

REPORT FROM INVESTIGATING COMMITTEE

Professor Muna Ndulo, Law School, and Chair of Investigating Committee: “I chaired the Investigation Committee into the conduct towards student protests at the 2015 March board of trustees meeting.

“We had a three-person committee. Professors Charles Brittain and Paulette Clancy were members of the committee.

“I’m sure that you have read the report that we presented. The report is organized in terms of first the meetings we had, the people we had access to. We feel that we met all the people that we asked to meet and those that expressed an interest to meet us.

“And we do realize that this is a matter where people have very strong passions about it; so even the presentations in the committee were along those lines.

“Now, we do make some findings, and I will just quickly relate to that. The first is related to the interrogation of Marshall, the student. We do find that I think the police acted aggressively and that, in our view, the threats that were administered were not necessary and were clearly a violation.

“We also noted that there's clearly tension, they're feeling a perception of mistrust from the student body of the police and the members of the Cornell community as well. So we then of course tried to see how we can address that. So this is where we come to our recommendations.

“And we feel that one of the things that might help our community would be the establishment of a review board. This review board would be, in our view, a board that's representative of all segments of our community; that's the student, the faculty and the administration, and the police as well. And this is really to receive complaints about, say, for example, police misconduct or alleged police misconduct.

“We feel that one of the things that fosters the mistrust is the fact that at the moment, most of the investigation will be really done by the administration, and of course there's a perception, rightly or wrongly, that there is an effort to cover up. And we think that the existence of a review board that is representative of community members would be a good step in trying to bring into place an independent body that would hear any complaints that arises.

“We also, of course, to make other recommendations in terms of the need for engagement, more engagement by the police with the students and the faculty and

generally the Cornell community. We think that it would help to build trust, and we also recommend sort of greater attention by the administration in terms of supervising the Cornell police.

“So I think in essence, those are our recommendations. I think the main recommendation we have is really of the review board, realizing that these are difficult issues and issues that are likely to continue; and therefore, really for us is a way to handle such issues when they arise. And I think that the establishment of a board of this nature would be a good effort.

“Now, of course, the success of a body like that would depend on its legitimacy and transparency, that it has to be a body that is accepted by the community and acts in a manner that is transparent.

“So I think I’ll end here and look forward to any clarification you might wish to have from the report. Thank you.”

Speaker Lewenstein: “Before I call for questions, I do just want to note for the record that Police Chief Kathy Zoner was invited to be at the meeting, was unable to attend because of a conflict. In the materials on the university faculty web site is a copy of the [letter](#) that she provided last year when this issue was under discussion.

“Professor Schaffer.”

Professor Chris Schaffer, Biomedical Engineering Department: “Thank you very much for your hard work on this, and I appreciate your report. One thing that you didn't address, though, in the report that was at least concerning to me is sort of the threshold for the administration or faculty or anyone involving police in the first place, when it comes to issues of student protesters.

“So there's clearly things that rise to the threshold, where involving the police would be appropriate, but the question of sort of where that line should be and whether there could be some guidance in the future that could maybe make better decisions about when to involve police at all.”

Professor Ndulo: “I think that's a very good question. And we did look at that, but we also realize that it's very difficult issue to set the threshold, because sometimes you have individuals in the community that they have a complaint to take up, and you cannot prevent them from doing that by saying that we have a threshold, don't do this.

“And I think, of course, one of the things that we discussed was on the part of the police and also on the part of the administration to exercise restraint in this area, but I don't think that it is really an area where you can set a rule to say don't do this, because you then have this problem of navigating individual rights in terms of people feeling that if they have a complaint, they should be able to go to the police.

“But what we thought was really quite prevalent in the discussions was this mistrust in terms of when there is a complaint, that when it's taken to the administration, the perception, rightly or wrongly, is that there's like an effort to cover up. And then we focused on how to try to address that. And this is what we came up with, this question of the review board.”

Professor Schaffer: “But in this case, the complaint was made on behalf of the administration. It wasn't an individual coming to the police; is that correct?”

Professor Ndulo: “Which complaint?”

Professor Schaffer: “The original complaint to Kathy Zoner came, on my understanding, it was from President Skorton, but on behalf of the administration, not President Skorton as an individual bringing the complaint.”

Professor Ndulo: “Our understanding was the complaint came from the -- going into the evidence, I did not read the report, but since you asked that, we did interview President Skorton, we did not find agreement in terms of whether he was directly involved in that. I think our consensus in the end was that he said he wasn't, so I think we believed him.

“And it seems what happened was there's some involvement of the Statler at some stage, and it's not really clear who did this, whether it's the Statler or the administration, but clearly, the three -- the police, the Statler and the administration were involved at some stage.”

Professor Richard Miller, Department of Philosophy: “I have two requests for clarification and really specification of the report. In paragraph 12 of the report, you speak of the issuance of threats as recorded, and you condemn them. On April 29, 2015, the "Huffington Post" had an extensive report of the incident, including the interrogation, noting that there was a recording, and giving excerpts. I have heard that recording.

“In that recording, the police investigator says: ‘If you don't cooperate, I'm probably going to walk into one of your classes, walk you out in handcuffs, take you to the sheriff's department, process you and put you in front of a judge. And he's going to decide if you go to jail.’

“He continues, ‘With a felony charge, you will not get a job, I guarantee it. If you don't cooperate, I'm going to have to go with a felony charge. I've got you dead to nuts on that.’

“So the first of my two questions is whether I'm right; that the committee heard the recording and regards it as sound evidence of inappropriate threats.

“The second question of clarification and specification has to do with what actually happened that led to that interrogation with those threats. The "Huffington Post" gives us a photo of the slide that was at issue. It's a slide that says in medium type, welcome trustees; in rather small type, March 26, 1:00 p.m., Ho Plaza; and in tiny type, on the lower right, it says hash tag fight the fee.

“So my second question is do you have any evidence that what was done by Daniel Marshall was more severe than that? I guess I also have a question to you, as a lawyer. You mentioned a confidential agreement between the administration and Daniel Marshall. Isn't it your experience as a lawyer that those agreements standardly involve an agreement not to make a complaint? I ask that, because in light of that, Police Chief Zoner's statement in her letter, there's no current complaint of any inappropriate interrogation, what seems to me to be highly misleading.”

Professor Ndulo: “Thank you very much for the question. Now, first, I think we had specific terms of reference. I think that has to be brought in mind. Secondly, yes, we did hear the tape, and we had the evidence. And we said that in the report, and we have made conclusions from there to say the conduct of the police was inappropriate.

“So I mean, I think that's adequate that we have addressed that issue, because we do say that we heard the tape and we know those things were said, that they are on record; but at this stage, what I'm presenting is conclusions from our investigation.

“So I'm not here to, unless you want to, to begin to reopen the whole thing and bring out the evidence. I think that would be a very lengthy process, yeah. So there's absolutely no doubt that the tape exists. I mean, the police don't deny it. The police say they didn't know at first there was a tape; but no, they do know that it does exist, yes. So we did make a conclusion on that.”

Speaker Lewenstein: "One last quick question. Professor Brown."

Professor Dan Brown, Animal Sciences: "This is just a question of the way things are put together there. In addition to being served safety and security, employees at Cornell, the police are also sworn officers for the sheriff's department in the county.

"I was just wondering, as there's a community review board set up, does the greater community or sheriff's department, have they been part of any of the investigation of the way that prank was treated or -- what was their role? Is there a role? I know they don't pay salaries, but that is the reason they're peace officers, is that they're sworn deputies of the sheriff's department. I just wondered what that's about."

Professor Ndulo: "Yeah, our investigation didn't extend to looking at the relationship of the police here with the Ithaca police, although of course the Police Chief Zoner did receive and did explain the relationship. Sometimes they do hand over cases to them and all that, but these are the protocols that they have; but it wasn't something that we focused on in terms of what exactly is their relationship, because the issue was really the Cornell police in terms of policing on this campus. So that was the focus of our investigation.

"Just to answer the last -- I think I forgot to answer one question relating to the agreement. I mean, both sides, the university, as you know, and Mr. Marshall signed an agreement to settle the matter and, as a result of that, of course the complaint was withdrawn.

"The university also withdrew the efforts to charge him, and they both agreed not to speak about the process leading up to agreement, as well as the agreement itself. And I think we respect that, because I think both sides, Marshall too, said he wouldn't speak about that. He appeared before us. Thank you very much."