

## **EXECUTIVE SUMMARY**

### **A. Background:**

1. On Tuesday, August 19<sup>th</sup>, 2014, the Gazette published its annual frosh edition. The issue contained a range of informational pieces about matters such as student health services, intramural and varsity sports, USC governance, sororities and fraternities. Additionally there was what Gazette staff have described as a “satirical article” entitled “*So you want to date a teaching assistant?*” (the “Article”). The Article purported to offer tips to students on how to successfully date their teaching assistant. Among the tips offered by the author were suggestions including “*Facebook stalk and get to know your TA*”; “*feel free to be liberal with those top buttons your blouse or button-up shirt.*” Readers were advised to “*ensure [their] ensemble scream flattering and not desperate.*” They were also encouraged to “*Ask smart questions in tutorial.*”
2. Despite its satirical premise, the Article elicited severe criticism from individuals both within and outside of the community of Western University. Some condemned the Article for allegedly encouraging sexual harassment and contributing toward an unsafe environment at Western.
3. We were engaged on August 28<sup>th</sup>, 2014, to conduct an external investigation in response to the concern expressed that the Article contributed to a culture of harassment on campus. In particular, we were asked to:
  - Determine the circumstances that led to the publication of the Article, and whether the Article contravened the USC’s and the Western’s anti-discrimination/harassment policies or any applicable legislation; and
  - Recommend to the USC President, any action that should be taken in response to the situation.
4. To conduct this investigation, we interviewed members of the Gazette staff who were involved in the publication of the Article, as well as members of the Gazette Advisory Board. In addition to interviewing witnesses, we reviewed the applicable edition of the Gazette, including the Article, the USC and Western’s policies, relevant legislation and legal authorities, comments and complaints regarding the Article, and communications between the parties involved. At the conclusion of the witness interviews and documentary review, we prepared a 27 page document reporting our findings and recommendations to the USC President.

### **B. The Gazette:**

5. The Gazette is headed by an editorial Board which consists of three full-time, salaried editors: Iain Boekhoff, Editor-in-Chief; Brent Holmes, Deputy Editor; and Richard Raycraft, Managing Editor. None of Boekhoff, Holmes or Raycraft has any formal training in journalism.

6. In addition to student editorial and reporting staff, the Gazette has two full time employees: a manager, and a composer. The manager has 30 years of service with the Gazette, but his role does not include advising on editorial matters. He is also said to be “extremely overworked.” The result of that is the editors go to the manager for advice only when absolutely necessary.
7. Some training is offered to staff and reporters of the Gazette. The training appears to occur on a rather ad-hoc basis and rarely involves substantive content. There is a relatively high turnover of editorial staff at the Gazette and there is virtually no carry-over among the full-time senior editors.
8. The Gazette has an onerous Monday to Thursday daily publishing schedule during the academic year. Additionally, there are usually three spring-summer issues published in May, June and August respectively. The last of those summer editions is the annual and traditional frosh issue.
9. The publishing schedule in the months of May to August is less onerous, but the Gazette operates with a skeleton staff. When the frosh issue was put together in August, there were only about 5 staff on hand.
10. In addition to its front office staff, reporters and volunteers, the Gazette also has an Advisory Board. The Advisory Board is to be composed of at least one professional journalist, a media lawyer and a journalism faculty member. The role of the Advisory Board is to “*act as a formal body of mentors in situations where editors have questions regarding issues pertinent to print journalism.*” At the time of publication of the Article, the Advisory Board consisted of Scott Colby, an editor at the Toronto Star, Iain MacKinnon, a lawyer at the Toronto firm of Chitiz Pathak LLP, and Nicole MacAdams, an editor at the Globe & Mail. Two other individuals were added to the Advisory Board shortly after these events: Professor Paul Benedetti a professor at Western (also a columnist for the Hamilton Spectator) and Professor Emmett MacFarlane of the University of Waterloo, Department of Political Science.

### **C. The Publication of the Article:**

11. The work related to putting the frosh issue together began in July 2014 when most section editors and volunteers were dispersed. The idea for the Article came from Boekhoff, although Robert Nanni, a second year chemistry student and one of three Sports Editors at the Gazette was the author. Nanni had no training prior to writing the Article, although he had written previous articles for the Gazette.
12. A limited number of individuals reviewed the Article prior to its publication. Prior to submitting it to the Gazette, Nanni had two friends from outside the Gazette community review the Article. At the Gazette, only the three senior editors and a section editor reviewed the Article. Other than a general sentiment by the editors that the Article was not as clever or funny as they had wished, the review produced one change to the final section on the grounds that it could be construed as “too aggressive.” In light of the limited time left, the editorial staff felt there was no time to re-work the Article to make it funnier. No one at the Gazette read the Article as threatening or promoting sexual harassment.

#### **D. Response to the Article:**

13. Boekhoff heard little about the Article until he received a request from the campus radio station for an interview in response to a resolution by the Society of Graduate Students (“SOGS”) condemning the Article and demanding an apology and retraction. Boekhoff received two letters to the editors which were published by the Gazette. Subsequently, the Gazette and Boekhoff became the subject of much criticism on social media. Criticisms included that the Article promoted sexual harassment and stalking of teaching assistants. Surprisingly, the Article was also condemned as being “sexist.” The director of the London Abused Women’s Centre, Megan Walker emailed Boekhoff asking if the two could have a discussion. Boekhoff responded and gave his telephone number, but Walker never followed-up. Instead, Walker issued an open letter to Western publicly demanding Boekhoff’s resignation.
14. When the Article began to elicit criticism in social media, Boekhoff sent the Article to three members of the Advisory Board. He also spoke with Scott Colby and Iain MacKinnon to discuss the fall-out from the Article. Neither Colby nor MacKinnon considered that the Article constituted sexual harassment and MacKinnon advised against the need to issue an apology. MacAdams likewise felt there was no sexual harassment and that the matter should be allowed to blow over.
15. Boekhoff’s initial reaction was that the Article was not offensive and therefore an apology was not warranted. Boekhoff’s reaction found support in the views of the Advisory Board. Nevertheless, in the long-term interest of the Gazette, Boekhoff eventually directed that the fresh edition be pulled and that an apology be made.

#### **E. Findings:**

16. Both Western’s and the USC Policy definition of harassment include “*conduct and/or behaviour which creates an intimidating bullying, demeaning or hostile working environment.*” The policies contain prohibitions against harassment and provide that the harassment may take various forms including a specific course of vexatious comment or conduct, behaviours which create an intimidating, demeaning or hostile working environment, or a combination of both means.
17. On an ordinary reading of the Article, we concluded that it was satirical in nature and could not reasonably be construed as promoting disrespect or intolerance based on a prohibited ground of discrimination. It was not sexist, in our view. Though occasionally confusing in its message, the tone of the article was obviously facetious and self-deprecating and should not properly have been interpreted as advocating unwanted sexual advances towards teaching assistants.
18. While we were sympathetic to the view expressed by some that the Article was inherently disrespectful towards TAs, it could not be properly interpreted as advocating unwanted sexual advances toward teaching assistants as it did not:
  - Disparage or demean any individual or group based upon gender or sexual orientation;

- Genuinely advocate behaviour which created or contributed toward an intimidating hostile or offensive environment; or
  - Promote sexual harassment in the form of unwanted attention of behaviour of a sexual nature.
19. While the Article may have been regarded by some as insensitive towards TAs, the piece did not amount to “significant and unreasonable interference” in the campus community so as to have created or contributed to a poisoned environment.
  20. Based on the above, we found that the Article did not violate the provision of either the USC Policy or the Western Policy governing discriminatory or harassing behaviours.
  21. We likewise found that there was no contravention of the *Ontario Human Rights Code* (the “Code”). There is no provision in the Code which prohibits “discrimination by publication.” However, even if there were, teaching assistants as a group do not share characteristics which are protected by the Code. The whimsical and satirical tone of the Article rules out the conclusion that the publication exposed TAs to hatred or contempt, even if the publication was distasteful and disrespectful.
  22. Furthermore, there was an importantly gay element of the piece, rendering the Article gender-neutral and inclusive as to sexual orientation. It could not be seen as targeting female teaching assistants by male students.

**F. Recommendations and Conclusions:**

23. Ultimately, questions of taste and humor cannot be regulated by strict editorial policy or rules. Rather they are inevitably determined by the values and objectives brought by individuals writers and editors. At the Gazette, ultimate editorial responsibility is vested in a single individual who in this instance, was new to the role and largely inexperienced. That having been said, all the editorial staff in this instance reviewed the Article and deemed it acceptable for publication.
24. Generally, this situation arose as a result of judgment calls being made on the part of the Gazette. The editing process which produced the Article was not hastily or carelessly done. Indeed, it appears it was effective to edit out a paragraph that was clearly offensive. What was lacking, in our view, was a fully-formed judgment as to the reaction that the Article would cause. This is most certainly due to the lack of training and experience of the staff at the Gazette.
25. The Gazette Advisory Board, while constituted as a mentoring body, has never been fully or extensively used for that purpose by the editorial staff, including the current office. The Advisory Board appears to have been mainly inactive, apart from occasional inquiries from the Editor-in-Chief.
26. The fact that this controversy arose from a summer edition was not entirely coincidental. The timing left little opportunity to seek additional input and collaboration of others. While this was not a causative factor, it certainly played a role in limiting the ability to edit the article in

any critical way.

27. On the basis of the foregoing, we recommend:

- The USC as publisher of the Gazette consider appointment of an experienced journalist (or former journalist) as editorial advisor. This would be a consultative rather than executive role, allowing on-site access to advice. The purpose of the role would not be to encroach upon the editorial autonomy of the newspaper, but would instead support the front office staff in meeting the challenges they face as student editors;
- The absence of formal or adequate training was an obvious factor that we cannot overlook. While we note it was beyond the scope of our review to identify the form or extent of training, we do recommend that a form of training program be considered. The program should be delivered to the Gazette editors at the start of their one-year terms of office, in lieu of the ad hoc instructions sessions currently held. In-year training and orientation sessions for reporters and volunteers could be extended in the same manner;
- The role of the Advisory Board should be re-assessed in the event that the first recommendation is adopted. That is not to say the Advisory Board is incapable of assisting as well; rather it seems that despite its existence, it was not used;
- When it comes to spoof editions or satirical pieces, it is particularly important that Gazette staff be urged to seek input and comment from outside as part of a collaborative effort aimed at preventing any publication that would tarnish the Gazette's reputation as a newspaper. The Advisory Board is in place for just that function, arguably;
- The timing of the summer edition does cause an issue due to the limited availability of writers and volunteers to edit and review issues. The four day per week publishing schedule is likewise rather onerous. From an editorial standpoint, publishing fewer editions per week would allow greater focus upon quality of writing and more careful attention to topics which are inherently controversial.

28. This was not a case involving malfeasance or negligence and no Gazette personnel ought to be regarded as acting other than in good faith. No laws were broken. Rather, there are inherent weaknesses in the capacity of any student newspaper to adhere consistently to accepted standards of journalism. The USC's objective should be to enable the Gazette to strengthen that capacity, while continuing to broach topics that may occasionally invite criticism