

LESSONS IN LEADERSHIP: *How Dillard University Juggled the Complexities of Campus Free Speech, the Demands of its Mission, and the Boundaries of the Law — All in a Matter of Days*

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Abstract

Campus free speech generates strong opinions but few consider the challenge it presents to campus leadership. Presidents espouse diversity and inclusivity while recognizing the importance of all ideas, some of which threaten those goals. Dillard University in New Orleans faced this issue. In doing so, Dillard found its core ideals and determined that as a liberal arts institution, facing controversy required an HBCU to host a former leader of the Klan. Its president placed his reputation and his job on the line for this conviction. Dillard is a story of courage in the face of adversity.

INTRODUCTION

Headlines trumpet an epidemic of free speech intolerance on American college campuses.¹ Similar concerns have been expressed in the United Kingdom.² Consider the prominent case of Middlebury College as an example. There, a group of students shouted down Charles Murray, noted libertarian and father of a Middlebury graduate, who had been invited to speak about his latest book focused on the divide between rich and poor in the United States. Twenty years earlier, Murray (1994) co-authored the book, *The Bell Curve*, about which the students' protests were centered.³ Murray's detractors argued that *The Bell Curve* made the case that Blacks are genetically inferior to whites. Murray disputes that interpretation. Nevertheless, a student group, the American Enterprise Club, invited Murray to speak on

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1 [Abrams v. United States](https://www.nytimes.com/2015/06/02/opinion/david-brooks-the-campus-crusaders.html), 250 U.S. 616 (1919). David Brooks, *The campus crusaders*, The New York Times, June 2, 2015. Available at <https://www.nytimes.com/2015/06/02/opinion/david-brooks-the-campus-crusaders.html>. Matthew Continetti, *Charles Murray's attackers*, Commentary Magazine, 2017. Available at <https://www.commentarymagazine.com/articles/charles-murrays-attackers/>. Conor Freidersdorf, *The glaring evidence that free speech is threatened on Campus*, The Atlantic, March 4, 2016. Available at <https://www.theatlantic.com/politics/archive/2016/03/the-glaring-evidence-that-free-speech-is-threatened-on-campus/471825/>. Greg Lukianoff & Jonathan Haidt, *The coddling of the American mind*. The Atlantic, 2015, Available at <https://www.theatlantic.com/>. Heather MacDonald, *Those "snowflakes" have chilling effects even beyond the campus*. The Wall Street Journal, April 21, 2017. Available at <https://www.wsj.com/articles/those-snowflakes-have-chilling-effects-even-beyond-the-campus-1492800913>.

2 Brendan O'Malley, *Minister demands action to protect campus free speech*, University World News, May 4, 2018. Available at <https://www.universityworldnews.com/post.php?story=20180503235513311>

3 Charles Murray, *The bell curve*. New York, NY: Simon & Schuster, 1994.

his latest book. Middlebury President, Laurie Patton, provided an introduction and cautioned the audience that she disagreed with Murray but thought the students should listen to him and question him. However, as Murray took the stage, protesters stood, turned their backs on him, and read in unison a prepared statement about why Murray should not be at Middlebury. Following the reading, the students began chanting. With signs waving, students dancing, and intoned chants, such as “anti-women, anti-gay, Charles Murray go away,” the protesters maintained the din and disruption for 20 minutes. During that time, Murray stood at the podium, silently watching. Finally, a collection of Middlebury administrators, along with the faculty representative there to question and debate him, Allison Stanger, joined him on stage and decided to move the talk.⁴ Murray was escorted to another location where the talk and interview were recorded. At its conclusion, a band of masked protesters waited for the speaker and assaulted Murray and Stanger as they made their way across a parking lot to their car. Stanger suffered neck injuries. The protest continued as the group rocked the car until it could make its way out of the crowd. President Patton, a front row witness of the events of the evening, faced a challenge. She and the majority of students at the talk were vehemently opposed to Murray’s views. Those views challenge, among others, the fundamental values of inclusion and diversity. By defending Murray’s right to speak, she placed herself on his side. Condone the protests, and she would strike a blow against free speech. President Patton chose to condemn the violence and the disruptive protest.⁵ While she promised that the college would deal with the matter through its disciplinary process, she acknowledged that free speech requires an understanding of its effect on those at the margins. Further, she stressed disappointment at the way Middlebury students dealt with adverse ideas.⁶ Middlebury disciplined 67 students within the next three months.⁷ News coverage of the protest was widespread⁸ as was readily available video of the whole event.⁹

4 Will DiGravio, *Students protest lecture by Dr. Charles Murray at Middlebury College* [Video file] YouTube, March 2, 2017. Available at <https://www.youtube.com/watch?v=a6EASuhfeI>.

5 Laurie Patton, *Letter from President Patton Concerning Last Night’s Events*, Middlebury, March 3, 2017. Available at <http://www.middlebury.edu/about/president/addresses/2017-addresses/node/545919>.

6 Id.

7 Nell Gluckman, *Middlebury punishes 67 students for Charles Murray Protest*, The Chronicle of Higher Education, May 23, 2017, Available at <https://www.chronicle.com/blogs/ticker/middlebury-punishes-67-students-for-charles-murray-protest/118607>

8 Continenti, supra note 1. MacDonald, supra note 1. Sasha Goldstein, *Middlebury College to investigate violent protest of Murray lecture*, SevenDays, 2017. Available at <https://www.sevendaysvt.com/OffMessage/archives/2017/03/06/middlebury-police-to-investigate-violent-protest-of-murray-lecture>. Daniel Henninger, *McCarthyism at Middlebury: The silencing of Charles Murray is a major event in the annals of free speech*, The Wall Street Journal, March 8, 2017. Available at <https://www.wsj.com/articles/mccarthyism-at-middlebury-1489016328>

Scott Jaschik, *Dillard didn’t invite David Duke, but must host him*. Inside Higher Ed., Oct. 24, 2016. Available at <https://www.insidehighered.com/quicktakes/2016/10/24/dillard-didnt-invite-david-duke-must-host-him>. Scott Jaschik, *Middlebury engages in soul-searching after speech is shouted down and professor is attacked*, Inside Higher Ed, Mar. 6, 2017. Available at <https://www.insidehighered.com/news/2017/03/06/middlebury-engages-soul-searching-after-speech-shouted-down-and-professor-attacked>.

9 DiGravio, supra note 1.

Given a case such as Middlebury, its stakes, profile, and the issues weighed, a president must be careful in choosing words and taking positions on the issues at hand—in effect, walking a leadership tightrope. Those situations often find presidents trying to lead in a situation that pits fundamental principles of diversity and inclusivity against freedom of speech and inquiry. Does the president side with free speech at the expense of inclusivity? Does diversity of opinion, some of which may be distressing to certain students, create problems for overall campus diversity and inclusion? Is the dignity of each campus member the coin of the realm, even if promoting that value suppresses speech? Is the campus too sensitive or not sensitive enough? Is the issue erupting today symptomatic of larger societal issues? If so, how does the campus learn from that while not doing harm to the fleeting experiences of the students who sojourn there? That is not to say that other factors remain sidelined. Those might include the negative publicity or the angry calls from parents, alumni, donors, and friends.

In these moments, the president is called upon and expected not only to speak, but to lead.¹⁰ Before a president can act, the situation needs to be understood, and factors need to be identified and weighed and balanced. Ultimately, a decision needs to be articulated and supported and a case made justifying the approach that is cogent and carries the gravitas that recognizes the importance of the values at stake.

I. The Free Speech Issue

Free speech is a complex leadership challenge facing many university presidents and likely to face more. What is “free speech”? It is the right to express in words or in actions an opinion or position.¹¹ It is what the U.S. Supreme Court has called the central ingredient of all other forms of freedom.¹² Its first amendment siblings—freedom of the press and freedom of religion—are both forms of speech.¹³ Neither are the focus of this research, nor is the right of someone to speak their mind on public issues on public property. These issues, while controversial in application and headline grabbing, present a different challenge to a leader. The type of speech under examination here is the voluntary recognition of free speech on private property and the priority given to speech by the academy allowing institutions to pursue the purpose of teaching and learning. Thus, a threat to free speech on campus becomes a threat to the mission of higher education itself. The weight of that burden exacerbates the challenge. Free speech is further complicated by the academy’s tradition of academic freedom. Academic freedom represents a corollary to free speech found uniquely on college campuses. Academic freedom,

10 Stephen Nelson, *Leaders in the crucible: The moral voice of college presidents*, Westport, CT: Greenwood (2000). Robert Birnbaum, *How academic leadership works: Understanding success and failure in the college presidency*. San Francisco, CA: Jossey-Bass, (1992). Stephen Nelson, *College presidents: Voices of civic virtue and the common good of democracy*. *Journal of Leadership Studies*, 8(3), 11–28, 2002. doi:10.1177/107179190200800302.

11 Erwin Chemerinsky & Howard Gillman, *Free speech on campus*. New Haven, CT: Yale University Press (2017).

12 *Palko v. Connecticut*, 302 U.S. 319, 327 (1937).

13 U.S CONST. amend. I.

as defined by the American Association of University Professors (AAUP, n.d.) in its *1940 Statement of Principles on Academic Freedom and Tenure*,¹⁴ stands for the freedom of professors to teach, research, publish, and speak without fear of rebuff by their institutions. This article intends to focus on the leadership challenges of balancing multiple leadership options where answers are not easily found or legally defined.

As the Middlebury facts and other examples demonstrate, free speech and leadership intersect. This intersection is shaped by a number of factors. First, the application of free speech on public versus private campuses is complicated. It has a constitutional component derived from the First Amendment to the U.S. Constitution and a long history of Supreme Court precedent interpreting the meaning of the right.¹⁵ In some ways, the constitutional component, while complicated and nuanced, is the easy part. For example, as an arm of the government, a public university may not restrain speech.¹⁶ This fact gives the controversial speaker who desires to speak on a public campus a right to be there in a way that does not exist on a private campus. Harder still is the application of free speech on a private college campus. At a private university, the application of First Amendment legal precedent is instructive but not controlling.¹⁷ Unlike a public university leader, a private leader is not the government, nor can that leader fall back upon a legal obligation to avoid a difficult balancing. The private leader may consider school policies that sound like first amendment rights and may weigh those policy interpretations with other important and possibly infringed rights (e.g., to be free from racist speech).¹⁸ The idea and purpose of free speech become the focus, as does its place at the core of American higher education. As one advocate put it, “Free speech is bred into the bones of a modern university, and any institution that sets those principles aside can no longer be meaningfully regarded as a proper institution of higher education.”¹⁹

The complicated and high stakes issue of campus free speech manifests itself differently on different campuses. For example, as stated above, if private, nonprofit schools are considered, then issues that pertain to strict First Amendment rights, as

14 American Association of University Professors (AAUP). (n.d.). 1940 statement of principles on academic freedom and tenure. Available at <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

15 *Abrams v. United States*, 250 U.S. 616 (1919). *Cohen v. California*, 403 U.S. 15 (1971). *Roth v. United States*, 354 U.S. 476 (1957). *Snyder v. Phelps*, 562 U.S. 443 (2011). *Texas v. Johnson*, 491 U.S. 397 (1989). *Whitney v. California*, 274 U.S. 357 (1927).

16 Amicus, *First Amendment on Private Campuses*, Harvard Civil Rights-Civil Liberties Law Review, Dec. 1, 2015. Available at <https://harvardcrcl.org/first-amendment-on-private-campuses/>.

17 Scott Bomboy, *The boundaries of free speech at public colleges*. Constitution Daily, Aug. 16, 2017. Available at <https://constitutioncenter.org/blog/the-boundaries-of-free-speech-at-public-colleges>. Dana Scaduto & Debra Fourlas, *Campus free speech policies and managing unpopular speakers*. Harrisburg: The Pennsylvania Bar Association Quarterly, 2017.

18 Id.

19 Keith Whittington, *Speak freely: Why universities must defend free speech*. Princeton, NJ: Princeton University Press (2018).

applied to a public campus, become instructive but not controlling.²⁰ Additionally, the nonprofit sector represents the larger percentage of place-based students compared to the for-profit sector.²¹ The widely reported free speech incidents in the last several years have occurred on physical campuses. The issue of whether the institution is sectarian may play a role as a factor weighed and evaluated among others.²² Limitations that may apply to the views allowed or honored on a sectarian campus add a layer of consideration for leaders of those institutions.²³ The common example of this conflict plays out on Catholic campuses each year as pro-choice politicians appear, speak, and receive honorary degrees invoking the ire of local bishops, usually without mentioning that subject. Such battles raise the risk of reputational damage for a Catholic college or university.

As with the sectarian conflicts mentioned previously, free speech incidents in higher education find their way to the front page of newspapers—some local, but others national. Not only will media coverage add a public relations consideration, it may extend or distort the duration of an incident by either follow-up articles or drawing attention to a flashpoint while ignoring the longer-term effects or a harmonious solution. At the point where regional or national news takes notice, the pressures of the response on campus leadership include reputational risk to a greater extent than if the matter had remained a localized or unreported campus controversy.²⁴

Third, free speech incidents as they relate to leadership are fluid. The president may speak out in anticipation of an event.²⁵ The president may attend the event or respond to the immediate incident via a public statement or a statement to the internal community in the aftermath of the events.²⁶ The president may choose not to make a statement at all.²⁷ Public and internal comments may be the same day, the next day, or a week later as the facts become known. The comments are covered by the media. Not covered is the ongoing effort to understand the root of

20 Scaduto, *supra* note 17.

21 Doug Lederman, *Online Education Ascends*, Inside Higher Education, 2018. Available at <https://www.insidehighered.com/digital-learning/article/2018/11/07/new-data-online-enrollments-grow-and-share-overall-enrollment>.

22 Whittington, *supra* note 19.

23 Joseph Fiorenza & Dennis Schnurr, *The application for Ex corde Ecclesiae for The United States*, 2000. Available at The United States Conference of Catholic Bishops website <http://www.usccb.org/beliefs-and-teachings/how-we-teach/catholic-education/higher-education/the-application-for-ex-corde-ecclesiae-for-the-united-states.cfm>. Scott Jaschik, *Holy Cross Defends Professor Attacked as Blasphemous*. Inside Higher Ed, Apr. 2, 2018. Available at <https://www.insidehighered.com/news/2018/04/02/holy-cross-defends-professor-under-attack-his-writings-jesus-and-sexuality>.

24 Jaschik, *supra* note 8. Kathryn Theus, *Academic reputations: The process of formation and decay*, Public Relations Review, 19, 277-291, 1993. doi:10.1016/0363-8111(93)90047-G

25 Jeff Abernathy, *Statement by President Jeff Abernathy*, Alma College Newsroom, 2015. Available at <https://www.alma.edu/live/news/452-pediatric-neurosurgeon-ben-carson-to-speak-at-alma>.

26 Patton, *supra* note 5.

27 Natalie Kahn, *Campus is abuzz over Penn Law professor Amy Wax's controversial op-ed, called for a return of 'bourgeois' cultural values*. The Daily Pennsylvanian, 2017. Available at <https://www.thedp.com/article/2017/08/penn-law-professor-amy-wax-graduate-union>.

the issue or to heal fissures revealed by the dispute, its handling, and any aftermath. On a college campus, that follow up may extend through the remainder of that academic term, or it may spark a response that is a year or more in the making.²⁸ Thus, though the “incident” may attract news coverage, the focus of this research extends beyond that.

II. Campus Leadership

Leadership is a contested space. Leadership on a college or university campus is particularly so as stakeholders represent often divergent interests and perspectives. Students may believe strongly that any speaker who threatens the inclusive community is not welcome. A recent Knight Foundation (2018) poll revealed that students value diversity more than free speech, for example.²⁹ A subsequent survey revealed a different perspective from faculty³⁰ who overwhelmingly support free speech rights. Leaders must consider other voices as well. Trustees may weigh in on the reputation of the university or any threat to its mission, which has been entrusted to them to safeguard. As mentioned earlier, sectarian authorities may hold certain speakers in contempt in contradiction to the desires of campus constituencies. Community interests may care about the speaker as well. Thus, leadership must consider if and how to engage the viewpoint of the community.

Different institutional leaders may take the lead depending on the institution and the incident. Sometimes the primary leader may be the president, but it need not be.³¹ Internal free speech incidents may fall under the responsibility of a dean or a provost.³² One such example was the controversy surrounding the instructor at Yale, Erica Christakis (2015), who sent an email to students arguing that students should have greater latitude when it comes to offending—specifically with their choice of Halloween costumes.³³ She and her husband, also at Yale, faced strident

28 Sarah Brown, *I don't want to back down*, The Chronicle of Higher Education, Apr. 23, 2017. Available at <https://www.chronicle.com/article/A-Liberal-Student-Questions/239858>. Gluckman, supra note 7. Amy Wax, *What can't be debated on campus*. The Wall Street Journal, Feb. 16, 2018. Available at <https://www.wsj.com/articles/what-cant-be-debated-on-campus-1518792717>.

29 Knight Foundation, *Free expression on campus: What college students think about first amendment issues*, 2018. Available at <https://knightfoundation.org/reports/free-expression-on-campus-what-college-students-think-about-first-amendment-issues>.

30 Samuel Abrams, *Professors support free speech*. The American Interest, Apr. 18, 2018. Available at <https://www.the-american-interest.com/2018/04/18/professors-support-free-speech/>.

31 Jonathan Haidt, *In defense of Amy Wax's defense of bourgeois values*. Heterodox Academy, 2017. Available at <https://heterodoxacademy.org/in-defense-of-amy-waxs-defense-of-bourgeois-values/>. Katie Reilly, (2016). *University of Chicago tells students not to expect “trigger warnings” or safe spaces*, Fortune, Aug. 25, 2016.. Available at <http://fortune.com/2016/08/25/university-of-chicago-trigger-warnings-safe-spaces/>. Susan Svrluga, *Williams College cancels a speaker who was invited to bring in provocative opinions*, The Washington Post, Feb. 20, 2016. Available at <https://www.washingtonpost.com/news/grade-point/wp/2016/02/20/williams-college-cancels-a-speaker-invited-as-part-of-a-series-designed-to-bring-in-provocative-opinions/>.

32 Haidt, supra note 31.

33 Erika Christakis, Email from Erika Christakis: “Dressing yourselves,” email to Silliman College (Yale) students on Halloween costumes, 2015. Available at <https://www.thefire.org/email-from-erika-christakis-dressing-yourself-email-to-silliman-college-yale-students-on-halloween-costumes/>

criticism due to her e-mail in a matter that did not rise to the level of a presidential controversy.³⁴ A member of the campus community speaking on a controversial issue may arouse a set of considerations different from those stirred when the speaker is invited to campus from the outside.³⁵ External issues such as external speakers, particularly with media coverage, often involve a presidential response, though not always.³⁶ The eye of the media may turn an internal issue of academic freedom into an external issue, thus generating an equal response to a controversy imported from outside the gates.³⁷ The internal versus external distinction may impact from whom the response is delivered.

The literature on the role and power of the president presents a fascinating dichotomy. Prominent among these views are those who believe that the president does nothing more than accompany the natural progress of the institution and is thus, by the nature of the position, a symbol.³⁸ By contrast, others have pointed to the essential power of the president and the characteristics of the president as the driver of the educational enterprise.³⁹ Cohen and March (1974) offered a striking assessment of the role of the president:

The president is a bit like the driver of a skidding automobile. The marginal judgments he makes, his skill, and his luck may possibly make some difference to the survival prospects for his riders. As a result, his responsibilities are heavy. But whether he is convicted of manslaughter or receives a medal for heroism is largely outside his control. (p. 203)⁴⁰

Fisher and Koch stressed the need for good leadership. The authors pointed out what they viewed as the debacle of faculty-run institutions, historically, namely the University of Paris, Oxford, Cambridge, and the New School. All realized their folly and returned to administrative structures. Believing that the president makes a difference, and the faculty and the institution need a good president, the authors offered: "The effective president is a strong, caring, action-oriented visionary who acts out of educated intuition. He or she is transformational rather than transactional and less collegial and more willing to take risks than the usual president."⁴¹

From the results of a survey of successful presidents cited by the authors, the collegial president is the first to exit in the time of a crisis. Fisher and Koch (1996)

34 Haidt, *supra* note 31.

35 Whittington, *supra* note 19.

36 Goldstein, *supra* note 8.

37 Jaschik, *supra* note 8.

38 Robert Birnbaum, *The cybernetic institution: Toward an integration of governance theories*. *Higher Education*, 18, 239–253, 1989. Available at <http://www.jstor.org/stable/3447084>. Michael Cohen & James March, *Leadership and Ambiguity: The American College President*, New York: McGraw Hill (1974).

39 James Fisher & James Koch, *Presidential leadership making a difference*, Phoenix, AZ: American Council on Education Oryx Press (1996).

40 Cohen, *supra* note 38.

41 Fisher, *supra* note 39.

claimed that being presidential requires distance.⁴² Collegial behavior is respected but not to the extent that it hampers their ability to lead and make difficult decisions. Friendships with those the president must lead, for example, are not favored. An effective president will be warm and concerned about those in their care, but they will not befriend them lest that make more difficult the job of leading and deciding. The authors urged the president to surround themselves with advisors who are brighter than they are and to include them in many decisions. However, they should be kept at a cordial distance. Any socializing with the staff, according to the authors, is a waste of the president's time.⁴³

It is important to consider how academic leaders lead. Birnbaum (1992) suggested that understanding the needs and complexities of a given college campus is paramount.⁴⁴ However, certain common characteristics of good leadership can be generalized across campuses. Birnbaum (1992) listed the 10 characteristics of good academic leadership as follows:

... making a good impression, knowing how to listen, balancing governance systems, avoiding simplistic thinking, de-emphasizing institutional bureaucracy, re-emphasizing core value, focusing on institutional strengths, encouraging others to be leaders, evaluating your own performance, and knowing when to leave. (p. 172)⁴⁵

Birnbaum (1992) stressed what he calls "cognitive complexity" (p. 180).⁴⁶ He argued that presidents with this characteristic have the ability to solve problems faster, make fewer mistakes, use information wisely, allow better for uncertain situations, and welcome contrary evidence.⁴⁷

The role of leadership when faced with a difficult, seemingly unmanageable task, is illuminated by the work of Ronald Heifetz. Heifetz developed a framework for analyzing these leadership challenges, which he termed adaptive problems.⁴⁸ According to Heifetz, leaders faced with adaptive problems need to employ a series of what he terms "strategic assets" that are unique powers held by a leader. These assets include the ability to frame the issue, and the ability to contain, manage, and strategically release stress, among others. The use of issue framing and managing stress will be explored in the analysis of the case below.⁴⁹

Therefore, the latest iteration of the free speech battle presents a challenge to college and university leadership. The challenge requires leaders to respond, in

42 Id.

43 Id.

44 Birnbaum, *supra* note 10.

45 Id.

46 Id at 180.

47 Id.

48 Ronald Heifetz, *Leadership without easy answers*. Cambridge, MA: Belknap Press of Harvard University Press (1994).

49 Id.

some way, and confront issues fundamental and important to a diverse group of constituents. This article attempts to understand how a team of leaders at one non-profit university understood, framed, and responded to a free speech controversy on campus. The study examines Dillard University in New Orleans, LA. The insights into the facts of the Dillard case study derive from interviews with Dillard's president and vice presidents for communications and student success.

III. Methodology

Research Design. Case study research was appropriate for this topic. Its focus is on recent events; thus, it involves observation of actions, accounts of those actions or incidents, and interviews with the participants.⁵⁰ Yin (2018) described six sources of evidence that may be useful in conducting a case study. These sources consist of documentation, archival records, interviews, direct observations, participant observation, and physical artifacts.⁵¹ Most of the above evidence played some role in the case studies conducted for this research. Interviews were the central data collection vehicle in this study. Yin divided interviews into shorter and longer categories depending on the time. An hour or less is short. Two or more hours, or extending over multiple days, is long.⁵² All of the interviews herein were thus short at one-hour long. Documents, archival records, and campus observations were all important to understanding the adaptive, free speech problem as it played out at Dillard and how leaders responded. All have been used. Direct and participant observations were not a possibility given that these events have already happened. Physical artifacts, such as a sign used in a protest, or a damaged article of property, were not used.

Data Collection. Data were collected primarily from interviews. The interview process was semi-structured.⁵³ Each interview participant was presented a series of questions regarding the event and the ways in which the problem was identified, articulated, and solved. The participants' views are important, as are the sources of support relied upon by those leaders to formulate an answer and make sense of the issues. As the participants engaged in the interview process, however, additional questions emerged, triggering additional inquiries and follow-up questions, or a different focus based on the unique perceptions of each participant.

The review of news accounts, records, and archival sources, coupled with interviews, interview notes, and any follow-up questions, allowed for the triangulation of information.⁵⁴ That use of cross-referenced sources enabled piecing together a more accurate picture of the events and allowed for questions that tugged at the validity of the responses. The chronology of events derives primarily from the three interviews conducted with the three senior leaders at the point of this

50 Robert Yin, *Case study research and applications*, Los Angeles, CA: Sage (2018).

51 Id.

52 Id.

53 Sharon Ravitch & Nicole Carl, *Qualitative research bridging the conceptual, theoretical, and methodological*, Los Angeles, CA: Sage (2016).

54 Nigel Fielding & Jane Fielding, *Linking data*. Beverly Hills, CA: Sage (1986).

incident. Where information originated from a source other than interviews, the source appears in a citation.

IV. Case Study: David Duke visits Dillard University

David Duke, former grand wizard of the Knights of the Ku Klux Klan, appeared on the campus of Dillard University, in New Orleans, LA, a historically Black college and university, on November 2, 2016. Dillard's president, Dr. Walter Kimbrough, defended the appropriateness of Duke's appearance to the campus community. In Kimbrough's words, "If we say we're liberal arts, you're go[ing to] protect free speech. You have to have this. It has to happen."⁵⁵ Duke's visit incited a rash of events: students arrived in bus loads from neighboring universities to protest, arrests were made, pepper spray was used on both officers and crowd members, protestors laid across streets, and national and international news coverage appeared at the campus—all causing the administrators to fear for their safety and that of their students. These complications were made more difficult by the fact that Dillard had only short notice that Duke would appear on campus.⁵⁶

Dillard officials initially thought they had an out: they had not invited David Duke. Duke was there to participate in a candidate debate. He was running for the Senate seat from Louisiana. He had polled just high enough, 5%, in a recent statewide survey, to qualify as a viable candidate according to the debate rules.⁵⁷ Though Dillard had only rented out its space for the debate to Raycom Media, the event's actual host, Dillard had a history of allowing this type of event to be held on its campus and considered its engagement with the community important above and beyond any legal obligation for space rental. It wanted its students to have the opportunity to see democracy in action and to know that important and hard conversations could take place on its campus. To that end, Dillard had directly invited controversial speakers to campus before. In fact, Duke had spoken on the campus in the 1970s, not as part of a large-scale political debate but as a solo speaker to the students and community members who attended. Given the fact that Duke had been granted direct contact with Dillard students before, the university underplayed the debate on November 2, 2016, which was scheduled to be taped by a film crew in an empty auditorium with no handlers, supporters, protestors, or cheering sections.⁵⁸

Based on the fact that Dillard had a contract to provide the space for the event and nothing more, including no obligation for further involvement, its leaders thought the school was insulated from controversy and absolved from responsibility. Its legal counsel, Dr. Denise Wallace, advised the president that Dillard was under contract, and that to violate that contract just because it did not

55 Interview with Walter Kimbrough, President, Dillard University, in New Orleans, LA (Oct. 22, 2018) (on file with author).

56 Seltzer, *supra* note 16.

57 *Id.*

58 Kimbrough interview, *supra* note 55.

like the views of one of the candidates would amount to a breach of contract that she could not defend. In her mind, this was straightforward; this was not a free speech controversy.⁵⁹

Despite these facts, Kimbrough realized that another issue was at play. He knew that hosting the event had larger implications and presented a practical learning environment for his students. The ability to confront people and ideas that may be alarming and controversial was a skill that Kimbrough wanted his students to learn. Technical distinctions remained, but Kimbrough determined to defend the underlying propriety and importance of the event rather than relying on a legal backstop.⁶⁰

A. Dillard University

Dillard is a four-year liberal arts college. It is affiliated with the United Church of Christ and the United Methodist Church. It enrolls 1,300 students and just over 200 graduate students. Its enrollment is overwhelmingly female at 76% and African American at 91%. The university consists of three colleges: the College of Arts and Sciences, which graduates the largest number of Dillard students; the College of Business; and the College of Nursing. Its most popular majors include public health, biology, nursing, and communications, according to its website.⁶¹

Formed by the merger of Straight College and New Orleans University, both of which date to 1869, Dillard University was founded in 1935 to serve men and women of all races, but with a focus on providing the African American community with a Christian education.⁶² The institution was named after a well-known African American educator, James Hardy Dillard. The school has a tradition of bringing in the outside world to the campus. William Stuart Nelson, Dillard's first president, established an arts festival that invited leaders from the local and national arts community. The school's third president, Broadus Butler, began what was known as the Scholars-Statesmen Lecture Series, which outside educators, judges, artists, and writers attended. Butler's successor, Samuel DuBois Cook, in addition to making the admission requirements more rigorous and demanding more terminal degrees for faculty, initiated the National Conference on Black-Jewish Relations, which became a national center.⁶³ That tradition continues today under Kimbrough in the form of his lecture series titled Brain Food.⁶⁴

59 Id.

60 Id.

61 Dillard, Quick Facts, 2019. Available at http://www.dillard.edu/_academics/institutional-research-and-effectiveness/quick-facts.php.

62 Dillard University, A brief history of Dillard University, 2018. Available at http://www.dillard.edu/_about-dillard/history-of-dillard.php.

63 Id.

64 Dillard University, The Brain Food Story, 2018. Available at http://www.dillard.edu/_office-of-the-president/brainfood-folder/brain-food-lecture.php.

B. Walter Kimbrough

Dr. Walter M. Kimbrough was selected by the Board of Trustees of Dillard University to serve as its seventh president beginning July 1, 2012.⁶⁵ For the eight years before that, Kimbrough held the position of president, a position he assumed when he was thirty-six years old, at Philander Smith College in Little Rock, Arkansas, a small, historically Black college with 750 students. Known at Philander Smith by his Twitter username of “HipHopPrez,” Kimbrough developed a reputation for being able and willing to communicate with students about issues that mattered to them, ones that were not always easy to discuss. For example, Kimbrough decided to take on the issue of sexually transmitted disease and out-of-wedlock children in the African American community at Philander Smith.⁶⁶

He is fond of noting that he is a preacher’s son from Atlanta, Georgia. When he was lambasted on social media for hosting the debate with Duke, he thought it was funny that some were concerned for him based on what was being written. His response: “I just said, ‘Look, I know some of y[ou] all out there are cussing me out on social media.’ I said, ‘Well, I’m a preacher’s kid, I’ll cuss you all out too.’”⁶⁷ Kimbrough matriculated at the University of Georgia, then did graduate work at Miami University in Oxford, Ohio, before earning his doctorate in education from Georgia State University. Kimbrough worked at multiple higher education institutions in the student affairs division before landing in 2000 as the vice president of student affairs at Albany State University in Georgia when he was thirty-two years old. In 2004, he became the president of Philander Smith.⁶⁸

Kimbrough was a member of Alpha Phi Alpha fraternity at the University of Georgia, and his writing has focused on the Greek systems at historically Black colleges and universities (HBCUs). He authored the book *Black Greek 101: The Culture, Customs, and Challenges of Black Fraternities and Sororities*. He has been honored as one of the twenty-five to watch by *Diverse Issues in Higher Education* in 2009. In 2010, he was listed on the Power 100 list in the African American community by *Ebony* magazine. He shared that honor with Barack and Michelle Obama. In 2014, he was named the male HBCU president of the year by *HBCU Digest*.⁶⁹

Kimbrough, like his predecessor presidents at Dillard, established a lecture series to foster greater community spirit, promote the arts, or promote social awareness. He established/continued a series at Dillard called Brain Food. He decided that a school in New Orleans, known for its food, should have a series to feed the brain. Inspiration came from a Kenyan proverb that stresses it is wise to fill the brain before emptying the mouth. Kimbrough made a point of enlisting

65 Dillard, *supra* note 62.

66 Bruce Nolan, *Walter Kimbrough, “HipHopPrez,” chosen as Dillard University’s 7th president*, New Orleans Metro Daily News, Nov. 2, 2011, Available at https://www.nola.com/education/index.ssf/2011/11/dillard_picks_walter_kimbrough.html

67 Kimbrough interview, *supra* note 55.

68 Dillard University, *President Walter M. Kimbrough, 2018*. Available at <http://www.dillard.edu/office-of-the-president/>.

69 *Id.*

diverse viewpoints for this series, including Candace Owens, a conservative communications director and African American from Turning Point USA, and Lena Waithe, an Emmy Award–winning actress, producer and screenwriter.⁷⁰

C. Dillard’s Gentilly Neighborhood

“Gentilly is one of the most celebrated neighborhoods in New Orleans” said Dr. Roland Bullard, the vice president of student success at Dillard.⁷¹ It was the neighborhood where rich African Americans settled for three decades in the early twentieth century, and it is home to Dillard. Dillard is known colloquially as the “Jewel of Gentilly.” Bullard was surprised at first that residents of Gentilly did not raise any concerns about the Duke incident. He thought that everybody would be upset that Dillard would hold an event with a figure like Duke. Then he realized that Dillard was known for hosting controversy. It became clear to Bullard that Dillard serves the community and that the community trusts Dillard to be competent with these events. As Bullard commented, “We’ve got a couple of projects and things going on in the community, and we hear from them in one minute if something’s out of the way. A blade of grass is out of the way, they’ll call.”⁷² He noted that Dillard was getting grief from New York and California, but Gentilly was quiet.⁷³ If Gentilly served as a bellwether for the Duke event, then it appeared as if all would be well. That quiet turned out to be more “calm before the storm” than bellwether.

D. The Debate That Brought Duke Back to Dillard

Roland Bullard met with representatives of a news station who were preparing the details of the upcoming Louisiana Senate debate to be held on the campus of Dillard. He was brought into the conversation as they considered where on the campus to hold the event. Although this type of event would normally work through auxiliary services, Bullard was brought in to make sure that security was in place given the high-profile participants coming to campus, one of them a sitting senator. This was several weeks ahead of the November 2, 2016, event.⁷⁴

Weeks after the meeting, the names of the candidates who qualified for the event came out. When the bar for qualification was first determined, five candidates passed the 5% polling and \$1 million fundraising cutoff. For this debate however, the rules changed, and the only qualification was polling percentage—the fundraising total was dropped. With the bar thus lowered, David Duke qualified for the debate. Regardless of fundraising, it was also the first time his polling numbers had appeared that high. The Mason-Dixon poll used for the debate showed Duke at 5.1% despite being shunned by the national Republican Party and having no

70 Id.

71 Interview with Roland Bullard, Vice President of Student Success, Dillard University in New Orleans, LA (October 22, 2018)(on file with author).

72 Id.

73 Id.

74 Id.

real campaign, fundraising, or statewide organization.⁷⁵ *The Baton Rouge Advocate* reported on the irony of Duke appearing at the debate at historically Black Dillard, a fact that Duke found “amazing,” adding that he still intended to appear for the debate.⁷⁶ Duke worried about the appearance too, noting that he had been critical of the Black Lives Matter movement and that “Dillard is pretty supportive of Black Lives Matter.”⁷⁷

That did not sit well with Kimbrough. “This is rigged,” he said. “Every poll after that and on election day, he was below. It’s the only time in the entire cycle he was over [five] so that he could qualify for this debate. I still believe that somebody did this on purpose.”⁷⁸ Now the debate that was to have five candidates had six with Duke’s qualification. Raycom, the television outlet, was not the first to notify Dillard. Dillard officials found out on social media. Marc Barnes, vice president of the Division of Institutional Advancement, was the first to discover it, and he spoke to Kimbrough. Kimbrough’s reaction: “We were like, ‘What the hell is going on?’”⁷⁹ Kimbrough described it as a shock to find out in that way. He was not happy with the station’s general manager for not alerting him directly, and he would be equally incensed later as the station did not step up as Dillard was under fire and share responsibility for “inviting” Duke. Kimbrough was in Washington, D.C., at the time, at a reception at the home of Howard University’s president. “My phone just started blowing up,”⁸⁰ Kimbrough said. His wife told him that Rachel Maddow was reporting that Duke would be at Dillard. He stayed up to watch her report, which he describes as sympathetic and symptomatic of the larger craziness of the election cycle.⁸¹ Maddow (2016) described Duke as the “former grand *lizard* [emphasis added] of the Ku Klux Klan.” In Maddow’s (2016) words, from the night of the debate:

Dillard, of course, agreed out of the kindness of their heart to be a host for the debate. At the outset of the campaign, they had no idea that [it] would ultimately involve an invitation to the nations’ best self-promoting Klansman and white supremacist.⁸²

Kimbrough’s first communication was to his Board of Trustees. He explained that Dillard was not aware of Duke’s participation until the last minute. The conversations with the board and cabinet centered on Dillard’s relationship to the event. From those conversations, they came to a conclusion. “We rent it out,

75 Steve Benen, *David Duke, former KKK Leader, Qualifies for Louisiana Debate*. MSNBC, The Rachel Maddow Show / The MaddowBlog. Oct. 24, 2016.

76 Id.

77 Scott Jaschik, *Dillard didn’t invite David Duke, but must host him*. Inside Higher Ed, Oct. 24, 2016. Available at <https://www.insidehighered.com/quicktakes/2016/10/24/dillard-didnt-invite-david-duke-must-host-him>.

78 Kimbrough interview, supra note 55.

79 Id.

80 Id.

81 The Rachel Maddow Show, Transcript Nov. 2, 2016, MSNBC.

82 Id.

let's do it,"⁸³ was the final call, the message that Dillard officials used, in part, to distance themselves from the invitation. The general counsel argued that the issue was simply contractual. The rental agreement contained no clause that would allow Dillard to cancel the event if it did not like one of the candidates. Kimbrough took the legal advice but went further in his logic:

So, she [the general counsel] was just like, "If we need to think about this going forward, that's fine, but right now we really don't have a clause to break it." So her [opinion] was just based on the law....For me it was much more like if we say we're liberal arts, you're going to protect free speech. You have to have this; it has to happen. You don't run from this because you have this one person.⁸⁴

Kimbrough admitted candidly, however, that if the board had told him to shut it down, he would have. But they did not. As such, Kimbrough kept insisting that Dillard did not invite Duke and that its role was limited to renting the space.⁸⁵

It was at that time that Kimbrough began to hear a counternarrative that Dillard should not have Duke on its campus. Against that narrative, some reminded Kimbrough of the fact that Duke has been to Dillard before, in the early 1970s when Duke, then a member of the Klan, was doing a campus speaking tour. He spoke at Dillard in front of the student body. Kimbrough heard from former Dillard students who saw Duke speak there. They argued that this setup, as one of six debaters, was no big deal. Kimbrough thought, "Why do you cancel the whole thing because of one person?"⁸⁶ Beyond that, Kimbrough knew that one of the people invited to the event would be their next senator, and he would need that person to help with, among other things, the money needed to fix Hurricane Katrina damage. He wanted whoever that new senator would be "to be on campus, to have a personal experience at Dillard."⁸⁷

Duke's candidacy, the appearance at Dillard, and the outcry against it, amounted to a publicity stunt by Duke, Kimbrough thought. He argued that Duke had been chasing relevance for decades and that any battle over his right to appear on campus only helped Duke's cause.⁸⁸ He opined that Duke would win the battle if his appearance turned into a big deal. Kimbrough wished that the focus could be on the real needs of students, particularly students in the flood-ravaged areas of New Orleans, instead of on a candidate who was not at all likely to win.⁸⁹

83 Kimbrough interview, *supra* note 55.

84 Id.

85 Id.

86 Id.

87 Id.

88 Id.

89 Jessica Williams, *David Duke heads to a debate at Dillard, and some students are unhappy*, The New Orleans Advocate, Oct. 30, 2016. Available at <https://www.nwfdailynews.com/article/20161030/ELECTIONS/161039939>.

Kimbrough, Barnes, and Bullard all pointed to a nascent grassroots group called Take 'Em Down NOLA that had formed in New Orleans to remove Confederate monuments and its impact on the events of November 2. Several months earlier, David Duke had spoken against the removal of a monument drawing the ire and attention of the group. Barnes described the issue as “hot” in the New Orleans community and the cause of real tension. This group was expected to populate the crowd that night and would incite some of the violence that erupted.⁹⁰

A few days before the scheduled event, Kimbrough received an anonymous list of demands from a group purporting to be Dillard students. Kimbrough was not impressed: “I don’t do demands. We’re too small for that. You got a question, you come see [me].”⁹¹ Upon finding out later who some of the authors of the note were, Kimbrough was nonplussed. They were students who had asked him for football tickets and had shared Thanksgiving dinner at his house. He feared that students could not have a conversation over something about which they disagreed without it being anonymous and adversarial. “I don’t do either. That doesn’t work for me,”⁹² replied Kimbrough. Bullard noted that students at this time started to get more interested in what was happening:

The students are becoming a lot more interested in the conversation because folks are talking to them on social media, and they’re going, “Hey, how can you go to this school?” or really giving them sort of a tough time about it. Then, they start to get an opinion about what this looked like.⁹³

Bullard decided the best way to address student concerns was to engage with them. He had only started at Dillard the previous July and did not really know many students. He described their reaction to him as one of faint familiarity. He took the opportunity to address the students shortly before the debate, telling them to stop and think for themselves and not to simply react to what they were hearing on social media. According to Bullard:

So, I asked them to go out and look at the history of this thing. The fact that he had been on campus before in the seventies and what that looked like. Really starting to think about what it meant to have critical discourse on a college campus and the fact that that really was our purpose. That was messaging that actually had come from the president, which I absolutely agreed with.⁹⁴

Eventually, Bullard engaged the Student Government Association and asked them to take on the issue. The SGA agreed. They thought the event should go on as planned and that Dillard should be the site of “critical discussion.”⁹⁵ Bullard was

90 Interview with Marc Barnes, Vice President for Institutional Advancement, Dillard University, in New Orleans (Oct. 22, 2018)(on file with author).

91 Kimbrough interview, supra note 55.

92 Id.

93 Bullard interview, supra note 71.

94 Id.

95 Id.

extremely proud of the way that the SGA stood up in that moment. He recalled writing a letter of recommendation for one of the association's members sometime later in which he recounted the courage exhibited in that moment. The SGA planned a counter-event. They called it Brownies and Ballots where they handed out brownies and talked about the ballot, how to fill it out, how to register to vote, and the critical issues on it. These events were happening in advance of the debate night while the press coverage was heating up—as was the criticism of Dillard. Despite that, Bullard felt pretty good about what was happening and how the narrative around it was being perceived.⁹⁶

On the morning of the debate, Kimbrough took to Twitter to reiterate his belief that the polling was rigged. He said, "Pretty clear polling rigged as Trump would say for ratings. Any protests become part of [a] reality show masquerading as news."⁹⁷ Bullard left campus at around 3:30 p.m. to grab an early dinner so he could return in time for the event. As he exited the campus, he noticed about ten students picketing in front of the campus. Their messages were not anti-Duke per se or critical of Dillard for hosting him. The messages centered on Duke's beliefs. Bullard said:

I remember thinking that was a[n] interesting distinction that the student had made was, that it wasn't Dillard's so terrible for bringing him, or the president was this, or it wasn't that. It was, "Hey, we're not aligning with your beliefs." Which I thought was fine.⁹⁸

Bullard got word from Kimbrough that the student protesters had been contacting him to complain about harassment by the media, including such outlets as the BBC, CNBC, and CNN. Kimbrough asked the students to keep marching despite the difficulty and tasked Bullard with making sure that additional police were dispatched to watch over their safety. Bullard described that moment as follows:

I thought that was one of the most powerful things that happened that night is when I was telling you, the students were picketing. They emailed the president and he says, "Keep marching." I thought that was amazing. It's one of the things that gives me goosebumps, because that just makes me say, "This is why we're doing this."⁹⁹

The plan for Duke's security was to get him in and out of the facility quickly. He was to be brought in via a back gate, delivered to the back of the auditorium, and escorted out the same way as inconspicuously as possible.¹⁰⁰

Bullard returned to campus around 5 p.m. to find approximately 250 people/community members milling about campus. He was concerned at this point having not anticipated this many people would appear on a campus with a student population

96 Id.

97 Seltzer, *supra* note 16, paragraph 21.

98 Bullard interview, *supra* note 71.

99 Id.

100 Id.

of 1,300. Around 6:15 p.m., he walked over to the auditorium to check on the event, which was scheduled to start at 7 p.m.. No one was to be present for the debate beyond the candidates. As Bullard arrived, he found the candidates on the stage, a moderator, and two boom operators—he described it as nine people in a room that holds 400. He deemed the room to be fine and received the “all clear” from the chief of police. The police had secured all doors into the building, except for one where students could access evening classes upstairs. In addition, because of the volume of media requests, they had set up a media room with television screens in the building. The media sat at long tables and reacted to the debate on social media or other forms of communication. Dillard had arranged for press credentials for several of its students so they could experience the event with the press. Again, in Bullard’s words, “We kinda thought we had it kinda zipped up.”¹⁰¹ Then Bullard turned and looked down the hallway.¹⁰²

At the glass entrance to the building, Bullard describes the scene as “an angry mob outside the door. They [were] just irate, and [they were] pressed against the door. We literally [had] to keep everybody out.”¹⁰³ Among the crowd were people with megaphones who were leading chants about Duke. Bullard still thought that he could handle the situation. He believed in the power of addressing students. In his own words, Bullard said:

So, me in all my wisdom, I decided I was go[ing to] go out and have a conversation with our students and say, “Hey, look. This is what the situation is. Everybody know[s] you’re upset. This is what it is.” So I walk out, and I grab the mic....So I was like, “Hey, this is our situation. We are hoping that everybody can really settle down.” As I’m looking across the crowd, they aren’t our students. Then they became angry. Who is this guy? They started yelling. I was like, “Oh no.”¹⁰⁴

Bullard retreated into the building and the crowd began pressing against the door. Eventually, seven to eight officers were deployed at the door to keep it closed. The crowd began to throw water bottles and other items at the door. Bullard learned later that several local universities had bussed their students to the Dillard campus to protest. He was not happy to find out that this had happened without any advance communication or offer to send security or staff, a point he conveyed to at least one of the universities after the event.¹⁰⁵

Footage of the chaos at the doorway made the national news. One image showed a man swinging down upon the heads of state and local police officers as one officer pointed what looked like a gun (but was in fact a taser) at the man. As the man was taken down and arrested, the decision was made to use pepper spray on the crowd. A number of officers were impacted by the use of the spray, but it enabled

101 Id.
102 Id.
103 Id.
104 Id.
105 Id.

them to get the door closed and secured. The crowd violence diminished at that point.¹⁰⁶

Advancement Vice President Marc Barnes became afraid. He described the scene as follows:

The night of the event, I was actually afraid for my safety because people were trying to get into the building. They were throwing stuff. We didn't know if people were going to bring in weapons, like we just didn't know. It was really scary inside that building. Particularly as people began starting to infiltrate the building from other spaces so now, we're calling in for police reinforcement. There was no way for us to get out because the people were at that point all over the building.¹⁰⁷

Barnes thinks that their response was not forceful enough from the beginning and that the crowd would have relented under a stronger display. He said, "We almost allowed the crowd to just bully us for a while."¹⁰⁸

Kimbrough was not on campus during the debate, but he was on the phone with Barnes and being kept up to date on the evening's events. He was trying to get back to campus to deal with the situation. Barnes told him to stay away. He described Kimbrough as being really upset and wondering if this would be the end of his presidency. Barnes was convinced that they had made the right decision, however, not only to protect the president physically but also to avoid having him try to answer the questions of the protestors. Barnes noted that he was worried about Kimbrough. He had not seen him face a situation like this in the several years that they had worked together. He described a moment after the event was over that evening when Kimbrough's wife was spotted on campus leaving another event. Members of the crowd began screaming at her. Barnes described the whole episode as "pretty scary." Kimbrough was also in contact with the secretary of the SGA, and she gave him the same advice: stay away from campus. Kimbrough recalled Barnes' practicality as well, as he told Kimbrough to stay away so that resources would not have to be diverted to protect him.¹⁰⁹

Kimbrough could only follow the event through third parties. He remained in touch with his board. He told them, "[If] we feel like it did not go well, it's the president's responsibility. I'll be happy to resign."¹¹⁰ Kimbrough notes that he told his wife in advance that he felt strongly about the need to bring Duke to campus and not cancel the event. He warned her that this decision may cost him his job and that he would resign rather than cancel. Kimbrough was adamant that Dillard and its community should not give Duke that power. He described him as one man in an empty auditorium speaking for no more than ten minutes, at the most. Shutting him down would offer him publicity and power. He told his board these

106 Id.

107 Barnes interview, supra note 90.

108 Id.

109 Id.

110 Kimbrough interview, supra note 55.

thoughts and reiterated that he was willing to stake his job on that choice. The board told him to stop speaking about resignation.¹¹¹

As the crowd began to thin and the event came to a close, Bullard thought that it was all over. What he did not know was that the crowd had moved over to the suspected exit of the auditorium to await Duke. Fortunately, they had the wrong door. The candidates left but not before some of the debate participants began to criticize Dillard's handling of the evening as a restraint on free speech. Bullard noted that many outside the hall were angered that they had not been allowed into the event and believed that Dillard had arranged it this way in order to quell protest. Bullard also described a "scrum" of their students who were angry with Dillard for bringing this situation to their campus. Although he tried to talk to them, it did not go well.¹¹²

As debate participants were leaving the campus, one of the two main entrances to campus was shut down. The two entrances connect in a large horseshoe. For some reason, people believed that the candidates were still on campus, and to prevent anyone from entering, they lay across the street to stop any traffic. This resulted in a backup of fifty to sixty cars trying to enter the campus. At this point, Dillard asked the police to arrest those blocking traffic. Of the six arrested, only one was a Dillard student. After this, the protests and the events of the evening that had started seven hours earlier settled down around 11 p.m.¹¹³

The night was not over for Bullard, Barnes, and their cabinet colleagues, however. Kimbrough held a conference call at midnight to find out how everyone was doing and to debrief the evening. They planned to have the president address the student body the next day and tell them why Dillard had done what it did. Some students had begun a call on social media to fire the president.¹¹⁴

At the assembly the next day, Kimbrough asked the students to locate the people who arrived before the event, told the Dillard students what to do, and pledged their support. He said, "Where are they now? Have they been back? Have they been back to check on you?"¹¹⁵ Kimbrough noted to the students that many sought what he termed "social media activism." In his words, "People came so they could put it on social media and be in the paper to say, 'Yeah, we protested David Duke.' But if there were real issues over here, they abandoned you so quickly."¹¹⁶ He noted an adjunct faculty member who encouraged her students to protest and decry the administration's actions. He recalled that he received a text message from her later indicating that she had it wrong.¹¹⁷

111 Id.

112 Bullard interview, supra note 71.

113 Id.

114 Kimbrough interview, supra note 55.

115 Id.

116 Id.

117 Id.

Kimbrough's favorite story of the events of that week occurred on the Friday following the debate. His secretary told him that he had an unannounced visitor. It was Dyan French Cole, known simply as "Mama D," a noted civil rights activist in New Orleans. Mama D passed away in 2017.¹¹⁸ She was there with one of the students who had been arrested. Mama D had been the first woman president of the NAACP chapter in New Orleans in 1975. Former New Orleans mayor Marc Morial relied upon Cole as a resource and someone who would not take no for an answer. Senator Barack Obama, campaigning for president in New Orleans, conferred with Cole to determine what the city needed most (Reckdahl, 2017). Kimbrough recalls of his encounter:

My secretary called to say, "Mama D is here to see you." I was like, "Oh Lord, I'm about to get...I'm about to get beat up." So I see her walking with this student, and I was like, "Oh my God, I'm about to really get it." And she said, "Look, I'm here to tell you something. When David Duke was on your campus the last time in the seventies, I was here. I had lunch with him that day."¹¹⁹

He described her as "the most radical person in the city."¹²⁰ She told Kimbrough that people like Duke, and those like him in the local community, only want to start a fight. She told him not to pay attention. She told Kimbrough that when Duke was on campus, she determined that she was going to be in that space with him, even though she was the NAACP president at the time, and he was in the Klan. The meeting was a seminal moment for Kimbrough. He discovered that she had sat down and shared a meal and a conversation with someone who wouldn't even be welcomed on campus today. As Kimbrough thought from that moment forward, "If you don't like it, you go talk with Mama D."¹²¹

Kimbrough wanted to ensure that communication channels were open to all the constituencies on campus and that everyone knew what had happened. He explained the process that Dillard followed and acknowledged his decisions. He reiterated that he believed that Dillard had acted in the right way. If the events surrounding Duke's visit had somehow damaged the fabric of the university, he was willing to accept responsibility and to step down. A journalist who was a former student of Kimbrough's at another school contacted him in support. He told him that if Dillard could not handle David Duke on its campus for one night out of its 140-year history, then it should close. Kimbrough considered that a powerful message.¹²²

Bullard was left with a lingering sense that he had lost sight of himself and his role in student affairs in the course of the evening. He thinks that he should have

118 Katy Reckdahl, *Dyan French Cole, "simply Mama D," dies at 72: "She was the rock of New Orleans."* The New Orleans Advocate, May 20, 2017. Available at https://www.theadvocate.com/new-orleans/news/article_b0e17566-3d7f-11e7-b88b-c7a4d2da0418.html.

119 Kimbrough interview, *supra* note 55.

120 *Id.*

121 *Id.*

122 *Id.*

made sure the students got the most out of the evening. He felt that the evening devolved into crisis management as agitators were dealt with, and it was all the more frustrating that most of them were not even Dillard students. He noted that all of the pieces came together to conspire against him, particularly the external forces and his status as a newcomer to campus. He suggested that if faced with a situation like this again, he would advise himself to “stay in that moment, [trust] your instincts to say, ‘This is what I’ve been trained to do up to this point.’ That’s what you have to sort of stick with.”¹²³

Of note, Bullard regrets that he thought he needed to have the answer to the problem: “I felt like, in that moment I had to have the answer. I didn’t have to have an answer.”¹²⁴ He wished that he had stopped at some point in the evening to ask himself what his students needed. He thought that it would have been easy for him to separate what was happening in the moment from the needs of the students because the students were not really at the center of the events. He observed Dillard students in the midst of the melee and felt terrible. He wishes that he could have identified the Dillard students and brought them into the building to talk to them. Instead, he reacted by treating everyone on the outside of the glass as an enemy. In the final analysis, Bullard acknowledged that he possessed the tools to deal with the situation but that he wished he had used them differently.¹²⁵

Bullard noted that the impact on the whole campus was misunderstood. He spoke to people the next day who asked what happened the night before. They were surprised. He thought the critics of Dillard’s actions overplayed the impact on the campus. Those critics were reacting to the student complaints, many of which came from those who did not even know a debate was taking place. He used as an example the student assembly the next day when Kimbrough answered questions about the event, at which he did not observe any adverse student reaction, such as demanding answers or refusing to return to class. Kimbrough’s event, held at the chapel on campus, attracted faculty, students, and staff. Kimbrough explained that the university was prepared to demand its community to think critically, and events like the one held the night before served as an example. Kimbrough also addressed a separate group of students who had brought forth anonymous concerns focusing on the needs of the LGBTQ community. Kimbrough chastised them for leveraging the Duke appearance for their own gain. He told them that the needs of their community were important and worth public discussion. Instead, their anonymous protests of Duke empowered him, and they should be mindful of that.¹²⁶

Bullard noted that his staff practiced events like this afterward. If another Duke event were to take place, they asked themselves, what would they do differently? The police updated their protocols. A new student handbook came out with updated language on protests that would give the division some advance notice.

123 Bullard interview, supra note 71.

124 Id.

125 Id.

126 Id.

Bullard noted that the division and Dillard have no problem with protests, “none whatsoever.” For his part, Bullard wished that he had not been wearing a suit that evening because he looked too much like “administration” and could not deal as effectively with students and protesters in that outfit.¹²⁷

Kimbrough still encounters lingering animosity from the events of November 2. He occasionally runs into people who question the police’s use of pepper spray and the clashing with protesters at the doors to the event.¹²⁸ Barnes remains in touch with an alumnus who emails him regularly about the Duke event and who rebuffs any attempts by Dillard to explain it position to him. The alumnus remains stuck on the fact that Dillard is the place that allowed David Duke to speak on campus. On the other side of the equation, conservative alumni and students applauded Dillard’s actions, pointing out that the students and community of the university are not of a single political voice. They also applauded Kimbrough’s Brain Food lecture series that invites, among others, conservative speakers.¹²⁹

Barnes on the other hand dealt with the Duke backlash and then the backlash surrounding Owens. Barnes expressed the following takeaway from the Duke incident:

I think that we have to create a space, particularly on a campus like ours, we’re predominantly African American, traditional student, and by traditional, I mean the traditional eighteen- to twenty-two-year-old student. We have to create a space where they understand, not everybody thinks like them. And we have to create space where they can be comfortable listening to people who may even make them mad in terms of what they’re saying, but understand the right way to react to that. . . I think that when we don’t allow people to come on our campus because 90% of our campus disagrees with that individual, then I think we are doing them a disservice. And we are not doing our job as educators to teach them how to deal with stuff that they’re go[ing to] face in the real world. The world does not look like the university.¹³⁰

Barnes is convinced that the right decision was made at Dillard. He wished only that he had taken the opportunity to have conversations with students about their convictions or that Kimbrough’s talk following the event had happened prior to it.¹³¹

The following March, notably after Charles Murray was shouted down at Middlebury, Kimbrough authored an op-ed for *The Chronicle of Higher Education*. He wrote about his experiences during his presidency at Philander Smith College and its speaker series called “Bless the Mic.” Kimbrough reflected on being in his second year of his first presidency at Philander Smith and being only thirty-eight

127 Id.

128 Id.

129 Kimbrough interview, supra note 55.

130 Barnes interview, supra note 90.

131 Id.

years old. While there, he had invited Ann Coulter to speak. She appeared, spoke to over five hundred guests, answered tough questions, and left. The purpose of the series was to “make people uneasy,” in Kimbrough’s words. Another of his guests was Charles Murray. He lamented in his editorial that colleges do not engage ideas anymore, and those that do are put to extreme tests. Riots, police activity, injury, and outside agitators make the cost questionable. As Kimbrough put it:

I’ll admit. I’m scared. The robust discussion I have always sought to expose my students to doesn’t seem to be worth it anymore. It feels as if the best thing to do is to play it safe and simply invite either entertainers and athletes to speak as feel-good events or hard-core academics whose presence will go unnoticed. It means going in the opposite direction of my “Bless the Mic” days and finding that boring lecture on dark matter.¹³²

He illustrated the power of open dissent with the story of an alumnus of Philander Smith who wrote an open letter criticizing the invitation to Murray. The alumnus wrote a similar letter when Coulter was invited. The power of the argument and the thoughtfulness of the alumnus’ position persuaded Kimbrough to hire him as the director of an institute at Philander Smith. He used that story as an example of thoughtful discussion, illustrating that it is the kind of dialog that would be lost if everyone played it safe.¹³³

V. Analysis of the Case Study

The leadership team at Dillard faced a unique set of circumstances. To understand their response, the case study is analyzed below from two, general perspectives: how the leaders framed and understood the challenges, and what the leaders did in response. Through the lens of these responses, a picture develops of the challenges faced at colleges and universities when a controversial speaker arrives.

A. Framing and Understanding the Problem

The nature of the problem. Leaders have the opportunity to frame controversy as educational and not simply respond to a crisis thrust upon them. Walter Kimbrough is an example of this. At a time when controversial speakers are chased off campuses, what could be more provocative than a former leader of the Ku Klux Klan coming to the campus of a historically Black university? Further, he appeared as a candidate for office, running for senator from Louisiana. Despite the high stakes and the fact that Duke’s appearance did indeed spark protest and riot (for which the police had to deploy pepper spray), Kimbrough took the position both before and after the talk that this former Klan leader should be able to appear and speak on a campus like Dillard.

Kimbrough had options to distance himself and Dillard from the controversy. Though he flirted with those options at first, he chose not to rely on them exclusively, instead deeming the appearance of controversial speakers to be a Dillard hallmark.

132 Kimbrough interview, supra note 55.

133 Id.

His general counsel gave him a legal way out: he could assert that Dillard had a contract to rent space for the political debate and that the contract did not have a clause that would allow Dillard to cancel an event if it did not like the views of one of the candidates. Though compelling and true, Kimbrough chose not to rely upon an excuse but to make an assertion. He chose to embrace the challenge of difficult ideas. He realized that this type of challenge was not one that Dillard only faced today but one it had also faced throughout its history, dating back to its founding. Kimbrough had continued a long-standing tradition of Dillard presidents who bring speakers to campus. He had his Brain Food lecture series through which he hoped to fill the heads of Dillard students before they chose to empty their mouths.

What is startling about Kimbrough's leadership in this instance is that he reacted, framed, and reframed his stance in a matter of days. Upon hearing that Duke had qualified for the debate, he had to manage the attention and controversy of this matter in only a short period of time. In that time, he managed to reassess his position. His conclusion: difficult speakers should appear at Dillard, and Dillard should embrace the challenge. Further, student protest done right is an important lesson, and he wanted his students to learn the skill.

A matter that begins as a controversy rather than an outright crisis may give leaders more latitude and control over the issues. In the case of Dillard, the arrival of Duke sparked a controversy but not a crisis, at least at first. In that window, short though it was, Kimbrough was able to frame the event as a matter of educational importance to the students in keeping with the mission and history of Dillard. As Kimbrough asserted, Dillard could not consider itself a "liberal arts" institution if it were not willing to confront difficult ideas.

Institutional and national context. The Duke appearance attracted outsiders who added fuel to the fire and transformed the controversy into a crisis. This process was impacted by the timing and geographic proximity to other smoldering issues. In the lead-up to the 2016 presidential election, the nation was experiencing increasingly polarized politics. The fury around the Duke appearance germinated in that political atmosphere. The senate election was a major event itself, and Duke was a polarizing figure hoping to capitalize on the extremes at play in the national elections.

The charged environment included controversy over the history of racism in the south, particularly in the form of Confederate monuments. This controversy intensified the attention on Duke and escalated the response by students and the media. A group called Take 'Em Down NOLA dedicated to the removal of such monuments had formed in New Orleans. If that cause were not controversial enough, Duke had recently spoke out against the removal of one such monument. The proximity of Dillard to the activities of Take 'Em Down NOLA, Duke's insertion into their cause, and the opportunity to push back as Duke took the stage at nearby Dillard made the debate an opportune event for protest. The core group of Take 'Em Down NOLA protestors, along with busloads of students from other schools, mixed with Dillard students and others, both outraged and curious, to complete the crowd of protestors, some of whom turned violent over the course of the evening.

Dillard had the option to assess these risks and decide to avoid the controversy. For example, as Kimbrough noted, if his board told him to cancel the event, he

would have done so. Dillard and Kimbrough decided that such a course of action was not in keeping with the kind of school Dillard was. Its institutional context was important. As an HBCU, Dillard is a homogeneous place. Over 90% of its student body is African American.¹³⁴ In this setting, Kimbrough, as did his predecessors, felt the need to import diverse ideas and controversy to allow the students to engage with issues that would not otherwise appear on campus.

How leaders framed issues, and how that evolved. The controversy / crisis at Dillard proved to be fluid, and its leaders initially struggled to understand what was happening. However, Kimbrough picked a frame and began to act accordingly. Kimbrough's struggle had the added complication of a small amount of time with which to work. As the controversy became known to him, he tested several frames. First, he removed Dillard from responsibility. He claimed that the polling was rigged to generate controversy. In his imagination, someone wanted the spectacle of Duke at Dillard and manipulated the polling numbers to allow that to happen. In that frame, Dillard was merely the passive victim of political shenanigans. Next, Kimbrough framed the issue legally. He again removed Dillard from the center of the event by sidelining its involvement. He positioned Dillard merely as the unsuspecting host with a legal contract that it could not break. His thinking eventually evolved to embrace the event and place Dillard at the center as an intentional actor in this play. Kimbrough framed Dillard as the place where difficult conversations could take place, as well as the institution that historically brought difficult issues of the day to campus, including a visit from Duke in the 1970s when he was still a Klan leader and had spoken directly to the student body. Kimbrough framed the controversy as one where he as the president of a liberal arts school, like his predecessors, was proud to bring in controversial speakers. Once he framed it in that way, it was clear to Kimbrough that the debate must occur, that the campus must be ready, and that he would live (or leave) with the decision.

Stress: Individual and institutional, and how that needed to be addressed. Kimbrough endured a high level of personal and professional stress and turmoil. It is clear that the stress impacted Kimbrough. He wanted to be on campus the night of the protests and felt helpless as the controversy enveloped Dillard. He told his wife that he was willing to lose his job over the decision to not challenge Duke's participation in the debate. He told his Board of Trustees the same thing. He told them that if the campus suffered as a result of his actions, he would be willing to step down. He knew that he was in a precarious position relative to his board. As he put it, if the board had told him to cancel the event, he would have. However, his board made the situation easier for him by supporting his stance regarding the debate and telling him to stop talking about resignation.

These events were stressful for Dillard as an institution too. The situation on campus the night of the debate was described as a riot.¹³⁵ That said, Dillard was

134 Dillard, *supra* note 61.

135 James Wilkinson, *Ex-KKK leader David Duke's visit to historically black Louisiana university sparks violence as protesting students clash with cops*, The Daily Mail, Nov. 2, 2016. Available at <https://www.dailymail.co.uk/news/article-3899832/Furious-students-clash-police-David-Duke-s-appearance-Dillard-University.html>.

fortunate that the stress seemed to end when the evening did. Once the outside agitators left campus, the controversy left with them. Kimbrough was quick to highlight their absence when he addressed the Dillard community the day after the debate.

Real and lasting institutional stress can inoculate a campus from the strain of a passing controversy or crisis. Such was the case with Dillard. It had suffered staggering financial losses due to Hurricane Katrina. Its students had to live in hotels because all of its dormitories were flooded. Its student body remains significantly diminished from before the storm. The campus today bears the scars from the storm as work continues to make it less susceptible to floods. Beyond Katrina, Dillard had hosted controversial speakers before the Duke debate, and it would again. As stated above, Duke had appeared on the campus as the Klan leader in the 1970's. In that role, and as an invited speaker, he was arguably more controversial. The fact that Dillard had survived that kind of direct interaction added evidence of resilience and a sense of confidence to Kimbrough's perspective on the current visit of the former Klansman. Further, Kimbrough's predecessors at Dillard had invited controversy to campus for years, a tradition that Kimbrough embraced and continued with his Brain Food series. To a campus like Dillard, the brief rioting of outside agitators for one evening was not as impactful as it might have been on an institution not thusly inoculated. Consider as evidence that Kimbrough had a pragmatic reason to keep the debate on campus. One of the debaters would be elected senator, and that official would decide on continuing aid for Dillard for Katrina damage. He knew that the financial issue was larger and more important for Dillard, and he wanted that future senator to appear on his campus.

B. What Leaders Did

The role of the president and the role of the team. At Dillard, Kimbrough had to understand when it was important for him to lead and when it was important to allow his team to lead. The night of the debate is a key example of this. Kimbrough was off campus and wanted to return to manage the unfolding situation. Marc Barnes, his vice president for advancement, and Roland Bullard, the vice president for student success, were both on campus that evening. Each one told Kimbrough to stay away. Kimbrough spoke to a student government officer who told him the same thing. Barnes and Bullard realized that the situation on campus was getting dangerous. Kimbrough's wife was on campus and ended up being verbally assaulted by members of the crowd who recognized her. Barnes had additional and practical reasons to keep Kimbrough away: he needed all the police and security he could get, and he couldn't spare any to protect Kimbrough if he decided to come to campus. Bullard needed to get out in front of the students even though he was relatively new on campus at the time. He attempted, albeit unsuccessfully, to speak to the crowd and calm them once he realized they were not Dillard students. Kimbrough himself was personally anguished over not leading in this moment of controversy / crisis, but he knew that his team had worked hard to plan for the night and had contingencies in place, such as establishing a covert entrance and exit to the auditorium for Duke. Kimbrough also knew that backup law enforcement was on campus to help with the crowd. Confident in their preparation, Kimbrough left the night to his team.

The time for Kimbrough to lead occurred before and after the event. Before it, he took the reins and framed the event as important for Dillard and central to its mission. Kimbrough had to decide whether Dillard would stick with the legal deflection argument or embrace the debate. After the event, it was Kimbrough who stood on stage and addressed the Dillard community the next day. He explained what had happened the night before, which was news to many in the audience, and he told them why Dillard and its leadership had acted as they did. The following year, when more speaker controversies occurred around the country, Kimbrough again took the lead to write about the difficulty of these issues, thereby leveraging the controversy to gain positive attention for Dillard.

How leaders communicated, and how the campus communicated back. Kimbrough was a savvy communicator. For example, he was intentional about using social media and engaging the community face-to-face. Social media indeed played an important role in the Duke debate controversy. The president learned of Duke's participation through Barnes via social media. Dillard students were agitated by outsiders via social media to protest the appearance of Duke. The social media storm made the Dillard students question how they could allow someone like Duke on their campus. Students made demands of Kimbrough using these outlets on which they could appear anonymous. (Kimbrough was not happy with the anonymous communication. He refused to deal with student demands thus placed. As a small school, he believed that Dillard community members should speak to each other.) Finally, Kimbrough derided the outside agitators who arrived, rioted, and left. He stated that they simply wanted to have their social media moment where they could post that they protested David Duke.

Kimbrough was no stranger to social media and thus aware of the way that messages could stray in that setting. The student voices on social media reacted quickly and gravitated toward the conclusion that a former Klan leader had no business on the campus of an HBCU. On the day of the debate, once Kimbrough had firmly framed the situation, he took a different approach, encouraging students on social media not to make a big deal out of Duke's appearance. He indicated that such a disturbance only gave Duke the controversy, attention and power that he wanted.

Kimbrough strategically and effectively shifted from impersonal to personal communication. He addressed the Dillard community the day after the debate. He was quick to point out that those who acted as agitators the night before were not currently present with the Dillard community. He made sure that the community knew that he and his team were there that day and would be there the next too. Using this vehicle of personal address, Kimbrough was able to solidify his point that those who really cared about Dillard were there to help them, educate them, and stand with them in the wake of this controversy, just as they had done through an event as difficult as Katrina. Kimbrough spoke directly in contrast to the anonymous demands made by students. He wanted to stress that Dillard was small and a family and that as such, communication happened out in the open and face to face. This is not a message he could deliver, authentically, via Twitter.

Stakeholders on and off campus and coalitions. Certain stakeholders, both on and off campus, made the Dillard event more intense, but others had a calming

influence. The Take 'Em Down NOLA group exacerbated tensions during the debate with Duke. Further stoking the tension was the underlying challenge of the history of racism in the Deep South that undergirds the controversy surrounding the Confederate monument removals. Both of these factors fanned the flames of the Duke debate appearance.

There were elements of the situation that had the opposite effect as well. Consider that Dillard and New Orleans had survived Katrina. Consider too that Dillard had invited Duke directly to its campus in the past. This point was made clearly to Kimbrough by Dyan French Cole, aka Mama D. She told him that to create a fight over Duke's appearance was just what Duke wanted. When he had appeared on campus in the 1970s, she had joined him for lunch. She reminded Kimbrough that he was the Klan leader at that time and that Cole was the leader of the NAACP. This helped to put the current controversy into perspective for Kimbrough and provide him with an example of civil confrontation.

A final stakeholder to consider is the neighborhood in which Dillard is located. Gentilly was not disturbed by Duke's appearance. As Bullard pointed out, if something was amiss in Gentilly, even of a small nature, Dillard would hear about it. Gentilly, however, was quiet. Social media was filled with protest from New York and California, but Gentilly remained still.

The aftereffect on institution and people. At Dillard this controversy offered the campus an opportunity to achieve clarity of its values and its preparedness for future types of similar events. Kimbrough used the Duke debate to understand better both the history and the role of Dillard as a place where difficult talks can occur. He added his Brain Food series to the long line of presidential speaker events at Dillard. He learned of the challenges Dillard had faced in the past from his encounter with Mama D. He took the position that Dillard should stand its ground as a liberal arts college and embrace difficult conversations. Yet despite finding clarity around Dillard's values, Kimbrough remains afraid that higher education institutions will shy away from controversy in the future to avoid crisis.

Dillard understood the need for future preparedness. It took the opportunity to revisit its protocols. The Student Success division has done tabletop exercises to practice for this type of event. Bullard noted that he now knows how to find himself in these moments and not get caught up in the crisis. He wishes that he had remembered his training that evening instead of trying to quell the disturbance at all costs.

C. Leadership Lessons

The General Counsel

The Duke appearance at Dillard offers an instructive lesson for lawyers representing higher education institutions. Dillard's General Counsel was correct in her interpretation of the contract controlling the rental of the space at Dillard and, in that sense, she gave good advice. However, lawyers need to understand their advice in the larger context. Stepping back from the Duke controversy at Dillard, the question is rightly asked whether this was a contractual matter or

a free speech one. A nuanced response would argue both. Kimbrough however pointed out that the contractual matter was but a factor in a larger debate about the purpose of higher education, particularly at Dillard. He admitted that if his board had not supported his decision and wanted him to prevent Duke's appearance, he would have done so. Instead, the board supported his instinct to allow the event to proceed. Further, the event gave Kimbrough and Dillard a chance to examine what it is, what it has been, and what it wants to be as a university. Seen in this light, the interpretation of a contract is but a bit player in this larger play. Legal advice, in this setting, is just that: advice. The lawyer can identify what will or is likely to occur with a given action but the picture is far larger than that. To miss that point in the case of Dillard would be to reduce to a contractual controversy Duke's visit to this HBCU.

The President

To understand an incident, and potentially plan for one, a president should keep a finger on the pulse of both the external environment and the internal campus values. The political context in which a president leads is important and filtered into the case study as a driving force behind the events. The 2016 presidential election polarized American politics. The opposing sides found little common ground: one side was horrified at the prospect of a President Trump, and the other side thought that Hillary Clinton belonged in jail. Although easier to see in hindsight, a leader needs to have a sense of this polarization and the impact it may be having on campus. This strain from outside forces could result in reactions to events on campus that would not otherwise occur. The failure of a leader to anticipate this strain could leave a campus exposed to controversies such as those that occurred in these free speech incidents.

Related to understanding the political environment, presidents need to understand what is fundamental and essential to their institution and its community. If it is the idea of community or the idea that the campus is home, then the president needs to know this and determine whether it is threatened by the incident at hand. The president could get it wrong, or they may need to adjust and evolve with this understanding as events progress.

Presidents must understand the importance of taking a position and framing it properly. This position becomes particularly important when a president is faced with what could be perceived as a lose/lose situation. Make one choice, and the president will anger conservatives. Make another choice, and the president will be perceived as an adherent to the right wing or, worse, as racist. Constituents will each want their own resolution, and not everyone will be happy. Kimbrough still encounters alumni who are angry over the Dillard response.

As the president frames the understanding of the essence of the university, the president needs to act with integrity and confront the possibility that this position may come with a cost. Kimbrough felt that he reached an understanding of the true purpose and mission of Dillard. Having reached that conclusion, he took this understanding as his guiding light.

A president should act logically but also emotionally. The logical side responds to policy and procedure. The emotional side reflects how the campus is feeling. An

incident can spark a necessary and important review of policy and procedure to address a controversy. Those policies and procedures, and their logical application, do not address the campus's critical need to have their emotional response understood and respected. If a president is going to understand and frame an event on the campus, the president needs to be able to plug into the emotion surrounding it.

Presidents must be prepared for personal and institutional stress. Part of understanding a situation on campus is understanding the personal stress on the president. The president needs to have some vehicle for addressing the personal and psychic stress encountered. It could take the form of a support group. It could manifest itself as experience or knowledge that he or she had been through something like this before. Institutional stress must be managed as well. A president needs to understand how the campus is managing its level of stress. Once the president has sensed and understood it, he or she should find ways to manage, mitigate, or release it. The use of a town hall, open forum, or other form of listening session may be an effective means of managing institutional stress, depending on its intensity.

Beyond framing and understanding the problem, a necessary implication for presidents facing a free speech incident is action. In other words, presidents should be ready to do something in response to an incident like those in the case studies.

The first piece of advice is to be present. A president cannot "mail in" their leadership and expect to manage the issues presented by a controversy. Kimbrough made his presence known and used that as an important tool. Though his team kept him from campus the night of the Duke debate, he was there the next day to address the community. He stressed that he was there, among them, and would be there the next day, week, month, and year. He emphasized, through his and his team's presence, that they cared for Dillard in a way that the protestors did not.

Presidents must be aware that what may seem like a campus issue can spill beyond its boundaries. If Dillard had limited the events to their students, the outcome would have been different. This is a logical and rational response: review policy to allow only internal attendees. Worrying about policy from the relative comfort of post-event calm makes more sense than relying on a policy response as a first response.

Finally, presidents need to be wary of responding and acting based on a fear of damage to the institutional reputation. Though the reputation may indeed be damaged by such an incident, the difficulty lies in the vagueness of this goal in the heat of the moment. Presidents need to act decisively and the impact on reputation is a risk no matter what decision the leader makes. The reputation may be enhanced or hurt by any decision in a difficult situation such as faced by Dillard. Kimbrough chose to rest on his fundamental understanding of what Dillard is and was. If wrong, he was willing to take responsibility.

The Senior Team

The senior team plays an important role in helping the leader frame, understand, and respond to an event like those covered in the case study.

Presidents should rely on their senior leadership team to help them make sense of the campus community and frame or counterframe the issues based on what other stakeholders have said. Whether the president is strategically or unintentionally keeping distance from the community, the team can help either by managing the scene, as occurred at Dillard.

In an incident such as Dillard experienced, the support for the president goes above and beyond the day-to-day understanding of that requirement that most leadership teams would intuitively consider part of their job. Teams need to understand how personally taxing these events are on the person standing at the front of a town hall audience. They need to understand that the president is likely staring at the potential loss of her or his job as decisions are made and responses are crafted. Understanding this level of stress is important when the leadership team thinks about how best to support the president. This support is not always agreement. Consider Kimbrough's team. The night of the Duke debate, Kimbrough was off campus. He wanted to return. Roland Bullard and Marc Barnes told him to stay away because the temperature on the campus was too hot. In this sense, they helped Kimbrough by knowing that the evening of the Duke debate was a time to allow them to lead. This decision came during a time when Barnes recognized that he had never seen Kimbrough under such stress.

What leaders do is critically important as well. Leadership teams need to plan, assemble other teams that can respond in an incident, follow the policies and procedures that are in place, and be ready to accept that their precautions may not be enough. It may be a cliché, but leadership teams must "expect the unexpected" and know that some event will stretch their planning in unforeseen ways.

Policy, procedures, and plans are important. Leaders must follow and rely on them with an understanding of their limitations. Dealing with the immediate and critical aspect of campus emotion is an example of the limitation of policy. Stakeholders, students, faculty, and staff may all be upset. Policy and procedure will not address that emotion. However, following through on policy and procedure, such as the imposition of discipline, is a needed part of the menu of responses to the event.

Leaders must be willing to recognize that they cannot prepare enough. What may seem like a controversial speaker event can morph a crisis once a large crowd of agitators from outside the campus arrive. Bullard offered a good example that one can always prepare further. He was trained as a competent student affairs administrator, but that training did not allow him to address an angry mob of protestors, almost none of whom were students.

Finally, leaders must understand that the work can continue after the incident. This requires an understanding of how to prioritize responses. Deal with the emotion first. Know that the policy, procedure, and related responses will be important but may not be the first consideration. Know too that incidents such

as these may take years to resolve. Though that realization may be daunting, it allows breathing room to structure and prioritize responses in both the shorter and longer term.

The Board

The Association of Governing Boards of Universities and Colleges (2018) released a guide for trustees that covers the top strategic concerns for boards for 2018-2019.¹³⁶ Among these concerns is free speech. The suggestions in this publication both align and diverge from the findings in these cases. For example, the AGB suggests that legal issues will be an important part of the considerations of any governing body. However, it urges universities not to frame their responses in terms of legal rights. It suggests instead that the university should state its position in terms of its mission statement and the values of its community.¹³⁷ This suggestion is consistent with the findings from this study, in which campus values mattered and shaped responses. However, the AGB doesn't fully acknowledge the emotion behind the necessary campus responses. The need to address the emotion of the campus should come first, and the leader's response should match that emotional intensity. Additionally, though they may be similar, the framing of the response should center on the common and lived values of the community, not simply on the words of the mission. Thus, it is critical for leaders and their boards to have a clear understanding of the core values of their community as those values are evolving. While it is helpful to state that understanding in terms of the mission, the core values may be held and understood in words and ideas that may or may not found in the mission statement.

The AGB article differs from the case findings in that it puts the board on the front lines of these issues. The AGB suggests that the board should engage with students about their concerns on free speech. Dillard did not put its board on that front line. Though the board was an important voice behind the scenes (for example, Kimbrough's discussions with the board about stepping down if he acted to harm Dillard), the board did not take such an integrated role in the management of these issues. Given the importance of the president as leader, both from a strategic and symbolic standpoint, the injection of the board in this process would serve to diminish the president's role. The president and the leadership team wield the power to frame issues and must manage the community stress, as identified by Heifetz (1994). These roles should be played by the leader or the leader's team. These tools are rendered less effective when a higher authority injects itself into the management of the institution. That authority, the board, may counterframe a response, counterinterpret the mission or values of the institution, or attempt to inject or release the stress by means other than the actions of the leader. Any of these actions leave the leader on the sidelines, which is no place for a leader to be when responding to such controversy.

136 Association of Governing Boards of Universities and Colleges, *Strategic Issues for Boards 2018-2019*.

137 Id.

VI. Conclusion

The experience of Dillard University and its leadership team will likely occur on other campuses. The facts will be different but similarities weave their way through many of these controversies. The polarized politics rampant in America today indicates a greater likelihood that ideas, expressed from one viewpoint or the other, will be met with protest, even violence. Speakers who have spoken before without incident may not be welcome the second time. Further, as higher education becomes tagged with the label of left-wing seminary, expect that speakers wishing to challenge or instigate will target campuses to test whether the free and open exchange of ideas remains a value of higher education. Leaders and leadership teams are well advised to discuss if not rehearse what an incident like this would look like on their campuses. To truly understand the complexity of these cases, the stakes must be high. The values pitted against one another must be fundamental, the answers not apparent, constituents angry, and the president's job, and those of senior staff, must be on the line. Only then does one grasp the difficulty inherent in these incidents.