

MEMORANDUM
Community Advisory on Public Safety (CAPS) Commission
Wednesday, May 22, 2024 at 4:30 p.m. – Allison Conference Room (#225),
401 N. Morton Street, Bloomington, Indiana

The Regular Session meeting was called to order at 4:33 p.m.

Commission members present in person: Kamala Brown-Sparks, Todd Mullins (left at 6:02 p.m.), Nejla Routsong, Tyler Shaffer (left at 6:02 p.m.)

Commission members present over Zoom: Jason Michalek

Commission members absent: Jenna Buckner

Public present:

Guest speakers: Bryce Green and Dr. Jody Armour

Public commenters: Hemayatullah Shahrani

City staff present: Ash Kulak

I. ROLL CALL & INTRODUCTIONS (4:33 p.m.)

II. ELECTION OF SECOND CO-CHAIR

- Cm. Brown-Sparks moved and it was seconded to nominate Nejla Routsong as the second co-chair. Motion passed 5-0.

III. APPROVAL OF AGENDA AND APPROVAL OF MEMORANDA/MINUTES (4:37 p.m.)

- A. Possible Motion to Extend Meeting by 30 Minutes to 6:30 pm
 - Cm. Routsong moved and it was seconded to extend the meeting by thirty minutes to 6:30 p.m. Motion passed 5-0.
- B. Regular Session Minutes – April 24, 2024 and Special Session Minutes – May 1, 2024
 - Cm. Brown-Sparks moved and it was seconded to approve both sets of minutes. Motion passed 5-0.

IV. GUEST SPEAKERS (4:40 p.m.)

- Cm. Brown-Sparks moved and it was seconded to strike Kathleen Sobiech as a guest speaker from the agenda due to a scheduling conflict. Motion passed 5-0.

V. REPORTS (4:41 p.m.)

A. Co-Chairs

- Cm. Brown-Sparks reported on the DEI training she attended at the Indiana Recovery Alliance (IRA) and suggested CAPS go to one. Cm. Routsong suggested bringing individuals from the IRA to a CAPS meeting. Cm. Brown-Sparks agreed to contact the IRA to determine availability.
- Cm. Routsong reported attending the IRA's event on drug legalization vs decriminalization, and reported that she and Cm. Shaffer are working on

inviting a guest speaker and experts on the drug war DARE program to attend a future CAPS meeting.

B. Individual Members

- Cm. Shaffer reported on steps to work on the CAPS website and attempted outreach with New Leaf New Life, Community Kitchen, Courage to Change, and IRA about peer liaisons.

C. Committees

- Cm. Routsong reported for the Outreach Committee on the status of the requested meeting with the Mayor, council president, and members of the Law Enforcement Action Partnership (LEAP).

D. Staff

- By request of the CAPS co-chair, staff liaison Ash Kulak shared an update from council office regarding status of CAPS's budget requests.

E. Public / Public Comment – none

VI. *BRIEF RECESS* (5:00 p.m.)

VII. *NEW BUSINESS* (5:05 p.m.)

A. Guests to discuss militarized police response to peaceful protests

B. Cm. Routsong introduced guest speakers, Dr. Jody Armour & Bryce Greene (5:10 p.m.)

C. Cm. Routsong posed questions for the guest speakers

- a. For Dr. Armour: Can you tell us more about what civil disobedience is? Do you see the protests happening around the country as acts of civil disobedience?
 - i. The disobedience part of civil disobedience is, by definition, breaking the rules. University administrators often justify police intervention on the grounds that the students were not following the rules. If that is your position, there can be no civil disobedience without bringing in police.
 - ii. Civil disobedience occurs when the normal channels of democratic decision making are not working, resulting in gross injustices like Jim Crow segregation, laws that forbid interracial marriage, and any other unjust laws that were themselves products of the democratic process. Acts of civil disobedience are part of a dialogue in the democratic process itself, by bringing attention to an injustice that is not properly being addressed through the democratic channels. The hope is that by bringing attention to the matter, it will start to stir the conscience of the nation and people who aren't otherwise paying close attention to the injustices.
 - iii. We started with the Civil Rights Movement, then you saw the same thing with the Vietnam War and protests against South African apartheid. The universities were invested in South Africa promoting that system of apartheid through their investments. Civil disobedience, specifically setting up "shanty towns," was the mechanism to disrupt and draw attention to those kinds of injustices.

This is part of that long tradition and part of the democratic process to have these conversations through civil disobedience, but the conversation stops when you bring in riot police with tools of violence. They are there to shut down the conversation entirely and arrest people for breaking the rules, but violating the rules can sometimes be a way of encouraging dialogue in the democratic process itself and it has historically been an effective mechanism in the Civil Rights Movement, protests against the Vietnam War, and the South African Divestment Movement.

- b. For Bryce Greene: What is IU Divestment Coalition hoping to achieve, and do you believe it is an act of civil disobedience?
 - i. Yes, it is an act of civil disobedience, and the goal is to get IU to divest from companies, partnerships, and sponsorships with Israel. The secondary demand is to divest from the Crane naval base, and the final goal is the resignation of the IU president, vice provost, and provost for their role in making the university corporatized and the full militarized response to kids pitching tents in a park.
- c. For Bryce Greene: Why does Indiana University administration view the demonstration as such a threat that warrants a police response?
 - i. Many of the administrators are ignorant of what is going on in the world and on campus, with no clear firsthand understanding of what is happening on the ground. A lot of media coverage has falsely portrayed the demonstrations as violent, anti-Semitic, or in some way a threat to other students. This is so far removed from the reality of the encampment, but that (sheer ignorance and fear) was a contributing factor to the university's response.
 - ii. On a structural level, it is deeper than that. The University has close ties to the military industrial complex, to the decision-making class, and the Israel lobby in particular. The Israel lobby has amassed a significant amount of structural power within in the U.S. to affect the political system and social system. States have passed laws that make boycotting Israel illegal and some require loyalty oaths of state employees that they will never boycott Israel. So the University took the path of least resistance and overreacted against nonviolent demonstrators. For all the bad press they got, perhaps they made the calculation that press was not as bad as the negative reaction of the Israel lobby.
- d. For Bryce Greene: Do you think you were racially targeted for arrest and that your more severe punishments were politically motivated?
 - i. It is difficult for me to make the case that it was racially motivated when the political motivation was just so extreme. Police scanners were looking for a "black male, afro, with black shorts blue shirt who appears to be an instigator" – that was me. The circumstances of the arrest support the fact that they were targeting me because I was behind the line of protestors and a police officer singled me out, pointed at me, and said "don't run" – but I wasn't doing anything to

single me out compared to the other protestors. Of course, then I had a higher sanction issued by the University. I was given a 5 year ban from the IU Bloomington campus, whereas others arrested were only banned for one year.

- ii. All of this seems to support the fact that they were politically targeting me, specifically, in addition to politically targeting the demonstration as a whole. So I don't see any too much evidence for racial profiling. The fact is that structures of power can accommodate diversity a lot more than they could historically – I can have a President of the United States with a black face and a black name still contribute to the white supremacist empire. So for these reasons, I don't think that race was as big of a factor.

e. For Dr. Armour: How does this involve your theory on mens rea?

- i. What I was getting at there is in the legal process. The more we other-ize criminal defendants, the easier it is to condemn and punish them. The Model Penal Code points out that the “reasonable person” standard is a legal vehicle that jurors use to express sympathy or withhold sympathy from a defendant. And to the extent that you sympathize with an accused person, you forgive them, you exculpate them, and you are more lenient toward them. To the extent that you don't sympathize or empathize with them or have care and concern for them, you more readily blame them and ratchet up the amount of punishment you deliver to them.
- ii. So you have to wonder about how much the people in decision-making power in this situation other-ized the protestors rather than seeing them as “one of us” in “our” community as “our” students. If one of your children was in the encampment, would you have unleashed that amount of violence on your own children? The university often operates as a “Trojan” family, calling itself a community or a family. You don't treat family members this way.
- iii. So that's where all of that is coming into play talking about mens rea – to the extent that you sympathetically identify people, you are less likely to be draconian toward them or unleash violence on them.

f. For Dr. Armour: When should civil disobedience warrant police action based on the level of disruption or harm it is causing society? Talk a bit more about this “ladder of harm” framework.

- i. The foundational work for this framework was done by Christopher Edley, former Dean of the Berkley Law School. In 2011, police were brought into UC Davis for the Occupy movement, and they sprayed student protestors with mace and pepper spray. The Chancellor of the University asked former Dean Edley to prepare a report. So I base a lot of these remarks on that report.
- ii. One of the things pointed out in the report is there is a kind of ladder of harm for civil disobedience. First, you ask how much disruption the protest is causing. There are four levels of disruption, and each level may warrant a different kind of reaction.

1. The lowest level of disruption is civil disobedience that breaks the rules but that is all it does. It is not otherwise disruptive. For instance, encampments that are orderly and peaceful but technically trespassing.
 2. The second level is inconvenient or significantly inconvenient but tolerable. For instance, the encampment is disruptive enough that it may require relocation of exams or classes or may require additional grounds keeping.
 3. The third level is disruptive of important business that some people may consider not tolerable. For instance, the protest is so loud that it interrupts studying and teaching in a significant way or blocks people from going to classes or graduation.
 4. The fourth level is disruption that causes an imminent threat to safety and especially to life. An example here would be the melee between protestors and counterprotestors at UCLA in which the counterprotestors were attacking. Or cases in which staff, students, and faculty are trapped in a building that is taken over.
- iii. The question then becomes when do you have an intervention – when is it disruptive enough to justify bringing in the police?
1. There may be disagreements about what the level of disruption is, especially if you cannot get an agreement about what the facts are on the ground or people have reason to characterize it as much worse than or not as bad as it really was.
 2. There may be disagreements about the appropriate reaction to the level, since some people believe that even a level 1 disruption (mere rule breaking) requires police action, that *any* violation requires bringing in police, whereas others believe a police response is not necessary until there is an imminent threat to safety and life.
- iv. The next question is once you have crossed the threshold and brought in police, consider how much force the police should use. There are three levels of force (from San Diego Police Dept use of force guidelines):
1. Passive resistance—in which actions do not prevent officers' attempt to control the subject including sitting, standing, being prone, no physical contact—shall not be subjected to use of controlled devices including tasers, batons, or chemical agents.
 2. Active resistance—evasive physical movements to defeat officers' attempt at control like bracing, tensing, linking arms, verbally signaling an intent to avoid being taken—should not be met with use of intermediate force (pepper spray, batons, etc.) when the active resistance is non-aggressive displays during peaceful protests.
 3. Active aggression—threats or overt acts of assault through physical means—justifies police use of a range of approved

force options so long as it is reasonable under the circumstances.

- g. For Bryce Greene: What level of disruption on the ladder of harm was IU Divestment Coalition's actions? Do you think this framework is useful?
 - i. I would categorize this as a 1, maybe a 2 given that we were taking space that may have been used by other events some time in the future. There may have been times where it had risen to 3 just because of the counter protestors who were actively violent and provocative for the purposes of getting a rise. But no, it's definitely not a violent protest in any way.
 - ii. I do think the framework is useful for giving administrators and decision-makers the tools to begin making assessments because there is a tendency to flatten the response and send the military for any level 1 rule-breaking just for the purpose of maintaining order. This is a good model for handling civil disobedience, but it's also a good model for handling police and use of force by law enforcement in general.
- h. For Dr. Armour: How do you think unarmed community responder teams might fit into this framework?
 - i. The unarmed community responder approach has been talked about extensively now, especially since the George Floyd protests. Marches erupted, and there was a lot of discussion about how valuable community responders could be.
 - ii. We have unarmed intervention models at Southern California USC, including a number of people with the police department who are unarmed. But this community model goes further and says they don't even need to be part of the police department. They can be part of the community and be unarmed interveners.
 - iii. There is empirical data that points to the efficacy of these alternative approaches. In Oregon, they took armed police officers out of traffic stops and found that the fatalities and crime did *not* go up.
 - iv. There are lots of places where we don't need violence workers, where the solutions to problems are primarily in a violent nature with tools of violence. If you send a violence worker into a situation, do not be surprised if violence is going to be the result of the interaction.
 - v. When it comes to mental health interventions in LA, we found that some recent studies show that one third of people police have killed have been civilians going through a mental health crisis. Now they're finding in a lot of places that having unarmed people come in and intervene, they've been able to avoid those fatal encounters.
- i. For Bryce Greene: Would a community responder team have been a better response?
 - i. This is a difficult question because it presumes there should have been a response. And when we discuss the threat level was at level 1, with no emergency whatsoever, so there was no reason for any response including a community response. But the counter protestors

were a persistent presence and could provoke violence, so there was as safety threat with them. So the presence of community resource officers simply being placed there on site could have been able to deescalate that situation. The fact that they wouldn't be violent or wouldn't be able to make any arrests would diffuse the fears that an armed police presence usually brings.

- j. For Bryce Greene: With regard to consent-based decision making, has the University administration attempted to include views of the IU community on decision making processes, either before or after the demonstration?
 - i. No attempted dialogue was made, and there was no consideration that the protestors were legitimate stakeholders. There was no such consideration before the encampment went up, as the administration made it clear that they were opposed to the protestors and the protestors' goals by changing the rules of the space hours before the students showed up and used this rule change to justify the use of force to arrest the protestors and expel the encampment.
 - ii. There was no inkling that University administrators would want to talk to us and there hasn't been any communication, official or otherwise, that they are interested in sitting down with us to talk about any of the issues we've raised. This is falling in line with the broader trend of the University administration being inaccessible, distant, and dismissive of the concerns of the staff, faculty, and student body.
- k. For Dr. Armour: When should negotiations or dialogue with communities engaging in actions of civil disobedience take place, before or after a police response?
 - i. It has to come before a police response if it is going to be useful and helpful. A lot of the times, the reason that the disruption had to happen in the first place is because the normal channels of decision-making are producing unjust results, and the voices represented in the encampment were not taken seriously or given due weight in deliberations carried on by the administration.
 - ii. So at that point, the administrators have a chance to figure out a way to take the concerns more seriously and restructure the decision-making process to hear the voices that have not traditionally been heard. There are a lot of structural changes the administrators can make, but sometimes they just make pacifying appeasement maneuvers like making a meaningless committee. If they can make real efforts to include those voices in the decision making process, a lot of the times that is what the students want.
 - iii. I'll analogize this to Black Lives Matter movement beginning in the 20-teens and then culminating in the protest against the murder of George Floyd. The methodology of Black Lives Matter was disruption first, shut it down. Then after it's been shut down, let's have some uncomfortable conversations and really tease out what it is that needs to be addressed moving forward.

- iv. When we are getting to these uncomfortable conversations, how do we address discomfort? One of the bad things that came out of the DEI (Diversity, Equity, and Inclusion) Movement was the need to prioritize “safe spaces” to justify not allowing certain views to be heard. We started talking a lot about safe spaces and keeping people from feeling too discomforted by certain kinds of speakers coming on campus, for instance, like the outwardly virulent racist Ben Shapiro who came to my own campus in 2018. A number of people would say “you can’t have him come on campus” and you can’t have certain things even said in the classroom because that makes people feel “unsafe.” The key was the word “unsafe” – because it makes us feel uncomfortable, it also makes us feel unsafe. Do not go down that road because it may seem like you’re going to keep Ben Shapiro or the KKK sympathizer out, but tomorrow they are going to turn that on you.
 - v. Because now, that is what you see is happening. Now, a lot of administrators are turning the concept of safe spaces and this concept of “safety” on its head, saying that students feel unsafe from any criticism of Israeli policies, that any criticism of Israeli policy is seen as attacking Jewish people. But many of the people in the encampments are themselves Jewish, and a lot of Jewish students and Jewish people in general in America are critical of Zionism and colonial policies and apartheid policies in Israel. But there’s not an insignificant number of Jewish students and people who really identify with Israel and see any criticism of Israeli policy as an expression of antisemitism, conflating antisemitism with antizionism.
 - vi. We have to make clear that distinction and get away from thinking that anybody on campus is entitled to not feel discomfort when they walk through campus. The campus is the place for uncomfortable conversation. That is what Black Lives Matter was preaching all along. We need to have uncomfortable conversations. There needs to be a pedagogy of discomfort that we recognize and endorse and vindicate on campuses, and we make our classrooms and our campuses not safe spaces but brave spaces for robust debates about controversial subjects.
- l. For Dr. Armour: What does it say in your view about the level of democracy and consent-based decision making at a university when it chooses to not only initially respond by force but *only* respond by force?
- i. It is a complete breakdown of any kind of consent-based deliberative process.
 - ii. Again, civil disobedience is part of a deliberative process. It is part of a dialogue. It is part of the conversation, saying the normal democratic process is not producing a just result. So we need to introduce something into the conversation that is going to shake people up and have them pay attention to things that they haven’t been paying attention to previously.

- iii. And when you bring in violence workers with riot gear, there is no conversation anymore because they are shutting off the conversation. They are cutting off the conversation, so it is really anti-democratic and anti-deliberative and anti-consent based decision making to bring in the police at that point.

D. Commissioner Questions/Comments

- a. Cm. Michalek – I really like the idea of the pedagogy of discomfort and in many ways I strive for that in the classroom and particularly with the people that are most primed to be comfortable. I really like that idea because it is productive. Even if you are just frustrated, there is a reason you are frustrated and talking that out is what liberal education is for.
- b. Dr. Armour – One of the ironies is that not even 3, 4, or 5 years ago, people on the right side of the political spectrum were arguing for more free speech and criticizing “snowflakes” who couldn’t handle discomfort, and people on the left were talking about “safe spaces” and “word that wound” making them feel unsafe. And now, it’s flipped around where the far right are criticizing encampments and saying people feel uncomfortable as the reason to justify shutting them down. And a lot of the Israel counter-protestors are white supremacists. And now more people on the left are recognizing the vital importance of free speech and embracing the value of free speech!
- c. Cm. Routsong – That reminds me that people were saying they “feel” unsafe and that was the first thing CAPS had to figure out was how to measure safety. We decided we were not going to go around asking people how safe they feel but rather use an evidence-based approach to safety and use more objective standards of safety rather than simply taking polls on how safe people feel. My guess is that people with more socioeconomic privilege and general privilege in our society tend to have lower risk tolerances and lower tolerances for discomfort, which makes them feel unsafe more often or inaccurately when they are, in fact, physically safe.
- d. Dr. Armour – It is important to not confuse feeling unsafe with feeling discomfort, which is exactly what I’m getting at. There’s also the safety issue of whether the crime rate or homicide rate is going up or down in a community. We find in study after study that a lot of times when objectively the homicide rate is going down and the crime rate is going down, people still are saying that they feel unsafe. Their feelings are at odds with the crime statistics.
- e. Bryce Greene – We talk about this amongst organizers, about how people don’t really believe the impact is the most important thing over intent; because if they did believe that, then we would be apologizing to every pro-Israel person who genuinely but falsely believes that we are trying to attack or eradicate them. We have to bring some rationality into this about what actually makes people safe and what is actually dangerous, and what the response to that should be. I think this framework is a great step on the path toward getting that society-wide consciousness so we can make rational decisions about keeping each other safe.

- f. Cm. Brown-Sparks – This has helped a lot. I have had people say things that make me feel frustrated but it doesn't make me feel unsafe. It just makes me frustrated. And so other people need to know that you may be frustrated but that doesn't make you unsafe. It just makes you upset. That's not the same as somebody starving you to death, killing your family, and bombing your house. That's the main difference and we need to work on ending that. I appreciate the framework.
 - g. Cm. Routsong – I hope that the Commission will try to use such a framework going forward, and push for the City to use it as well.
- E. Public Comment
 - a. Hemayatullah Shahrani – I think there is a double standard when people are talking about feelings. "I feel unsafe" is very different from being bombed. It seems dishonest when people prioritize how they feel. I have a question for the speakers. You both mentioned some inconsistencies or differences with the University's reaction and how different people perceive facts differently. And you kind of see what the real lens in which people in positions of power are seeing things because it seems like these procedures and protocols, made by these people, are made to protect their power and they're using it to silence people. Because what is more nonviolent than sitting in? And it seems like what they were doing by targeting leaders is to silence or make an example of the leaders and take away the leadership to scare others. And with the four levels of disruption – it's not just different people seeing it differently. What we are seeing is the same but people will actually categorize things differently depending on who it is and whether or not their interests are aligned with them. For example, at the protest at UCLA, the pro-Israeli groups were the ones causing the violence, but the police just let them do it. The police are supposed to be there to stop the violence. But then with nonviolent protestors who are predominantly pro-ceasefire, the police targeted them. That's why the police were brought in. The rules are being applied selectively and inconsistently by people in positions of power, for the interests of those in power, often to hide the fact that they are making a lot of money in these investments in the military industrial complex. When you start to see it from that lens, all of the pieces fall into place more neatly.
- F. Responses by Guests to Public Comment
 - a. Bryce Greene – There is a structural reason for why they did it, they have interests they want to protect, but there is also an irrationality to it because the administration was ignorant and was fed misinformation. That has roots in the same structural factors. It's also separate pressure making people do the things that they do against the protestors.
 - b. Dr. Armour – Power matters. Sometimes rhetoric is made to align with power to justify what power wants to do anyway. But Bryce is pointing out a kind of ideological dimension to this. Some people are truly ignorant. They need to have their consciousness raised, and that's one of the things that happens when students have their encampments. The "true believers" in the status quo will not have their minds changed. For instance, the people who truly believed in Jim Crow segregation weren't moved by the Montgomery bus

boycott or crossing of the Pettis Bridge. But who you are trying to reach are those other people who aren't so entrenched, to get their attention and have them start to think about something they haven't thought about before, to cut through some of their complacency and sometimes that helps move the needle. We saw that with the protest against the murder of George Floyd. We saw some real changes in public opinion happen over time, and some of those changes stuck over time. We never reached a lot of the hard core people, but we reached a lot of other folks. And that's what you see happening at the universities. The universities are going to be persuaded by what the donors say, and they're going to make their policies march to the tune of the donors. But you also have other power factions at the university level, for instance, censure or no confidence votes that really undermines power in the institution. And the students have power. That's what we're seeing now and the administrators worry about the power students can flex and other faculty members. So there are all of those other power dynamics at play too.

- G. Cm. Routsong summarized the session, stating that members and guests processed the power dynamics seen in the IU community around political policing. Cm. Routsong thanked the guests help the CAPS Commission have this discussion and learn more about these topics.

VIII. OTHER BUSINESS

- None

IX. TOPIC SESSIONS FOR FUTURE AGENDAS

- None

X. ADJOURNMENT

- Cm. Brown-Sparks moved and it was seconded to adjourn the meeting at 6:35 p.m. Meeting adjourned.

Memorandum prepared by:
Ash Kulak, Staff