less communication probably resulted in a narrowing of options that might have resulted in less severe outcomes.

In sum, we conclude that the Administration's assessments and decisions, made under pressured circumstances, were within the range of reasonableness. Yet, we believe a more flexible and deliberative approach would probably have led to consideration of other paths, where the mission to protect the welfare of students could still have been upheld, and with fewer (perhaps far fewer) students or faculty members having to endure the harrowing experience of facing a large and intimidating police operation to disperse the crowd and dismantle the May 7 Encampment, followed by arrest, handcuffing, detention, and criminal charges.

FINDINGS OF FACT

In the preceding sections, we have tried to present a full picture of the “testimonies” from the relevant constituencies about the Gaza protest encampments on the UMass Amherst campus. In this section, based on the totality of the evidence we have gathered, we make findings of material facts germane to our main charge: to assess whether the Administration's decisions with respect to the Encampments were reasonable and prudent – based on valid and well-founded concerns. As we noted at the outset, we enjoy the luxury of time and information the Administration did not have during the upheavals of late April and early May 2024. We strive always to draw a clear distinction between what information the Administration knew or had access to, and the information we investigators have been able to develop over nearly five months and dozens of lengthy witness interviews.

To begin with, we find that the key decision was made on April 29, 2024, the day of the First Encampment. On that date, the Administration decided that an unauthorized encampment-style protest would not be allowed to remain on University property in violation of the Land Use Policy; and that protesters who refused to remove encampment structures after several explicit warnings would be subject to arrest for criminal trespass. While the Second Encampment involved a different set of challenges to which the Administration responded, the underlying decision of April 29, 2024, was still in effect and was not reconsidered on May 7. Thus, the decisions on May 7 were not about whether to order the encampment removed (with potential law enforcement intervention if protesters refused) but were more tactical in nature – when, how (e.g., notices/warnings, negotiations, law enforcement intervention, etc.) and with what resources to accomplish the removal.

Although the First Encampment was removed without active intervention by the police, the plan for police intervention on April 30 was robust. That plan, developed quickly on April 29, contemplated multiple engagements/warnings by the DRST, followed by dispersal warnings from the police, and increased police intervention – up to and including arrests – if the dispersal warnings were not heeded. To be clear, State Troopers were present on campus on April 30, and

would have played a role similar to their role on May 7, if the protesters had not removed the encampment that morning.¹

The Administration established the paradigm for its response to encampments on April 29, so it is essential to examine the basis for the Administration's decision. First, we find that the ultimate decision-maker was the Chancellor. He received and considered input from other members of the leadership team, but he made the final decision based on this input and his own understanding of the situation and of his responsibilities as Chancellor. In making the decision, we find that the primary considerations for the Chancellor were "safety" and "precedent."

According to the Chancellor, safety is an essential component of the University's mission, which is to promote and protect the welfare and education of the students. To the Chancellor, the encampment put these fundamental concerns at risk. Specifically, relating to the protest on April 29, the Chancellor was concerned that an unauthorized encampment, where protesters planned to live and sleep for an extended (indefinite) period, presented several unacceptable risks. He was particularly concerned about the polarizing nature of the Israel-Gaza/Palestine issue causing: i) some members of the community to feel threatened and alienated by the encampment, and ii) the significant potential for violence between encampment supporters and opponents. His understanding of the risks on April 29 was profoundly impacted by the chaos engulfing some other college campuses, Columbia University especially.

In terms of "precedent," the Chancellor, whose tenure commenced shortly before October 7, 2023, views its significance predominantly from the perspective of how *his* decisions will affect the operations of the University going forward.² From this vantage point, he was concerned that allowing a protest encampment to remain in violation of the Land Use Policy would tie the University's hands in the future, particularly if another group staged a similar style of protest, but in support of a cause that was not just controversial, but abhorrent to the vast majority of the UMass community.

Based on our interviews with members of the Administration and UMPD, we credit the Chancellor's explanation for his decision to order the removal of the First Encampment.³ We also find that the decision to enforce the pre-existing, content-neutral Land Use Policy prohibiting unauthorized "structures" did not constitute a prohibition on protesting the war in Gaza. The DRST and UMPD consistently explained to the demonstrators that they were welcome to continue to protest on the South Lawn on April 30 and beyond, just not with structures, and thereby left the

¹ Perhaps the State Police role would have been less prominent on April 30 due to the smaller size of the First Encampment.

² As discussed in our conclusions, the Chancellor was much less concerned about prior precedent from the decisions of his predecessors.

³ To be clear, we do not agree with the critique we heard from some participants that the Chancellor changed his rationale after-the-fact (from a policy infraction to safety) for the decision to remove the Encampments. We find that safety was always a prominent concern for the Chancellor.

protesters with ample alternative methods of communication.⁴ However, the Chancellor and members of the Administration deemed the unauthorized structures on April 29-30 and May 7 (especially the wooden pallet fence), to pose a significant safety risk and thereby merit not only student discipline, but removal and arrest of those who chose to maintain them after multiple warnings.

As discussed in more detail below, our own assessment is that the First Encampment did not constitute a significant safety risk that warranted its removal. The Chancellor's apprehension at the time, however, was that things could "escalate" quickly, given the "polarization" on the Amherst campus and the disruptions caused by Gaza protests elsewhere. While we do not believe that the Administration would have had the same apprehension if the First Encampment had been less controversial and/or non-political in nature, the regulation which the decision enforced – the Land Use Policy – is not content-based in nature.

Further, we find that the *viewpoint* of the protesters – opposition to Israel's actions in Gaza – did not play a role in the decision. The Administration consistently made clear that protesters were permitted to remain in place and express their viewpoint, just not with structures. UMPD's Operational Plan for April 30 says it most clearly:

"It is not the intent of this operation to break up or deter any lawful assembly that does not involve placing structures on University land in defiance of campus policy. If the tents are removed by the individuals, or allowed to be removed peaceably by University staff, then the protesters will be allowed to continue operating within the space for the time being."

Despite the Chancellor's apprehension, in examining the actual characteristics of the First Encampment, we do not find that there was a significant risk of violence by protesters, counter-protesters or others. From our interviews with both protesters and counter-protesters, we can say that the protest movement was disciplined and committed to not engaging in confrontations with counter-protesters. Of course, there were outliers within the movement (i.e., protesters who were not responsive to the discipline and constraints the protest leaders tried to impose). Similarly, there were a few aggressive counter-protesters who regularly attended protest events, but the counter-protest movement at UMass was always very small, with seemingly little on-the-ground support from those outside the UMass community. In sum, we find that the actual dynamics of the UMass protest and counter-protest movements, at least as of April 29, were far from incendiary. To be clear, in arriving at this understanding of the risk profile of the First Encampment, we have the benefit of months of in-depth interviews with participants.

⁴ In this respect, the Chancellor's decision is not like the directive at issue in *Univ. of Maryland Students for Just. in Palestine*, cited above. No. CV 24-2683 PJM, 2024 WL 4361863, at *12 (D. Md. Oct. 1, 2024). There, the university was held to have violated the First Amendment when it prohibited all expressive events on campus on October 7, 2024, leaving no alternative methods of expression on that important anniversary date.

When the Second Encampment was established on the morning of May 7, some members of senior leadership, including the Chancellor, were surprised, in part, because they overestimated the “success” of the DRST interventions with the protesters on April 29-30. While the Chancellor was of the view that the First Encampment was dismantled due to dialogue between the Administration (especially the DRST) and the protesters, the protesters did not view it that way at all. The protesters felt they had failed with the First Encampment, which they only agreed to remove because of problems with their internal planning. The protesters felt there was unfinished business, which they intended to address by erecting another encampment.

In this same vein, some members of the Administration believe the Second Encampment was primarily the product of outside pressure on the protesters. Without dismissing this as a factor, we find that it was predominantly driven by the protesters’ disappointment in themselves and/or their sense that the Administration, by demonstrating its great sensitivity to the idea of an encampment, had revealed a vulnerability to these protest tactics.

While the Administration may have been caught off guard by the Second Encampment, it was not caught without a plan. As discussed above, that plan was developed on April 29 and anticipated the removal of the encampment – in the first instance, by those within the encampment; second, by UMass personnel if allowed by the protesters to do so without interference; and as a last resort, as it occurred in this instance, by the police. Indeed, the UMPD’s basic Operational Plan for May 7 was the very document it created on April 29, with the date and a few other details changed.

However, the Second Encampment presented a different, more complex, set of challenges: many more people were present (including more people not affiliated with the University); there was a palpable intensity and an obvious resolve on the part of the protesters to defy the Administration’s directives to remove the encampment (including a willingness to be arrested); and, significantly, the construction of a wooden fence/barricade around the core encampment, with only one way in or out.

Indeed, according to the UMSJP and Dissenters, the purpose of the fence/barricade was to make the encampment “more defensible” against police intervention. It is safe to say that the fence was intended to intensify the protesters’ resistance. And, it did just that. To the Chancellor and others on his leadership team, it presented a substantial risk to the health and safety of those within, due to potential: i) accidental events (e.g., electrical, sanitary, or fire); and ii) intentional wrongdoing by counter-protesters or others, who might view its very existence as a challenge/target for violence. We find that the Administration justifiably perceived significant risks with the Second Encampment, most notably, from potential violence between counter-protesters and protesters. Events on other campuses, particularly the violence at UCLA on May 1, were fresh in the minds of the Chancellor and others in leadership and informed the decision to end the encampment. While there were some experienced officers within UMPD who did not appear to share the Chancellor’s dire safety assessment, we certainly cannot say that the risk was negligible.

In short, on May 7, there was a pre-existing decision that no unauthorized encampment would be allowed to remain on campus, *and* the Chancellor and others in leadership believed that particular

characteristics of this encampment reflected an urgent health and safety risk. We find that the Administration decided the Second Encampment had to be removed as soon as possible based on these considerations.⁵ Again, we do not find that the content of the protesters' speech played a role in the Administration's decision, other than in the same respect as discussed above: the bitter divisions on campus (and nationwide) over the Israel-Gaza/Palestine conflict heightened the Chancellor's and Administration's concerns that allowing the encampment to continue increased the risk of violence and other types of the health and safety risks.

Although the discipline of the protesters (commitment to not engaging in confrontations) and the small number of counter-protesters was similar to April 29, we find that there were indeed risk factors associated with the Second Encampment that did not exist on April 29. Some of these factors – especially, the fenced-in encampment – existed before there was a significant police presence. However, other risk factors (as discussed below) were the result, at least in part, of the large, assembled police presence, particularly, the greatly increased numbers and fervor of the crowd. Nonetheless, separating these factors out, we do not find the risks associated with the Second Encampment *prior to early evening* to have been significant (i.e., before the crowd and intensity grew in response to the large police presence and the protesters' calls for reinforcements). Also, there were countervailing risks (to health and well-being) of having the police conduct a complex operation to arrest, transport, and detain a large and dedicated group of assembled protesters, especially as their numbers increased during the evening. Again, we have the benefit of information and hindsight that the Administration did not enjoy. Without question, by the early evening on May 7, the situation on the ground had become dangerous, even combustible.

The Administration tried several methods to accomplish the removal of the encampment without direct police intervention. First, it had the DRST engage with the protesters twice in the early afternoon, to notify them of the consequences of not removing the encampment and explicitly offering the protesters the opportunity to continue to use the space without structures.

Next, the Chancellor agreed to engage in a direct, face-to-face meeting with student protesters. Here, we do not refer to this meeting as a “negotiation,” because we find that neither side was truly willing or able to make material concessions; rather, each side was using the session primarily to persuade the other to accede to its major goal: for the Administration, the removal of the structures; for the students, a commitment from the Chancellor to publicly support and pursue divestment.

We have no difficulty finding that a core group of protesters on May 7 were committed to, and perhaps hoped for, a “heavy-handed” police response, which would help generate publicity for their cause. However, the same could be said of almost all acts of civil disobedience throughout history.

⁵ While there was one reported physical assault by a protester (non-student) against a student counter-protester, it occurred at approximately 6:40 p.m., and thus, we find it played no role in the Administration's response to the encampment, which was already determined earlier in the day (if not, the prior week).

By the same token, before, during, and after meeting with the students, the Administration was planning for a police response to remove the encampment, if other (less severe) methods failed. To this end, the Administration authorized the UMPD earlier in the day to gather the forces necessary to intervene. On his own authority, Chief Parham made the decision to call the State Police for reinforcement, which was typical for large campus events.

However, the Administration and UMPD had not planned on an intervening meeting with the students. An unanticipated consequence of the meeting was that the next stage of the Administration's planned intervention (final warning by DRST, followed by a police response, if necessary) was delayed. Also, there was further delay because the Administration took time to craft a campus-wide communication concerning the decision to have the police intervene.

As a result of the delay, a very large and visible police force was positioned behind Whitmore for an extended period, which became known to the protesters, who themselves called for reinforcements.⁶ Thus, by the time the police did intervene (at 7:10 p.m.), there were many more protesters and other people present, and the situation was highly fraught and complex. As the crowd grew, the MSP commanders on site called for more State Troopers. The State Troopers became the leading edge of the police enforcement of the Administration's decision. The delay, which precipitated the assemblage of more protesters and police, likely resulted in many more arrests than would have occurred otherwise.

Finally, although the Chancellor and others in senior leadership understood that police intervention was a distinct possibility on May 7, he and members of senior leadership were surprised by the number of police present, MSP's leading role in the operation, and the overall intensity of the police operation. Some senior leaders lamented not having asked more questions about the police plan, and they worry about lasting damage to the students' relationship with campus authorities. For these reasons, we find that there was a lack of communication and coordination within the Administration and between the Administration and the UMPD about the planned police response.

⁶ As discussed below, we found there was a lack of communication between the UMPD and the Administration about the plan to call State Police to reinforce the campus police. And, once the State Police began to call up reinforcements, the campus police were no longer in control. If there had been more communication about the police plan, there might well have been a realization (by the Chancellor and others) that a large number of Troopers assembled for an extended period near the encampment would have a seriously deleterious effect on the situation. As noted earlier in this report, the State Police commanders who led the contingent of Troopers at UMass declined to be interviewed. We therefore do not have their viewpoint on how their prolonged presence near the encampment and their role in the police operation may have affected the situation and what might be done differently in the future.

CONCLUSIONS

We have no difficulty concluding that the Administration acted reasonably when it decided to remove the April 29 and May 7 Encampments.⁷ Its assessment of the risks, especially of violence, was understandable based on the information it had about the Encampments on its own campus and the chaos that was engulfing some other college campuses where protest encampments had been established. Similarly, we conclude that the factors the Administration considered in making its decision were valid; specifically, we conclude that there was no “viewpoint discrimination.” The controversial and divisive nature of the issue mattered to the Chancellor, but not the specific viewpoint of the students who erected the two Encampments.

Yet, it cannot be denied that damage has been done to the relationship between the Administration and some of its constituents. The trust between many students and the institution has been damaged and work to restore that relationship should be undertaken.⁸ And of course, almost all participants would concede that a university administration’s decision to call the police in to arrest students protesting about important social issues should be a “last resort.” As one faculty member remarked, “you do not call the cops on your kids!” Of course, there may be circumstances where a university is forced to do so, but it should only be as a last option. Indeed, the Chancellor, in his May 7 campuswide statement, said “involving law enforcement is the absolute last resort.”

For these reasons, even if the Chancellor’s decision was understandable/reasonable and based on valid considerations, there is still a question of whether a different road should have been taken. In exploring this question, we again acknowledge that we have the benefit of substantial hindsight, which we hope will be of value in the event that there are future conflicts of the type we were asked to evaluate. With this said, from the information we have gathered (including the views of students and other constituents on both sides of the protests), at no point was the First Encampment on the cusp of engendering violence or chaos or otherwise significantly disrupting campus life. The same can be said of the Second Encampment, at least, prior to early evening on May 7, when the large and looming police presence became its own cause for the students. Overall, we found

⁷ We do not think it useful for us to weigh in on police tactics or management of police resources. On the one hand, the delays occasioned by the meeting with the students may have contributed to the intensity of the ultimate police engagement on May 7, but on the other hand, it would have been imprudent to decline the meeting with the students. Also, significant police resources cannot be assembled at a moment’s notice. In short, some of the tensions between the Administration’s objectives and law enforcement resources and planning were probably inevitable. Similarly, some members of the UMPD wondered if it would have been better “to go in” the next morning, when maybe there would be fewer people present. Also, some participants observed that it would have been better (less inflammatory) to “muster” the police somewhere not visible to the campus community. These observations may have merit; however, we decline to weigh in on these issues as we are not experts in police operations or tactics.

⁸ It is impossible to say what portion of student body are distrustful of the Administration due to these events, but given the visibility and coverage of the events and its impact on the students we interviewed, one can reasonably conclude that these actions were perceived by a significant percentage of the student population as an undesirable, if not unwarranted outcome.

the dynamics of the UMass protest and counter-protest movements, before the late afternoon assemblage of State Police, to be unlike the comparators at Columbia University and UCLA.

The Administration pursued several methods of “de-escalation,” all with the aim of the Encampments being immediately dismantled. Instead, the Administration might have adopted a “wait and see” approach, that would have given the Chancellor and others the opportunity to assess whether events were moving in a positive or negative direction. When asked about giving it more time, the Chancellor and some others in the Administration were quick to respond that the risks (of “escalation” or accident) were just too great. Yet, we were struck by the analysis of one of the protest leaders, who felt the Chancellor had an easier way out, by simply letting the Second Encampment remain. When we asked her if the encampment had a “natural end point,” she quickly replied, “Oh my god, *yes*, finals were next week.” In her estimation, the encampment may have just “petered out.” This assessment was shared by a UMPD official. For us, these observations – whether an accurate prediction or not – underscore the potential for another path, although we recognize the “let it dissipate on its own” scenario would not have addressed all of the Administration’s concerns, especially regarding safety risks posed by letting the fenced-in encampment remain for an extended period.

At the same time, there is some irony, if not inconsistency, in the Chancellor’s weighing of precedent in that he himself did not feel particularly encumbered by the decisions of his predecessors in relation to earlier protest movements. As Chancellor Reyes told us, “I cannot walk in [my predecessors’] shoes.” For the same reason, we doubt that decisions made by Chancellor Reyes regarding the unique circumstances of the April and May Encampments would carry much weight for his successors facing different circumstances and dynamics in the future.

We also acknowledge that by acting as quickly and decisively as it did, the Administration provided relief to students and other members of the campus community, especially some (possibly many) Jewish students and faculty, who felt threatened or alienated by the Encampments. Promoting the well-being of all community members is a vital responsibility of the Administration. Unfortunately, there is some irreconcilability between protecting the interests of one side of this conflict and the interests/well-being of the opposing side. To this, some might simply respond, the “protesters wanted to be arrested.” That may well be true (at least for some of the protesters), but when assessing the wisdom of a law enforcement response to a protest movement, it is rarely sufficient or useful to rest on this simplistic rubric. We do not do so here.

Overall, we conclude that the approach taken by the Chancellor was marked by a certain amount of inflexibility, even though informed by concerns about safety and precedent. Decisiveness has its place, but so does flexibility. In this instance, alternatives *may* have emerged with more time to evaluate dynamics within and outside the Second Encampment (e.g., size and intensity of the protesters and counter-protesters), continued communication between the DRST (or other members of the Administration) and encampment leaders, and coordination within and between the Administration and UMPD. As noted above, some members of the Administration lamented not having asked more questions about the police plan for dismantling the encampment and what they perceive as the harm done to the institution’s relationship with students. By most accounts,

the assemblage of a large and visible State Police presence led to a “call for reinforcements” by the protesters, which resulted in many more people at and around the encampment site. To the Administration, the larger gathering of people increased the health and safety risks (without appreciating that the increased and visible presence of police precipitated these intensified dynamics).

While we decline to speculate about whether more communication would have resulted in different outcomes, we have no trouble concluding that less communication probably resulted in a narrowing of options considered, including perhaps the one we discuss above: taking more time to see how events unfolded before assembling and sending in the police. For instance, if the State Police had “mustered” in a location that was not visible to the campus community while negotiations between the Administration and encampment leaders was occurring, it is probable that the larger crowd of supporters would not have been drawn to the encampment site. From there, the Administration might have let the encampment continue – at least overnight (as it had done on prior occasions) – before deciding if arrests were warranted. By the morning, it is likely that the encampment population would have diminished (almost certainly, not grown). Even if the Administration authorized arrests at this point, assuming a smaller number of people, there would have been less harm to the overall fabric of the community.

In answering the final question of our charge – “Did the Administration act prudently?” – we take all the above into account and answer “Yes, it did,” based on a reasonable assessment (in real time and under pressure) that things could spin out of control quickly. Yet, we have concluded that a more flexible and deliberative approach would probably have led to consideration of other paths, where the mission to protect the welfare of students could still have been upheld, and with fewer (perhaps, far fewer) students or faculty members having to endure the harrowing experience of facing a large and intimidating police operation to disperse the crowd and dismantle the May 7 Encampment, followed by arrest, handcuffing, detention, and criminal charges.