



September 11, 2008

To: President Michael Roth

From: The Fountain Avenue Working Group
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Re: Report on 5/16/08 Incident

Introduction

Earlier this summer, you charged us to review all of the available information related to the incident on Fountain Avenue in the early morning hours of Friday, May 16, to develop a concise report of what we know about the incident, and to make recommendations and outline open and on-going issues raised by this incident.

Over the course of the summer, we reviewed all of the reports and statements submitted by students and by Public Safety, met with Public Safety staff as well as Middletown Police, and reviewed the video footage of the incident recorded by Public Safety officers.

The narrative below is our attempt to recount the sequence of events, as we can best ascertain, on Fountain Avenue that night in terms that could be accepted by all parties involved. In introducing this narrative, however, it is important to acknowledge that these events were framed and perceived very differently by the various people involved. In interviewing those involved or reading their accounts, we quickly realized that the disconnect between the ways in which these events were understood at the time by different students involved, by Public Safety, and by the Middletown Police contributed substantially to what happened. Unless these differences are recognized, understood, and addressed, we will not adequately comprehend what went wrong that night and how we can avoid a recurrence of these events. We address these issues in our analysis following the narrative.

Narrative

At approximately 11:45pm on Thursday, May 15 Public Safety officers responded to 64 Fountain to address an unregistered party in the backyard of that student residence. Public Safety officers estimate that 125 people (mostly students) were in attendance. They observed a live band playing and some attendees consuming alcohol on University-owned property. Public Safety spoke with students responsible for the event who assisted in shutting down the party. The attendees began to disperse from the area. Public Safety left Fountain Avenue.

At approximately 12:50am on Friday, May 16 the Public Safety supervisor noticed a large crowd in the street and on the sidewalks near 25 and 26 Fountain Avenue. Five of the six Public Safety officers working at that time were dispatched to the scene. The officers estimated that the crowd numbered near 300. They began walking the street in an attempt to disperse the crowd, asking students to get out of the street and to go home. The officers report that most students ignored their requests. Many students reported that they did not hear any request from Public Safety to clear the area. After 35 minutes, officers reported that they became concerned because the crowd was not dispersing. They were also concerned by several safety issues, including students standing in a City street, students on porch roofs, etc. During this time, Public Safety used a video camera for several minutes to document the incident. Some students responded by inquiring as to the reasons for use of the camera. After it was shown to be an ineffective tool to encourage students to disperse, Public Safety discontinued use of the camera.

At approximately 1:25am, the two Public Safety supervisors present on Fountain Avenue requested assistance from Middletown Police (MPD) in clearing the crowd from the street and from the area. There was no single precipitating event that triggered calling the police; Public Safety called the police because they received minimal compliance from students over an extended period of time. Three Middletown Police cars responded to Fountain Avenue. Upon the arrival of the police cars, some in the crowd began to clap and cheer. At least one glass bottle was thrown from the area of 25 Fountain Avenue, shattering on a police car. At this point, Public Safety turned the video camera back on and began to record the incident. Because of the size of the crowd and their assessment that the crowd was unruly and potentially dangerous, Middletown Police immediately called for back up. Students report that the commotion of such a police presence attracted more students to the scene, most of whom gathered on the sides of the road. By 1:35am, three additional Middletown Police officers, two officers from the Cromwell Police, two officers from Portland Police and three CT State police officers had responded to the scene. At that time, there were 18 uniformed personnel (including the five Wesleyan Public Safety officers) and two police dogs in the area.

From 1:35am to 2:00am, students remained in the street. Reports indicate that during this time, Police stood by their cars holding pepper spray canisters and keeping the two police dogs leashed. Some Public Safety officers spoke individually with students encouraging them to disperse. During this time, many students were singing, cheering, dancing, and chanting. While most were positioned along the sides of the road, some remained in the street. After waiting nearly 30 minutes, MPD felt compelled to disperse the crowd and resolve the issue so that the law enforcement personnel present could return to their regular patrols. At approximately 2:00am, an MPD officer used the PA system in his patrol car to ask the crowd to disperse. Although the message was delivered three times, some students report that the audio was inaudible or they were unable to understand the announcement. Many students reported that they were unaware that Public Safety and MPD wanted them to disperse from the area. When the crowd failed to begin dispersing, the MPD officers deployed pepper spray foggers, pepper ball guns, and police dogs in an attempt to disperse the crowd. It is unclear to what extent pepper balls were aimed at the ground or at individual students. Some students report getting hit with pepper balls in the chest, back, neck, and face. At that point in time, the officers reported that members of the crowd were verbally abusive toward officers and that several bottles and cans were thrown toward officers by some members of the crowd. The police attempted to identify and arrest those they believed were responsible for throwing objects at police officers. Five students were arrested by police during the incident on charges ranging from disorderly conduct to inciting a riot to assaulting an officer. Public Safety officers assisted with at least one arrest. During the course of these arrests, at least three students were bitten by police dogs or tasered, and two of these students were sent to the hospital to receive medical treatment for the injuries they received during their arrests. After MPD left the area, there were some students, local media, University officials and Public Safety officers who remained in the area.

Public Safety and MPD reports of the incident detail disorderly and/or abusive behavior by many students. There are also numerous eye-witness statements from students indicating that some of the police officers used excessive force and were verbally abusive as they were forcefully clearing the street, leading some students to conclude that contempt for students was a driving factor behind the police presence and tactics. The video footage of the incident recorded by Public Safety seems to support the allegations reported by both the officers and by students.

Differing Perceptions

The following differences in how this event was framed and perceived seemed to us to have been especially salient and significant in the testimony we heard or read this summer:

- 1) Many students assumed that Fountain Avenue was part of the University campus rather than a city thoroughfare, and also that the Middletown Police have limited authority on the University campus. Public Safety officers and Middletown Police are aware that Fountain Avenue is a city street for whose safety the City is responsible (and liable, once police are on the scene), and that the Wesleyan campus is part of the city of Middletown, fully within the jurisdiction of the Middletown Police.
- 2) Throughout the course of these events, there were very substantial differences in participants' sense of the character of the situation. Most students present on Fountain Avenue viewed the gathering as a large but fairly benign social event (despite a few isolated incidents), and one that was appropriate at the end of the semester. While some individuals behaved provocatively, many others were just bystanders or curious onlookers. By contrast, Public Safety officers, and later the Middletown Police, saw the situation as hazardous and fraught with safety and liability issues. They viewed the students present on Fountain Avenue as a large, unruly, crowd blocking a city street, most of whom were non-compliant with requests to disperse and responded to the initial police presence in ways that suggested a potential for escalation.
- 3) Most students saw the gathering as peaceful and stable, with no need for Public Safety or police intervention. The presence of Public Safety and Middletown Police was seen as passive and unexplained until officers made what seemed to students an unprovoked decision to use pepper spray and pepper guns. Public Safety and the Middletown Police instead saw a situation that needed resolution. Initially, most Public Safety officers on duty left their other responsibilities on campus to attend to this situation. When the police arrived, the initial response to their presence prompted a call for backup from other Middletown officers, and from Portland, Cromwell, and the State Police. These officers could not remain away from their normal responsibilities indefinitely, and in any case understood the purpose of their presence to be a quick and definitive resolution to the situation.
- 4) Middletown Police saw their presence as marked by patience and restraint, whereas many students saw the police presence as intrusive and provocative. The police emphasize that they consciously overlooked many illegal activities taking place directly in front of them, did not respond immediately to extensive physical and verbal provocation by students, repeatedly requested dispersal, and gave the crowd ample time to disperse. Many students saw the size of the reinforced police presence as unjustified, objected to the use of video cameras by Public Safety, and perceived the overt display of pepper spray, K-9 dogs, and tasers as threatening.
- 5) Public Safety and Middletown Police expected that their arrival on Fountain Avenue would be a clear indication that students should disperse from the area. Many students felt that the mere presence of police did not suggest that they should disperse.
- 6) Many students assumed that police would not use pepper spray and pepper guns to disperse the crowd, or tasers and dogs to facilitate arrests, without clear prior warning that these tactics would be employed. Police do not announce in advance which tactics they will use, but only which

- behaviors they are requesting or demanding from the citizens they are engaging.
- 7) Law enforcement personnel maintain that they employed standard police tools for crowd control and for arresting non-compliant suspects. Students viewed the use of pepper spray, police dogs, and tasers as an inappropriately violent response to a mostly non-violent crowd.
 - 8) Once police began using pepper spray and arresting some students, other students engaged the police in debate about whether their actions and methods were warranted. Police regard such efforts as interference with performance of their duties, and see the police grievance procedures and the courts as the appropriate venues for contesting their actions.

Recognition of these differences in perception and framing help us understand how and why the following events took place on the night of May 16. This recognition also has influenced our recommendations for what the University should do in response to these events.

Recommendations and Ongoing Issues

The following list explores the issues that the Fountain Avenue Working Group feels require examination and reassessment. We believe that attention to and resolution of these issues will substantially reduce the likelihood of similar events in the future.

1. We recommend a reevaluation of the University's Social Event Policy, especially as it pertains to student gatherings inside and outside of woodframe houses. Public Safety's role in enforcement of this policy should also be reevaluated.
2. We recommend that Public Safety's current protocol for requesting assistance from Middletown Police be reviewed. Written policy guidelines do not currently exist, and we believe that developing a policy outlining the process for calling the police to campus is important, especially since the University cedes control of a situation to the police when they are called to address situations.
3. We recommend the creation of a plan to increase positive non-disciplinary interactions between students and Public Safety officers, in the hope of improving that relationship. Public Safety officers have the difficult task of protecting and serving the campus community while also enforcing University policy. We are troubled by what seems to us to be a deteriorating relationship.
4. We recommend collaboration with Middletown Police leadership to develop a plan to build a more positive relationship between students and MPD officers. We are concerned about the ways that events such as this one negatively impact student perceptions of the local police as well as the police's perception of Wesleyan students.
5. We recommend creating a plan to continually educate students and raise awareness about policy and legal issues. For example, greater awareness that Fountain Avenue is city property, better understanding of the role of Public Safety, and clarity with regard to the jurisdiction of MPD may have prevented this incident.
6. We recommend creation of policy guidelines for Public Safety's use of handheld and temporary cameras. Such a policy should protect student rights while permitting Public Safety to use cameras when necessary and appropriate.

7. We recommend a reevaluation of the current prohibition of social events at the end of the academic year. While we are sensitive to the academic pressure associated with the reading and final examination period, it may be unreasonable to assume that events and parties will not happen during that time.
8. We recommend reviewing the judicial procedures currently employed at the end of the academic year and promoting awareness of those procedures. We observed a widespread (and inaccurate) belief that violations of Wesleyan's code of conduct committed at the end of the academic year are left unpunished, especially for graduating seniors.
9. We recommend a review of social spaces available to students, especially at night, as well as an analysis of what prevents students from using the available spaces. Large gatherings at woodframe houses, which are often in close proximity to non-student neighbors, are problematic for a host of reasons. Creating popular alternatives that reduce demands on Fountain Avenue and other streets with woodframe houses would be beneficial.
10. We recommend that the Alcohol and Other Drug (AOD) Standing Committee consider this incident and these findings as they continue discussion about educational initiatives, AOD policy and enforcement efforts. Numerous alcohol violations were clearly evident in our review of this incident, and we agree that use of alcohol contributed to this event.
11. Finally, we are aware that MPD is reviewing their operating procedures in light of this incident and that an internal investigation of the actions of some individual MPD officers continues as we complete our work. We recommend that the University actively follow up with MPD and City officials when that important work is concluded, and that the outcome of such reviews and investigations be widely shared with the campus community.