VirginiaTech

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April 20, 2010

Mr. James L. Moore, III
Senior Institutional Review Specialist
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107

RE: PRCN 200810326735

Dear Mr. Moore,

Thank you for the opportunity to review your findings and report of January 21, 2010. As we discussed during our telephone conversation of February 19, 2010, I have been appointed by Dr. Charles Steger as the designated official to respond to the Department of Education's findings. For Virginia Tech, the events of April 16, 2007 have forever changed our university. Indeed, all of higher education changed on that day and thereafter. Nowhere in modern times has an American university been visited by such a diabolical act.

The 32 murders of fellow students and teachers was the result of a well-planned event, an event so heinous it was unthinkable. That it was conducted by a student killer from within makes this loss ever more painful.

Virginia Tech has changed. Higher education has changed. There is a higher recognition throughout the nation of student mental health needs and requisite support services. Cross campus communications concerning student needs and concerning dangerous persons have improved. Today threat assessment teams serve as the nexus of that communication. Emergency notification systems have achieved levels of sophistication and reach not dreamed of prior to April 2007. Just about every campus in the nation maintains some form of emergency communication capability. It is fair to say that an entire industry of emergency notification sprang from our anguish. Many of the changes noted above are the direct result of lessons learned from our tragic experience. And the U.S. Congress, through your department, has clarified and expanded the emergency notification and timely warning requirements necessary to keep our campuses safe. The Virginia Tech tragedy of April 16, 2007 continues to spread its pain, but many positive changes to higher education operations have resulted. This university and the universities you monitor are very different places today.

We are respectful of your findings and pleased that you have afforded us an opportunity to review and comment. However, there are many instances in which the Department did not benefit from having all pertinent facts or university operational procedures. We seek in this response to provide the policies in effect on April 16, 2007, to correct the allegations as they were presented to you by the complainants, and to highlight differences in your interpretation and those of other experts with respect to an institution's responsibilities under the Clery Act.

We believe that a complete review of the facts does not support the conclusions of the Program Review Report. We sincerely hope that you evaluate and accept our comments in the same spirit in which you forwarded to us your first draft – as an opportunity to understand more fully the actions of Virginia Tech leadership on the morning of April 16, 2007, the university's requisite policies, and our responsibilities under federal law. We are available at your convenience to discuss this response or answer any questions you might have.

Sincerely,

Michael J. Mulhare P.E., Director
Office of Emergency Management

c: Dr. Charles W. Steger

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INTRODUCTION

For Virginia Tech, the events of April 16, 2007 have forever changed our university. Indeed, all of higher education changed on that day and thereafter. Nowhere in modern times has an American university been visited by such a diabolical act. The 32 murders of fellow students and teachers was the result of a well-planned event, an event so heinous it was unthinkable. That it was conducted by a student killer from within makes this loss ever more painful.

Virginia Tech has changed. Higher education has changed. There is a higher recognition throughout the nation of student mental health needs and requisite support services. Cross campus communications concerning student needs and concerning dangerous persons have improved. Today threat assessment teams serve as the nexus of that communication. Emergency notification systems have achieved levels of sophistication and reach not dreamed of prior to April 2007. Just about every campus in the nation maintains some form of emergency communication capability. It is fair to say thata n entire industry of emergency notification sprang from our anguish. Many of the changes noted above are the direct result of lessons learned from our tragic experience. And the U.S. Congress, through the Department of Education, has clarified and expanded both emergency notification and timely warning requirements necessary to keep our campuses safe. The Virginia Tech tragedy of April 16, 2007 continues to spread its pain, but many positive changes to higher education operations have resulted.

The following response to the Department of Education's (DOE) program review of Virginia Tech in regard to the university's timely warning policy and procedures, seeks to correct the facts as they were presented to the DOE by the complainant. The allegations lead Virginia Tech to fundamentally disagree with the DOE's Program Review Report findings and conclusions. This submittal report begins with the university's core position in response to the Program Review Report, and then proceeds to expand upon this position by providing responses to each of the Department's findings. Finally,th e changes and initiatives implemented by Virginia Tech since April 16, 2007 are discussed. Virginia Tech, like all institutions of higher education, has changed since April 16, 2007, and hopes that other institutions will benefit from the sharing of information.

Virginia Tech disputes many of the initial findings of the DOE concerning timely warnings and application of policy. In this response, Virginia Tech sets forth an analysis of these findings by DOE and has provided individual responses. It is the University's position that Virginia Tech complied with the Clery Act during the events that occurred on April 16, 2007.

As a part of the university response to the Department of Education's Program Review, Virginia Tech retained Delores A. Stafford who has over 26 years of experience in law enforcement and the security industry, and is a nationally recognized expert in the Clery

Act, to review both the DOE's Program Review Report and Virginia Tech policies, procedures and response on April 16, 2007. Ms. Stafford's findings are attached, as well as a summary of a timely warning notice survey she conducted in March 2010 (Exhibit 1). It is Ms. Stafford's professional opinion that Virginia Tech did not violate the timely warning requirement in place on April 16, 2007, and cannot be held accountable for meeting standards that did not exist prior to the tragic events that occurred on that day. The findings of the survey indicate that in 2006, 75 percent of the respondents issued timely warnings 12-48 hours following an incident. Over 60 percent of the same respondents report they currently issue timely warnings 2-24 hours following an incident.

Early on the morning of April 16, 2007, a shooting occurred in the West Ambler Johnston (WAJ) dormitory on the Virginia Tech campus. As the world now knows, a massacre occurred approximately two and a half hours later in a separate campus building. Today we know the events were connected. In the early morning on April 16, 2007, however, there was nothing to indicate that an ongoing threat faced the campus. We will demonstrate that instead of a post-event reaction, the appropriate inquiry should be how the facts appeared prior to the shootings that occurred later in the day. We will demonstrate how a review that is not limited to the facts that appeared prior to the Norris Hall shootings can be seen as hindsight bias.

DOE's determination that Virginia Tech's warning was not timely and inadequate is based on DOE's knowledge now that a threat existed on April 16, 2007. However, in context, this finding does not fit the known facts early in the morning on April 16, or the law that existed at the time. The Clery Act provides for the exercise of an institution's direction and judgment in issuing a warning. The Act also implicitly encourages consultation with law enforcement authorities; as will be shown in this response, Virginia Tech met the requisite legal standard. Virginia Tech relies upon the 1994 comments by the DOE, which were in effect in 2007, and which conflict with the initial findings letter issued by DOE to Virginia Tech. The following excerpt appears in the Federal Register, 59 FR 22314-01 (Exhibit 2):

> "A few commenters requested a clear definition of "timely reports" for the purpose of section 485(f)(3) of the HEA and these regulations, which require an institution to make timely reports to the campus community on crimes that are reported to campus security authorities or local police and that are considered a threat to other students and employees. Some commenters believed that timely warnings made by those who are not enforcement personnel could jeopardize a criminal investigation and allow a suspect to be released. Other commenters believe that the campus community must be informed of these threats and these provisions allow the law enforcement authorities to receive the evidence to build a case.
>
> ***The Secretary does not believe that a definition of "timely reports" is necessary or warranted. Rather, the Secretary believes that timely reporting to the campus community for this purpose must be decided on a case-by-case basis in light of all the facts surrounding a crime, including***

> ***factors such as the nature of the crime, the continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. Campus security authorities should consult the local law enforcement agency for guidance on how and when to release "timely reports" to the campus community (emphasis added)."***

The DOE's rulemaking commentary as issued in 2009 (Exhibit 3) articulates a critical distinction between timely warnings and emergency notifications. It is Virginia Tech's position that the DOE incorrectly imposed its 2009 rationale and rulemaking as the standard of review in analyzing the events following WAJ. It is clear that timely warnings are not intended to be the same as instant emergency notification. Quite the contrary, in *The Handbook for Campus Crime Reporting,* published in 2005, (Exhibit 4, pages 64 and 65), the DOE utilized examples of timely warnings being issued in several days, not minutes or hours as Virginia Tech did on April 16, 2007. The most recent Clery Act regulations, contained at 34 CFR 668.46(e)(3) (Exhibit 5), state:

> "If there is an immediate threat to the health or safety of students or employees occurring on campus, as described in paragraph (g)(1) of this section, an institution must follow its emergency notification procedures. An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed."

Furthermore, the DOE states, in 74 FR 55902-01 (Exhibit 3), October 29, 2009:

> "The final regulations clarify the difference between the existing timely warning requirement and the new requirement for an emergency notification policy. While a timely warning must be issued in response to specific crimes, an emergency notification is required in the case of an immediate threat to the health or safety of students or employees occurring on campus. The final language clarifies that an institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed."

The DOE commented on August 21, 2009, at 74 FR 42380-01 (Exhibit 6), that:

> "Proposed § 668.46(e)(3) would clarify the difference between the existing timely warning requirement and the new requirement for an emergency notification policy. While a timely warning must be issued in response to crimes specified in § 668.46(c)(1) and (3), an emergency notification is required in the case of an immediate threat to the health or safety of students or employees occurring on campus, as described in proposed § 668.46(g). The proposed language would clarify that an institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however,

the institution must provide adequate follow-up information to the community as needed."

The DOE continued:

> "Many of the non-Federal negotiators requested that the regulations clearly explain the difference between a timely warning circumstance and an emergency notification circumstance. The emergency notification requirement applies to a wider range of threats, such as crimes, gas leaks, highly contagious viruses, or hurricanes. Many non-Federal negotiators also asked that the Department make it clear that institutions may satisfy a timely warning requirement with an emergency notification in appropriate circumstances to avoid inundating students and employees with messages that may become ineffective. On the other hand, some non-Federal negotiators also expressed concern that providing insufficient information could jeopardize the safety of the campus community, for instance, in a situation in which the emergency or investigation is still developing."
>
> "To address these concerns, we are proposing to require an institution that uses its emergency notification system to provide follow-up information to the community as needed. The phrase "as needed" was used to address the wide variety of threats that might occur."

In reviewing the changes in law and accompanying resolutions that were adopted after the April 16, 2007 tragedy, it is clear that a new, two part standard exists. Institutions have the obligation to issue a timely warning and in extraordinary situations, institutions also must make a more responsive emergency notification. On April 16, 2007, only the timely warning requirement existed and Virginia Tech met this legal requirement. Virginia Tech issued a timely warning within two hours and fifteen minutes after the shooting in its residence hall. This timeframe exceeds the standard that was expected of institutions in 2007. For example, the complainant in this matter, Security on Campus, Inc., by and through S. Daniel Carter, stated in an article entitled *Covering Crime on College Campuses,*Sep tember of 2000 (Exhibit 7):

> "Schools continue to have an obligation to issue 'timely warnings' to the campus community if they believe a reported crime poses an ongoing threat to students and employees on campus. **Unlike the crime log, this reporting is not limited to a police or security department and should be made in less than two business days.**"

Additionally, the complainant in this matter, Security on Campus, Inc., awarded the California State University System the 2002 Jeanne Clery Campus Safety Award. California State University produced a video and training material that defined timely warning as 24 to 48 hours after an incident (Exhibit 8, page 3). From California State University's viewers guide, *From Understanding Compliance, Your Campus and the Clery Act*, June 2002 document (Exhibit 9), the following rhetorical question was asked: "What is a timely manner?" The response provided was: "While the Clery Act doesn't

specify a timeframe, it does imply a speedy response. Ordinarily that means within 24 to 48 hours of a threatening incident."

Based upon the position of the complainant, Security on Campus, there was not a perceived ongoing threat that warranted a timely notice shortly after the WAJ incident. Even if a notice was required, Virginia Tech met any requirements under the Clery Act.

Concerning the DOE's initial letter that Virginia Tech failed to follow its policies, Virginia Tech relies upon clear congressional intent as codified at 20 USC §1092(f) (Exhibit 10): "Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security."

Thus, in summary, we submit that no timely notice was warranted, however, if a warning was required, Virginia Tech notified the university community with a timely warning within the guidelines previously offered by the Department and comparable to similar actions taken at other universities throughout the nation. We further submit that Virginia Tech is being cited for standards that did not yet exist at the time of the campus tragedy in April 2007.

Our response will also address the other finding in the preliminary report – that Virginia Tech did not follow its internal policies for issuing a warning. We will demonstrate that the Virginia Tech Police did, in fact, have the authority to issue warnings and had done so in the past. We will argue that the authority to command an action is not the same as the technical capacity to compose and send a communication.

For the reasons outlined in this introduction and further articulated in this response, Virginia Tech urges DOE to find that no violation of the Clery Act occurred with regard to the complaint filed against it. In addition, in the event Virginia Tech discovers new or additional information, facts, or documents, it reserves the right to share those materials and amend or supplement this response.

B. SCOPE AND REVIEW

B1. The U.S. Department of Education (the Department) conducted an off-site focused program review of Virginia Polytechnic Institute & State University's (Virginia Tech, the University) compliance with certain provisions of The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act requires all institutions that receive Title IV funding to disclose crime statistics and disseminate information about campus safety policies, procedures, and programs to members of the campus community. The Clery Act also requires institutions to notify students and employees of reported crimes and current threats on an ongoing basis by maintaining a crime log and issuing timely warnings.

Response:

n/a

B.2Plea se note that this review was limited to an examination of Virginia Tech's compliance with the "Timely Warning" provisions of the Clery Act with special attention to the events of April 16, 2007. The operative statutes and regulations are as follows: §485(f)(3) of the Higher Education Act of 1965, as amended (HEA) and 34 C.F.R. §668.46 (e) set out the standards that institutions must follow regarding the issuance of timely warnings and 34 C.F.R. §668.46 (b)(2)(i) requires the inclusion of an accurate and complete statement of policy regarding the issuance of timely warnings in the campus security report.

Response:

n/a

B.3On April 16, 2007, [redacted] a Virginia Tech student, murdered 32 members of the Virginia Tech campus community and seriously injured others in two separate attacks.

Response:

n/a

B.4On June 18, 2007, Virginia Governor Timothy Kaine appointed a review panel to investigate the events of that day and make recommendations for improvements to the relevant laws, policies, procedures, and systems.

Response:

Immediately after the tragedy, Virginia Tech discussed with the Governor of Virginia the university's desire for a panel to be appointed to review the response to the events that occurred on April 16, 2007. Virginia Tech's President and Rector of the Virginia Polytechnic Institute and State University Board of Visitors sent an official request for a panel review to the Governor on April 19, 2007 (Exhibit 11). The letter stated: "Today we are writing to request that you appoint a panel to review the actions taken in response to the events that occurred on April 16, 2007, to include the actions of all agencies that responded that day. While we believe it would be most beneficial to have an independent review, we offer full assistance of all personnel and resources at Virginia Tech to assist a review committee."

It was on June 18, 2007 that the Governor issued Executive Order 53 (Exhibit 12) reaffirming the establishment of the Review Panel and their authorization to obtain documents.

B.5. As the agency charged with enforcing the Clery Act, the U.S. Department of Education closely followed these events. The Governor's report, as amended, was also reviewed by the Department and is referenced in this report.

Response:

The DOE's Program Review Report states that the last set of information reviewed by DOE staff was received on December 4, 2009 (DOE Program Review Report, page 4); however, the final addendum to the Review Panel Report was not released until January 6, 2010 (Exhibit 13) and Virginia Tech urges the DOE to review this document as it corrects factual inaccuracies relied upon by DOE in its findings.

A number of notable changes were made to the timeline in the final addendum to the Review Panel Report and should be considered as part of the DOE's review, including:

(a) the time entry of "about 8:15 a.m." on page 28 stating:"T wo senior officials at Virginia Tech have conversations with family members in which the shooting on campus is related. In one conversation, by phone, the official advised her son, a student at Virginia Tech, to go to class. In the other, in person, the official arranged for extended babysitting"; and

(b) the time entry of "8:52 a.m." on page 29 stating: "The Executive Director of Government Relations, Ralph Byers, directs that the doors to his office be locked. It is adjacent to the President's suite, but the four doors to the President's suite remain open."

B.6On August 20, 2007, Security on Campus, Inc. (SOC), a non-profit organization concerned with campus safety, filed a complaint alleging that Virginia Tech violated the "Timely Warning" provisions of the Clery Act by not issuing specific campus-wide alerts once senior officials knew of the immediate threats to health and safety.

Response:

Virginia Tech's response to the Program Review Report will provide evidence that there was no violation of the "timely warning" provision.

B.7T he complaint also alleged that the University's timely warning policy, as published in its campus security reports (CSR) and distributed to students and employees, did not accurately explain Virginia Tech's actual procedures and protocols.

Response:

Virginia Tech's response to the Program Review Report will provide evidence that the Campus Security Report (CSR) met the requirements of the Clery Act and that Virginia Tech's policies and procedures were explained.

B.8On September 4, 2007, the Department issued a letter to Virginia Tech advising the University of the complaint and announcing the focused program review. Virginia Tech submitted its initial response to the Department's letter on October 7, 2007.

Response:

n/a

B.9T he review included a careful and thorough examination of all materials submitted by Virginia Tech, Security on Campus, Inc. and the affected families. Supplemental information was submitted throughout the program review process.

B.10 The last set of materials submitted by the affected families was provided for our review on December 4, 2009.

Response:

In the 27 month period between Virginia Tech's response to the DOE's limited request for information and the issuance of the Program Review Report, the DOE has not at any time requested additional information or clarification from the university. However, the DOE continued to solicit information from the complainants until a month before issuance of the Program Review Report. Virginia Tech requested review of the DOE administrative file, but this request was denied. Therefore, Virginia Tech is unable to comment on the information which DOE relies, thereby jeopardizing Virginia Tech's ability to prepare a comprehensive response.

B.11 Examples of documents collected and examined during the review process include police reports, investigative reports, campus maps, photographs, timelines, e-mail exchanges, financial records, and other relevant materials. The team also reviewed the reports prepared by the Review Panel appointed by Governor Kaine, and the records archive created as part of the settlement between the University and victim's families. The documents archive is available on-line at: [redacted]

Response:

The archive located at the link referenced [redacted] is not the official archive developed by Virginia Tech. The archive referenced was actually a spontaneous personal project developed by a Virginia Tech student and does not contain full and complete information. Virginia Tech will assist with providing the DOE access to the official archive at DOE's request.

B.12 Disclaimer: Although the review was thorough, it cannot be assumed to be all inclusive. The absence of statements in the report concerning Virginia Tech's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Virginia Tech of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs

Response:

n/a

C. FINDINGS AND REQUIREMENTS

C.1 During the review, serious findings of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by Virginia Tech to bring campus policing and security operations into compliance with the Clery Act statutes and regulations. Finding: Failure to Comply with Timely Warning Issuance and Policy Provisions

C.2 Citation: Under the Clery Act institutions must issue timely warnings to the campus community to inform affected persons of crimes considered to be a threat to students and employees. See §485(f)(3) of the HEA. These warnings must be issued to the campus community in any case where an incident of crime listed in 34 C.F.R. §668.46 (c)(1) or (c)(3) that represents a threat to students or employees is reported to a campus security authority. 34 C.F.R. §668.46 (e). In addition, institutions are required to include a number of detailed policy statements in the annual campus security report. 34 C.F.R. §668.46 (b)(2). The policy statements must include the institution's policy for making timely warnings and clear notice of the procedures that students and others must follow to report crimes and other emergencies that occur on campus. 34 C.F.R. §668.46 (b)(2)(i).

C.3 Virginia Tech failed to issue adequate warnings in a timely manner in response to the tragic events of April 16, 2007. There are two aspects to this violation.

First, the warnings that were issued by the University were not prepared or disseminated in a manner to give clear and timely notice of the threat to the health and safety of campus community members.

Secondly, Virginia Tech did not follow its own policy for the issuance of timely warnings as published in its annual campus security reports.

Response:

As stated in this response, *supra*, Virginia Tech relies upon the DOE doctrine that it [DOE] does not believe that a definition of "timely reports" is necessary or warranted. Therefore, the DOE has foreclosed any potential to define "adequate" timely warning. Rather, timely reporting to the campus community for this purpose must be decided on a case-by-case basis in light of all the facts surrounding a crime, including factors such as the nature of the crime, the continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. Campus security authorities should consult the local law enforcement agency for guidance on how and when to release "timely reports" to the campus community. Virginia Tech did issue a notice on the morning of April 16, 2007, in full accord with DOE regulations in place at the time. Applying the 2009 emergency notice promulgations for this 2007 incident would constitute an unwarranted *ex post facto* application of the current regulations.

The Vice Provost for Academic Affairs presented the following statement to the Governor's Review Panel in May 2007. He was a member of the Policy Group that made the decisions on what to do after hearing about the shootings. The following text can be found in the Review Panel Report (Exhibit 13, pages 81 and 82).

> Shortly after 8:00 a.m. on Monday, April 16, I was informed that there had been a shooting in West Ambler Johnston hall and that President Steger was assembling the Policy Group immediately. By approximately 8:30 a.m., I and the other members of the group had arrived at the Burruss Hall Boardroom and Dr. Steger convened the meeting. I learned subsequently that as he awaited the arrival of other group members, President Steger had been in regular communication with the police, had given direction to have the governor's office notified of the shooting, and had called the head of University Relations to his office to begin planning to activate the emergency communication systems.
>
> When he convened the meeting, President Steger informed the Policy Group that Virginia Tech police had received a call at approximately 7:20 a.m. on April 16, 2007, to investigate an incident in a residence hall room in West Ambler Johnston. Within minutes of the call, Virginia Tech police and Virginia Tech Rescue Squad members responded to find two gunshot victims, a male and a female, inside a room in the residence hall. Information continued to be received through frequent telephone conversations with Virginia Tech police on the scene. The Policy Group was informed that the residence hall was being secured by Virginia Tech police, and students within the hall were notified and asked to remain in their rooms for their safety. We were further informed that the room containing the gunshot victims was immediately secured for evidence collection, and Virginia Tech police began questioning hall residents and identifying potential witnesses. In the preliminary stages of the investigation, it appeared to be an isolated incident, possibly domestic in nature. The Policy Group learned that Blacksburg police and Virginia state police had been notified and were also on the scene.
>
> The Policy Group was further informed by the police that they were following up on leads concerning a person of interest in relation to the shooting. During this 30-minute period of time between 8:30 and 9:00 a.m., the Policy Group processed the factual information it had in the context of many questions we asked ourselves. For instance, what information do we release without causing a panic? We learned from the [redacted] incident last August that speculation and misinformation spread by individuals who do not have the facts cause panic. Do we confine the information to students in West Ambler Johnston since the information we had focused on a single incident in that building? Beyond the two gunshot victims found by police, was there a possibility that another person might be involved (i.e., a shooter), and if so, where is that person, what does that person look like, and is that person armed? At that time of the morning, when thousands are in transit, what is the most effective and efficient way to convey the information to all faculty, staff, and students? If we decided to close the

campus at that point, what would be the most effective process given the openness of a campus the size of Virginia Tech? How much time do we have until the next class change?

And so with the information the Policy Group had at approximately 9 a.m., we drafted and edited a communication to be released to the university community via e-mail and to be placed on the university web site. We made the best decision we could based upon the information we had at the time. Shortly before 9:30 a.m., the Virginia Tech community—faculty, staff, and students—were notified by e-mail as follows:

> *"A shooting incident occurred at West Ambler Johnston earlier this morning. Police are on the scene and are investigating. The university community is urged to be cautious and are asked to contact Virginia Tech Police if you observe anything suspicious or with information on the case. Contact Virginia Tech Police at 231–6411. Stay tuned to the www.vt.edu. We will post as soon as we have more information"*
>
> The Virginia Tech Emergency/Weather Line recordings were also transmitted and a broadcast telephone message was made to campus phones. The Policy Group remained in session in order to receive additional updates about the West Ambler Johnston case and to consider further actions if appropriate.

C.A.1 On April 16, 2007, Virginia Tech officials issued an e-mail notice about the threat to the campus community at 9:26 a.m.

Response:

On April 16, 2007 at 9:26 a.m. Virginia Tech officials issued an e-mail notice (Exhibit 14) that there had been a shooting at WAJ. The message urged the campus to be cautious and asked the community to contact VTPD if individuals observed anything suspicious or with information on the case. The facts known at that time did not support a conclusion that any continuing threat existed and certainly did not indicate that any further act of violence was likely. The crime scene was evaluated by experienced, trained and nationally accredited law enforcement professionals from three jurisdictions (VTPD, Blacksburg Police Department and the Virginia State Police). All the evidence indicated that a crime of targeted violence had occurred, a person of interest had left the campus and there was not an ongoing threat. This was not the conclusion of one police department, but three independent agencies.

C.A.2 However, as documented in the Review Panel Report and confirmed by our own examination, Virginia Tech officials had information available to them that required a timely warning to the University community much earlier than 9:26 A.M. For this reason, the Department has concluded that the timely warning requirement was not met.

Response:

The review comingles and interchanges the definition of timely warning with emergency notification. These are two distinctive processes. The amendment to the Clery Act proposed in 2008 and rules promulgated in October of 2009 (Exhibit 3) clearly demonstrate and codify the difference. Congress's deliberative actions are clearly reflected in the 2008 amendments. The Act prior to the 2008 amendment did not have an emergency notification requirement and therefore the contemporaneous regulatory language cannot have an emergency notification component. Applying "timely warning" as an emergency notification procedure is inconsistent with the intent, meaning and purpose of the timely warning regulatory language as it existed prior to 2008. Guidance documentation supports this position. The intentions of Congress are further supported by the rulemaking process whereby timely warning and emergency notification were found to be two distinct processes. The regulations further support Congress's intent by stating that if an emergency notification occurs, then a timely warning is not required, further defining that a "timely warning" is not an emergency notification but information that is provided post incident.

The applicable guidance for timely warnings provided in *The Handbook for Campus Crime Reporting,*p ublished in 2005 (Exhibit 4, Chapter 5, page 62) in the section entitled *Making a Decision to Issue a Timely Warning,* states: "The issuing of a timely warning must be decided on a case-by-case basis in light of all the facts surrounding a crime, including factors such as the nature of the crime, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts." Nothing in the Handbook implies that events occurring after the incident are to be used to test the sufficiency of the warning.

The actions and the decision made by the responding police agencies were consistent with these guidelines. The danger to the campus community was considered. The evidence at the crime scene presented as an act of targeted violence. The crime scene was evaluated by experienced, trained and nationally accredited law enforcement professionals from three jurisdictions (VTPD, Blacksburg Police Department and the Virginia State Police). The description of the crime scene for the purposes of this response is limited to the comments found within the Review Panel Report: "the female victim was shot with a young man in her room under the circumstances found" and "The last person known to be with female victim was her boyfriend who owned a gun and cared greatly for her (Exhibit 13,page s 79 and 80)."

There were no reported sightings of unusual activity on campus following the WAJ shooting, a person of interest was identified, and his vehicle was not on campus and he

was believed to be off campus. Experience and training teach law enforcement officials, as conveyed by a representative of the Virginia State Police, that perpetrators of a homicide will place time and distances between themselves and the location of the crime. All the evidence indicated that a possible crime of targeted violence had occurred, a person of interest had left the campus and there was not an ongoing threat. This was not the conclusion of one police department, but three independent agencies.

The Review Panel Report found this assessment to be reasonable given the facts (Exhibit 13, page 79). They further report that there are few murders on campuses, the average being 16 across 4,000 universities and colleges and there had been only one college campus mass murder in the past 40 years, the University Texas Tower incident. The two events were unequivocally beyond the bounds of societal norms at the times they occurred. A criminal had never perpetrated a mass shooting hours after committing a diversionary or antecedent homicide (Exhibit 13, page 80).

In preparation of this response many cases of homicide occurring on campuses between 2001 and 2007 were reviewed. There were no significant differences found between how these police departments and institutions of higher education assessed and responded to an incident and the actions taken following the WAJ shooting. A qualitative review of the data reveals that with respect to providing information to the campus community, Virginia Tech provided notification, in many instances, in a shorter time frame than other institutions of higher education that had experienced a homicide. Illustrative examples based on news reports are:

- **University of Portland May 2001:** student killed in dorm during summer session, e-mail sent out that evening approximately 8 hours after the incident.
- **Tennessee State University 2005:** shooting occurred in the evening, mass e-mail sent to campus community the following morning.
- **University of Missouri-Columbia January 2005:** stabbing occurred in parking garage, "Clery Release" provided next day, approximately 23 hours later.
- **University of South Florida February 2006:** graduate student shot at night, no community crime alert issued.
- **Virginia Wesleyan College October 2006:** security officer killed in the evening, administration sent e-mail next morning to college community.
- **Norfolk State University March 2007:** student stabbed, campus community first learns about the incident through the media, campus wide notification not issued because it was considered an isolated event.
- **University of Arizona September 2007:** student stabbed in resident hall, information posted on PD website at 8:59 a.m., incident had been discovered at 6:30 a.m.
- **University of Memphis October 2007:** student shot, Safety Alert issued the next day.

An additional example, the **Delaware State University** timeline requires a more in depth review and comparison. On September 21, 2007, 5 months after the Virginia Tech shooting, two Delaware State students were shot on the campus mall. The

headline of the cbsnews.com story dated September 22, 2007 was, "**Delaware State Reacted Quickly to Shooting"**. The story provides a timeline. The shooting was reported at 12:54 a.m., by 2:11 a.m. University officials were meeting to discuss the school's response and notices were posted on the school web site around 2:40 a.m. The Chair of the Virginia Tech Review Panel is quoted as saying, "It appears Delaware State responded to the crisis well." **The time line of Delaware State University, measured in minutes, is nearly identical to that of Virginia Tech**.

The guidance found on page 62 of *The Handbook for Campus Crime Reporting,* published in 2005 (Exhibit 4) further recommends: "… that the institution meets beforehand with its security personnel and with local and state law enforcement authorities to discuss what is reasonable in terms of timely reporting of crimes." The VTPD as reported in the Review Panel Report (Exhibit 13, pages 11-13) has an "excellent working relationship with the regional offices of the state police…" This high level of cooperation was confirmed by state and local law enforcement agencies that were involved on April 16, 2007. Training together, working cases together, and knowing each other on a first-name basis can be critical when an emergency occurs and a highly coordinated effort is needed." This working relationship was in place following the WAJ shooting. It was the collective knowledge and experience of the responding police departments that assessed the crime scene and evidence and determined that there was not an ongoing threat to the campus.

The actions taken follow the guideline found on page 62 of the Handbook (Exhibit 4), *Making a Decision to Issue a Timely Warning* and were also consistent with procedures and practices followed at other colleges and universities when responding to a homicide.

C.A.3 Virginia Tech's building access logs show that the first two murders occurred in Virginia Tech's West Ambler Johnston (WAJ) Hall student residence at approximately 7:15 A.M.

Response:

Building access logs were not available immediately following the shooting at WAJ. The timeline of events was constructed as part of the subsequent investigation in the days following the April 16, 2007 tragedy. Dispatch received a call at 7:20 a.m. that there was a possibility that someone had fallen from a loft bed (Exhibit 13, pages 27 and 28).

C.A.4 Sometime before 7:30 A.M., Virginia Tech Police Department (VTPD) and emergency medical services personnel arrived at WAJ.

Response:

According to standard operating procedure,a p olice officer and emergency medical service (EMS) team were dispatched. The police officer arrived at WAJ, Room [redacted] at 7:24 a.m. and found two individuals shot inside the room, and immediately requested additional resources. Emergency medical services, the Virginia Tech Rescue Squad, arrived at room [redacted] at 7.29 a.m. (Exhibit 13, page 27).

C.A.5 The VTPD Police Chief was advised of these murders before 7:45 A.M.

Response:

The VTPD Police Chief was advised at 7:40 a.m. that a shooting had occurred at WAJ (Exhibit 13, page 27). Once notification was made, the normal police investigative process was engaged to verify the situation.

C.A.6 The Chief immediately notified the Blacksburg Police Department (BPD).

Response:

The VTPD Chief contacted the Blacksburg Police Department at 7:51 a.m. to request an evidence technician respond to WAJ, as well as to request a detective to assist with the investigation (Exhibit 13, page 27).

C.A.7 The BPD immediately dispatched a detective and evidence technician to the scene.

Response:

At 8:00 a.m. the VTPD Chief arrived at WAJ and found VTPD and Blacksburg Police Department detectives on the scene. At 8:11 a.m. the Blacksburg Police Department Chief arrived on scene (Exhibit 13, pages 27 and 28).A lo cal special agent of the Virginia State Police was contacted and asked to respond to the scene to assist with the investigation.

C.A.8 The University's Executive Vice President was notified of the murders at 7:57 A.M., by which time word of the killings had already reached two other high-ranking University officials (at approximately 7:30 A.M.).

Response:

This statement is not correct. The Executive Vice President was not contacted at 7:57 a.m. As correctly noted in the Review Panel Report (Exhibit 13, page 27): "Chief Flinchum finally gets through to the Virginia Tech Office of the Executive Vice President and notifies them of the shootings." Additionally, the Chief was aware of two *shootings* and not *murders* at that time. The time line presented in the Review Panel Report dated August 2007 and the final addendum do not indicate that two higher ranking University officials had received word of the shootings. In reality, at approximately 7:30 a.m. the Associate Vice President for Student Affairs was informed by the Assistant Director for Housekeeping and Furnishings that a resident advisor had been murdered in WAJ. The Associate Vice President for Student Affairs did not learn any facts about the incident until he arrived at WAJ at approximately 7:55 a.m. He called the Vice President for Student Affairs at 8:02 a.m.

C.A.9 By 8:05 A.M., additional BPD officers were en route to WAJ.

Response:

At 8:00 a.m. the VTPD Chief arrived at WAJ and found VTPD and Blacksburg Police Department detectives on the scene. At 8:11 a.m. the Blacksburg Police Department Chief arrived on scene (Exhibit 13, pages 27 and 28). A local special agent of the Virginia State Police was contacted and asked to respond to the scene to assist with the investigation.

C.A.10 The record clearly shows that BPD and VTPD continued their on-campus investigation on a high alert footing from the time of the earliest reports.

Response:

There is no reference to a "high alert footing" within the time line. Moreover, Virginia Tech is unaware of the use of the phrase as a term of art.

The responding police agencies were in the process of conducting a thorough investigation following the shootings at WAJ. Emergency Response Teams (equivalent of a SWAT team) were staged at the Blacksburg Police Department in anticipation of search warrants and/or arrest warrant service being required. Trash collection was stopped on the south side of campus where WAJ is located to preserve evidence. Bank deposit pick-ups were halted so officers dedicated to picking up deposits could be reassigned to the investigation.

C.A.11 The VTPD and BPD mobilized emergency response and special weapons teams and deployed officers throughout the campus and the surrounding areas. Two of those officers were school resource officers (SROs) assigned to public schools in Blacksburg. The public schools immediately began taking steps to keep their students and employees safe as a result of the radio traffic that led to the SROs redeployment to WAJ.

Response:

The statement is not correct. At approximately 9:15 a.m. both VTPD and Blacksburg Police Department Emergency Response Teams (SWAT teams) were staged at the Blacksburg Police Department in anticipation of executing search warrants or making an arrest (Exhibit 13, page 29). The Emergency Response Teams were **not** deployed throughout campus and the surrounding areas. Two of the members of the Blacksburg Emergency Response Team were school resource officers and were recalled to the Blacksburg Police Department. Blacksburg Police did not direct the public schools to "take steps to keep their students and employees safe." To the extent the schools took any actions, these were independent actions. The Review Panel consulted with various police agencies who opined that a lockdown for a campus like Virginia Tech was not feasible on the morning of April 16, 2007. The report further states:"T he analogy to an elementary or high school, however is not very useful. The threat to elementary schools usually is not from students, the classrooms have locks, they have voice communication systems to teachers and students, and the people at risk are located in one building, not 131 buildings (Exhibit 13, page 83)."

C.A.12 By 8:10 A.M., the University President was notified of the murders at WAJ.

Response:

The 8:10 a.m. time entry in the Review Panel Report is incorrect. At 8:10 a.m., Virginia Tech's President was notified by staff that the VTPD Chief was on the phone regarding a shooting incident at WAJ (Exhibit 13,page 27).

C.A.13 In official statements by University officials and documents released as part of the settlement between Virginia Tech and the victim's families, the VTPD Chief stated specifically that he told Virginia Tech's President that a weapon was not found at the scene of the murders and that there were bloody footprints leading away from the bodies.

Response:

Virginia Tech is not aware of the official statements or documents relied upon by the DOE in C.A.13.

C.A.14 These facts strongly indicated that the shooter was still at large, and therefore, posed an ongoing threat to the health and safety of Virginia Tech's students and employees and other members of the campus community.

C.A.15 Moreover, it is now clear that the "person of interest," often cited as a diversionary factor affecting the investigation and a delaying factor in terms of issuing timely warnings, was not identified and questioned until at least 46 minutes later than originally reported.

Response:

The potential danger to the campus community was considered. The evidence at the crime scene presented as an act of targeted violence. The crime scene was evaluated by experienced, trained and nationally accredited law enforcement professionals from three jurisdictions (VTPD, Blacksburg Police Department and the Virginia State Police). The description of the crime scene for the purposes of this response is limited to the comments found within the Review Panel Report: "the female victim was shot with a young man in her room under the circumstances found" and "The last person known to be with female victim was her boyfriend who owned a gun and cared greatly for her (Exhibit 13, pages 79 and 80)." There were no reported sightings of unusual activity on campus following the WAJ shooting, a person of interest was identified, and his vehicle was not on campus and he was determined to be off campus. Experience and training teach law enforcement officials, as conveyed by a representative of the Virginia State Police to the families, that perpetrators of a homicide will place time and distance between themselves and the location of the crime. All the evidence indicated that a

crime of targeted violence had occurred, a person of interest had left the campus and there was not an ongoing threat. This was not the conclusion of one police department, but three independent agencies.

In the preparation of this response to the Program Review Report many cases of homicide occurring on campuses between 2001 and 2007 were reviewed. There were no significant differences found between how these police departments and institutions of higher education assessed and responded to an incident and the actions taken following the WAJ shootings. An example of a "timely warning" in response to a homicide at another university follows below. It is important to note that the time of issuance was at least 22 hours after the incident.

CRIME ALERT

Victoria L. Harrison
Chief of Police

Alert Number: 05-071803-50

July 18, 2005

HOMICIDE
DWIGHT WAY / COLLEGE AVENUE

On July 17, 2005 at about 1:46 AM, a group of females were walking in the area of Dwight Way and College Avenue when they came into contact with another group of people. There was a brief argument between the two groups, which appeared to have ended without incident. Shortly after the argument ended, a car drove up Dwight Way and stopped. A suspect got out of the car, drew a gun and fired multiple shots in the direction of the group of females. At least one of the rounds shot by the suspect hit one of the females, who died at the scene. The suspect then got back into the car and fled eastbound on Dwight.

The suspect is described as follows:
A black male in his 20's, 5'10" tall with a thin build. The suspect was wearing a white t-shirt and blue jeans.

If you have any information about this crime, please contact:
Berkeley Police Department
(510) 981-5900 / 24 Hours

or

University of California Police Department
Criminal Investigation Bureau
(510) 642-0472 / 8AM-5PM
(510) 642-6760 / All other times

As with any emergency situation, if you see suspicious activity, call 9-1-1. From a cell phone call 642-2333.

This alert was distributed as a public service to the University community and in compliance with The Jeanne Clery Act of 1998

C.A.16 Virginia Tech did not send its first warning message to students and employees until 9:26 A.M., nearly two hours after campus security authorities, including senior University officials, were notified of the first two killings. By that time, thousands of students, employees and other members of the University community had continued to travel toward the campus from off-campus locations. Students living on-campus and employees who had already reported to work continued to move about the campus without any notice of the murders in WAJ.

C.A.17 As noted in the Review Panel Report, Virginia Tech's first message to students and employees only stated that a "shooting incident occurred." Although the message did urge community members to be "cautious" and to contact the police if they "observe anything suspicious," the warning did not mention two murders.

C.A.18 As noted by the Governor's Review Panel, the lack of specificity in the message could have led readers to construe the message innocuously as merely announcing an accidental shooting.

C.A.26 The mass e-mail sent at 9:26 A.M. lacked the required specificity to give students and employees actual notice of the threat and to provide them with information they needed for their own protection.

Response:

The potential danger to the campus community was considered. The evidence at the crime scene presented as an act of targeted violence. The crime scene was evaluated by experienced, trained and nationally accredited law enforcement professionals from three jurisdictions (VTPD, Blacksburg Police Department and the Virginia State Police). The description of the crime scene for the purposes of this response is limited to the comments found within the Review Panel Report: "the female victim was shot with a young man in her room under the circumstances found" and "The last person known to be with female victim was her boyfriend who owned a gun and cared greatly for her (Exhibit 13, pages 79 and 80)." There were no reported sightings of unusual activity on campus following the WAJ shooting, a person of interest was identified, and his vehicle was not on campus and was determined to be off campus. Experience and training teach law enforcement officials, as conveyed by a representative of the Virginia State Police to the families, that perpetrators of a homicide will place time and distance between themselves and the location of the crime. All the evidence indicated that a crime of targeted violence had occurred, a person of interest had left the campus and there was not an ongoing threat. This was not the conclusion of one police department, but three independent agencies.

The notification sent was based on the evaluation described in the preceding paragraphs. The message read: "A shooting incident occurred at West Amber Johnston earlier this morning. Police are on the scene and are investigating. The university

community is urged to be cautious and are asked to contact Virginia Tech Police if you observe anything suspicious or with information on the case. Contact Virginia Tech Police at 231-6411 (Exhibit 14)." Based on the information known at the time the message was appropriate.

There were comments made in the Review Panel Report that the use of the word "shooting" did not provide enough specificity and could be misconstrued. However, such comments disregard the additional information contained in the e-mail. The language "be cautious" and "contact Virginia Tech Police if you observe anything suspicious or with information on the case" would not have been used for an accidental shooting and indicates more than an accidental shooting occurred.

Reviews of other incidents do not support this conclusion of the Review Panel. In several events following April 16, 2007 the term shooting has been used in emergency notifications and "timely warnings" Examples include:

- **University of Alabama Huntsville February 2010**: three faculty killed, emergency notification –"there has been a **shooting** on campus.

- **Ohio State University, March 2010:** two employees killed, emergency text notification , **shooting** near McCracken Power Plant.

In none of the examples provided were the shootings accidental. The intent of the messages was to convey that a criminal violent incident had occurred. The word shooting accurately communicated the message.

C.A.19 Indeed, Virginia Tech's own documents show that an earlier draft of the message did contain additional information including the statement, "one student is dead" and "another is injured and being treated" but these details were not included in the final version.

Response:

The document in question does not appear to be an earlier draft of the message sent. The time written on the document is 9:26 a.m., the same time that the e-mail notification was sent to the campus. Additional information would also be coming via the media who had staged at WAJ. Law enforcement agencies anticipated conducting a media briefing at approximately 10:00 a.m.

C.A.20 University and public records, including the e-mail traffic of Virginia Tech employees, also demonstrate that even before the release of the 9:26 A.M. message to the campus community, University officials were taking steps to provide for their own safety and that of their staff members and to inform family members they were safe.

Response:

This statement in the Program Review Report is incorrect. The Review Panel Report (Exhibit 13, page 28) states:"Ab out 8:15 a.m. - Two senior officials at Virginia Tech have conversations with family members in which the shooting on campus is related. In one conversation, by phone, the official advised her son, a student at Virginia Tech, to go to class. In the other, in person, the official arranged for extended babysitting."

C.A.21 Shortly after 8:00 A.M., the entrance of the Office of Continuing and Professional Education (OCPE) was locked after a family member notified an OCPE employee of the WAJ shootings.

Response:

The statement is accurate,h owever, it should be noted that this office was not located in the main administrative building where the Policy Group was meeting.

C.A.22 Records also show that the office suite occupied by the University Policy Group (the President, Vice Presidents, and other senior officials) members was locked down by 8:52 A.M., signaling that the University's senior officials believed that the crisis continued to pose and immediate and serious ongoing threat.

Response:

The statement is inaccurate. As reported on page 29 of the Review Panel Report (Exhibit 13): "The Executive Director of Government Relations, Ralph Byers, directs that the door to his office be locked. It is adjacent to the President's Office suite. However, the four doors to the President's Office suite remained open." It should be further noted that all other remaining executive offices in Burruss Hall (location of the President's Office suite) also remained open. No entrances to the building were locked and no law enforcement personnel or other extraordinary security measures were emplaced in Burruss Hall following the WAJ incident. Further, individuals could fully enter and leave Burruss Hall in a normal fashion.

C.A.23 Bank deposits were suspended at least one hour before the first warning was sent. Additionally, trash collection on campus was suspended at least a half-hour before the initial warning.

Response:

Bank deposits were suspended so that the police officer dedicated to collecting bank deposits throughout campus could be redirected to assist with the incident at WAJ.

Trash collection was also suspended on the *south side* of campus (where WAJ is located) at 8:32 a.m. by the Director of Physical Plant at the direction of the VTPD to preserve any possible evidence from the WAJ shootings.

C.A.24 Furthermore, the Co-Director of Environmental Health and Safety Services (EHSS) sent a message at 9:25 A.M. to her family titled, "I'm safe," and stated, "There is an active shooter on campus and it's making the national news. My office is in lockdown. This is horrible. I'll let you know when it's over."

Response:

The time the message was sent is incorrect. Ms. Mondy's internal computer time stamp was one hour off, possibly due to the computers' failure to recognize daylight savings time. The message was actually sent at 10:25 a.m. as evidenced by Exhibit 15, which occurred after the shootings at Norris Hall and was preceded by other alerts issued about the Norris hall shootings. The Virginia Tech employee referenced in this finding was a co-director of Environmental Health and Safety Services (EHSS), and was not an executive or senior university official and was not acting at the direction of university administration.

C.A.25 EHSS was one of the principal offices charged with issuing timely warnings.

Response:

The statement is incorrect. Environmental Health and Safety Services (EHSS) was not charged with issuing a "timely warning." The Campus Safety Report (Exhibit 16) supported by policy 5615: *Campus Security* (Exhibit 17) articulate the policy for the issuance of a "timely warning" on April 16, 2007. Within the Virginia Tech Emergency Response Plan description of the Emergency Response Resource Group (ERRG), there is a task listed as, "issue communications and warnings through University Relations". EHSS is a member of the ERRG. However,o ne needs to understand the workings of incident management, particularly the Incident Command System (ICS). ICS has been tested in more than 30 years of emergency and nonemergency applications, by all levels of government and in the private sector. It represents organizational "best practices," and as a component of National Incident Management

Systems (NIMS) has become the standard for emergency management across the country. ICS is a standardized, all-hazard incident management concept. ICS has considerable internal flexibility. ICS may be used for small or large events. It can grow or shrink to meet the changing needs of an incident or event. The ICS organizational structure develops in a top-down, modular fashion that is based on the size and complexity of the incident. As incident complexity increases, the organization expands from the top down as functional responsibilities are delegated.

Therefore, in accordance with the ICS, the responsibility as written within the Emergency Response Plan in effect on April 16, 2007 (Exhibit 18), to "issue communications and warnings" was not delegated to the Emergency Response Resource Group.

C.A.27 It is likely that the warning would have reached more students and employees and may have saved lives if it had been sent before 9:05 A.M. classes began.

C.A.31 Based on all the information available at this time, we agree with the conclusion of the Review Panel that the University cannot reasonably explain or justify the two hours that elapsed between the time University officials learned of the first two homicides and the issuance of the first vague warning.

Response:

Within the Program Review there is an inevitable underlying current of hindsight and observational bias. Rather than evaluating the circumstances and facts contemporaneous with the incident, this hindsight and observational bias creates the tendency (after the fact) to view events as more predictable than, in fact, they were at the time of, and preceding, the event in question. Hindsight bias has a demonstrated adverse impact on retrospective investigations of catastrophic events.

The effects of hindsight bias are natural and understandable human reactions. Nassim Taleb has written powerfully about this effect in his book The Black Swan: The Impact of the Highly Improbable. Taleb defines Black Swan events as having the following characteristics:

1) The event is quite rare and nothing in the past points to its possibility;
2) The event has an extreme impact, and
3) After the event, we concoct explanations for its occurrence, making it appear more explainable and predictable, when it is not.

These characteristics are all representative of the full events of April 16.

While an understandable human reaction, the influences of hindsight bias must not replace or supplant an objective and reasonable review of the facts as they were known at the time of the WAJ shootings. Unfortunately, these biases tend to result in criticism of reasonable decisions based on the outcome and not the decision process.

In considering the findings contained within the Review Panel Report there are several occurrences where the Panel finds the actions, decisions and conclusions taken by the university and responding law enforcement agencies, preceding the shooting at WAJ, to be correct and appropriate. However, these discussions are concluded with an adverse finding that is not supported by the preceding discourse.

Page 79 of the Review Panel Report (Exhibit 13) states:"It wa s reasonable albeit wrong that the VTPD thought this double murder was most likely the result of a domestic argument, given the facts they had initially, including the knowledge that the last person known to have been with the female victim was her boyfriend who owned a gun and cared greatly for her.... Plus the fact that she was shot with a young man in her room under the circumstances found." The inclusion of the phrase, "albeit wrong" exemplifies the outcome bias.

On page 80 of the Review Panel Report (Exhibit 13),th e Panel correctly describes the occurrence of homicides on college campuses:

> "There are few murders each year on campuses - an average of about 16 across 4,000 universities and colleges... The only college campus mass murder in the United States in the past 40 years was the University of Texas tower sniper attack, though there have been occasional multiple murders. Based on past history, the probability of more shootings following a dormitory slaying was very low. The panel researched reports of multiple shootings on campuses for the past 40 years, and no scenario was found in which the first murder was followed by a second elsewhere on campus....The VTPD had the probabilities correct, but needed to consider the low-probability side as well as the most likely situation."

The last sentence is a clear example of observational bias, reaching a conclusion based on an outcome rather than an understanding of the real time decision making process. Unfortunately the Report does not discuss or explore the actions taken at other institutions that had experienced homicides prior to the horrific criminal attack on April 16, 2007. A review would find that institutions, predominately did not close or cancel classes prior to April 16, 2007 when there was a campus homicide. In preparation of this response the available data of campus homicides was reviewed, no examples of universities closing were found, (however, information was not available to definitively determine the actions taken by all universities). Moreover the data indicate that the time between the discovery of a homicide and the notification of a campus was not measured in minutes but measured in several hours to days.

An additional example of bias creeping into the Review Panel Report (Exhibit 13) is found on pages 80 and 81 during the discussion of the role of the Morva incident:

> "One of the factors prominent in the minds of the Policy Group, according to the university president and others who were present that day, was the experience gained the previous August when a convict named [redacted] escaped from a nearby prison and killed a law enforcement officer and a guard at a local hospital. Police reported he might be on the VT campus. The campus

administration issued an alert that a murderer was on the loose in the vicinity of the campus. Then a female employee of the bank in the Squires Student Activities Center reportedly called her mother on a cell phone, and the mother incorrectly inferred that people were being held hostage in the student center. The mother called the police, who responded with a SWAT team. News photos of the event show students rushing out of the building with their hands up while police with drawn automatic weapons and bulletproof vests were charging into the building, a potentially dangerous situation. *It was a false alarm.* [redacted] was captured off campus, but this situation was fresh in the minds of the Policy Group as it met to decide what to do on the report of the double homicide at WAJ. It is questionable whether there was any panic among the students in the [redacted] incident, as some reports had it, and how dangerous that situation really was, but the Policy Group remembered it as a highly charged and dangerous situation. In the eyes of the Policy Group, including the university president, a dangerous situation had been created by their warning in that August 2006 event coupled with the subsequent spread of rumors and misinformation. The Policy Group did not want to cause a repeat of that situation if the police had a suspect and he was thought to be off campus. Even with the police conveying the impression to campus authorities that the probable perpetrator of the dormitory killings had left campus and with the recent past history of the "panic" caused by the alert 9 months earlier, the university Policy Group still made a questionable decision."

This discussion clearly illustrates how hindsight and observational bias impacts the conclusions found in the Review Panel Report. The Report downplays the concerns raised by the [redacted] incident because it is known to be a non-adverse outcome. The decision makers involved understood the severity of the [redacted]. [redacted], a convicted felon, had escaped custody, murdered a guard and a law enforcement officer, was attempting to evade capture and was headed towards the campus. The university issued a notification, canceled classes and closed the university. This resulted in students clustering in large groups awaiting buses and traffic congestion creating an increased posture of vulnerability for the campus community. Because the outcome is known, the magnitude of the decision process is lost. The description of the events at Squires further solidifies the argument that hindsight bias has clouded the conclusions of the Review Panel. A SWAT team responds to a report of hostages, charges into the building with automatic weapons drawn while students are running from the building with hands raised over their heads. The Report editorializes by saying it questionable whether there was any panic among students in the [redacted] incident and how dangerous the situation really was. This statement represents the hindsight and observational bias. There is an armed escaped convict who has already killed a law enforcement officer in an attempt to evade capture, the SWAT team is responding to a reported hostage situation at the Squires Student Union, one of the most congested buildings on campus, with weapons drawn while students evacuate with their arms over their heads.

The Review Panel Report further remarks that:

> "No mention was made in the initial message sent to the students and staff of a double murder, just a shooting, which might have implied firing a gun and injuries, possibly accidental, rather than two murdered and the university could have notified the Virginia Tech community that two homicides of students had occurred and that the shooter was unknown and still at large."

These comments also reflect the continual bias of hindsight. At the time of the notice, one of the WAJ victims was not yet deceased. So the reference to "a double murder" or "two homicides" in the Review Panel Report reflects knowledge AFTER the fact, not during. In fact, it reflects a reality that did not exist at the time the notice was sent and creates a heightened sense of meaning and urgency beyond that which was known to exist. As few specifics existed at the time, it is unreasonable to expect that they could be included in that initial notice, just because we now have greater understanding.

The paramount concern in this administrative process is how the review proceeds going forward, and how established hindsight bias is overcome. Jonathon Baron and John Hersey write in the article, *Outcome Bias in Decision Making:*

> "Because evaluations are made after the fact, there is often information available to the judge that was not available to the decision maker, including information about the outcome of the decision. It has often been suggested that such information is used unfairly, that reasonable decisions are criticized by Monday-morning quarterbacks who think they might have decided otherwise, and that decision makers end up being punished for their bad luck. Results suggest that people may confuse their evaluations of decisions with the evaluation of the consequences themselves. Mere understanding that such confusion contaminates these evaluations is not enough to eliminate it. When decisions turn out badly, it may sometimes be useful to reanalyze them from the decision maker's viewpoint at the time of the decision, both for judging the decision maker and for promulgating standards for the future."

The opinion of Baron and Hersey are echoed by many others. There is a need when conducting true root cause analysis to move beyond outcome biases, to realize that decision making is not a simple linear process and to become immersed in the process from the perspective of the decision maker. Without this kind of effort, review and evaluation will be encumbered withhindsight and observed biases.

In the article, *Virginia Tech Lesson: Rare Risks Breed Irrational Responses*, security expert Bruce Schneier writes:" Our brains need to find someone or something to blame, but sometimes there is no scapegoat to be found, sometimes we did everything right, but just got unlucky, we simply can't prevent a lone nutcase from shooting people at random, there is no security measure that would work."

C.A.28 The University also chose not to use the four components of its new siren system that were operational on April 16, 2007.

Response:

The original primary intent of the sirens system was to aid in notifying the campus community about severe weather based on the tornado alert systems of the Midwest. On April 16, 2007, the installation of the system had not been completed. Four of the six sirens were in place, however, the system was not fully functional and there were no trained operators. Training was not scheduled until the installation was completed and the system turned over to the police department by the manufacturer.

C.A.29 The University also did not use its notification protocol of last resort because of a lack of timely information.

C.A.30 This system relied on resident advisors in residence halls and on floor wardens in certain older buildings to verbally warn individuals at risk. However, the resident advisors and floor wardens charged with notifying their fellow residents, classmates, and co-workers were not advised of the threat in enough time to spread the word.

Response:

On April 16, 2007, the university had a system in place for resident advisors to physically knock on doors in residence halls if necessary. After the shootings in WAJ, resident advisors did knock on the doors in WAJ. Police officers also knocked on doors in WAJ during this time to collect information and talk to students.

C.B.2 The University policy that was in place on April 16, 2007 was vague and did not provide students and employees with actual notice of the types of events that would warrant a timely warning or explain how those warnings would be transmitted.

Response:

The Clery policy in place in the Virginia Tech CSR on April 16, 2007 met the requirements of 34 CFR 668.46(b)(2)(i) (Exhibit 5),wh ich states: "Policies for making timely warning reports to members of the campus community regarding the occurrence of crimes described in paragraph (c)(1) of this section;" must be included in the annual security report. As stated on page 85 of the *Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4), "the Clery Act does not prescribe policy and procedures for schools to follow". The Handbook further **suggests;** 1) the policy include the circumstances for which a "timely warning" will be issued, 2) the individual office responsible for issuing the warning and 3) the manner in which the warning will be disseminated. The "timely warning" policy in Virginia Tech's Campus Security Report in effect on April 16, 2007 met suggestion 1 and 2, but the policy is not specific regarding suggestion 3. However, there is merit to not providing absolute specificity. It accommodates distributing information through various means as necessary without being mandated to use only pre-described methods.O ne would not want to risk a potential violation of the Clery Act for using an effective means of communication that had not been previously written into an annual CSR.

Virginia Tech Policy 5615 (Exhibit 17), enacted on May 7, 2002, was in place on April 16, 2007. The policy states that University Relations and the University Police will make the campus community aware of crimesthat have occurred and necessitate caution on the part of students and employees in a timely fashion and in such a way as to aid in the prevention of similar occurrences. Note also, as stated in other sections of this response, that the policy language was similar to the policy language used by other institutions at the time.

C.B.3 As noted previously, the Clery Act requires institutions to develop, implement, publish, and distribute an accurate and complete timely warning policy. This policy disclosure is a required element of the CSR that must be distributed annually to students and employees.

Response:

A "timely warning" policy was in place that met the requirements of 34 CFR 668.46(b)(2)(i) (Exhibit 5). The policy was articulated in the VTPD's annual Campus Security Report (Exhibit 16).

C.B.4 Virginia Tech's entire timely warning policy statement appeared under the heading, "Virginia Tech Police." The policy as it appeared in the CSR in place on April 16, 2007 stated: "At times it may be necessary for "timely warnings" to be issued to the university community. If a crime(s) occur and notification is necessary to warn the university of a potentially dangerous situation then the Virginia Tech Police Department should be notified. The police department will then prepare a release and the information will be disseminated to all students, faculty, and staff and to the local community."

Response:

The statement is correct.

C.B.1 During the events of April 16, 2007, Virginia Tech did not comply with its own policy on the issuance of timely warnings as published in its campus security reports.

C.B.5 Our review has shown that the University's actual process for issuing a timely warning was more complicated than the CSR suggests and was not well understood even by senior University officials.

Response:

The DOE's assertions are incorrect and unfounded. The procedure by which a "timely warning' will be issued is articulated in the VTPD's annual Campus Security Report (Exhibit 16). It is supported by Virginia Tech Policy 5615 (Exhibit 17) dated May 7, 2002, entitled *Campus Security*. The policy states:

> "University Relations and the University Police will make the campus community aware of crimes, which have occurred and necessitate caution on the part of students and employees, in a timely fashion and in such a way as to aid in the prevention of similar occurrences. The Chief of Police will be responsible for publishing annual statistics on the following crimes: murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft, as well as the number of arrests for alcohol, drug, and weapons violations."

C.B.6 Contrary to the University's stated policy, the VTPD did not prepare or disseminate any of the warnings or messages that were sent to the campus community on April 16, 2007.

Response:

The review continues to comingle and interchange the definition of timely warning with emergency notification. These are two distinctive processes. The amendment to the Clery Act proposed in 2008 and rules promulgated in October of 2009 (Exhibit 3) clearly demonstrate and codify the difference. Congress's deliberative actions are clearly reflected in the 2008 amendments. The Act prior to the 2008 amendment did not have an emergency notification requirement and therefore the contemporaneous regulatory language cannot have an emergency notification component. The attempt to apply "timely warning" as an emergency notification procedure is inconsistent with the intent, meaning, and purpose of the timely warning regulatory language as it existed prior to 2008 amendment. Guidance documentation and opinions of Clery experts support this position. The intentions of Congress are further supported by the rulemaking process whereby timely warning and emergency notification were found to be two distinct processes. The regulations support Congress' intent by stating that if an emergency notification occurs, then a timely warning is not required,f urther defining that a timely warning is not an emergency notification but something that occurs at a later time.

It is important to understand and appreciate how incident management and response systems work. The systems in place at Virginia Tech provided a redundancy component of critical pathways. The VTPD had the authority to prepare and disseminate notification and "timely warnings". Virginia Tech Policy 5615 (Exhibit 17) articulates the relationship between the VTPD and University Relations. The university Emergency Response Plan is NIMS and ICS based. The ICS structure supports the utilization of a policy group and additional modules as needed. What the DOE reviewers have implied and inferred as a weakness in the Virginia Tech system, is in actuality a strength and desired practice and capability of an incident management system. The system provides redundancy of critical decision making paths.

After the tragedy this year at the University of Alabama, some criticized that university for a perceived delay in issuing an emergency notification (even though there was no ongoing danger to the campus). Part of the delay was attributed to the fact that the resources used to send an alert were required to respond to the incident: a clear example of the need to have redundant critical pathways and the ability to establish incident command as well as overall area (university) command during an incident.

C.B.7 At approximately 8:25 A.M., the University Policy Group (UPG) met and discussed the unfolding events. It is our understanding that no Virginia Tech Police officials served on the UPG and no police official was part of the UPG's initial deliberations about emergency notification.

Response:

The statement is incorrect. The meeting convened at 8:35 a.m. While at the time no police officials served on the Policy Group, the Policy Group membership was in contact with VTPD leadership. Situational awareness, another key component of ICS, was maintained between the Policy Group and police incident command responding to WAJ.

C.B.8 At 9:00 A.M., the UPG was briefed by the VTPD and at 9:25 A.M. a VTPD captain was brought into the UPG's meeting as a police liaison. During these meetings, the UPG discussed the warning that would be issued to the campus community, but the police department was not actively involved in those discussions.

Response:

The Policy Group convened at 8:35 a.m., and information known by individual members was shared. Additional information and updates were provided by the VTPD,a s well as other university functional units, by a series of telephone calls.
Further, although the Chief of the VTPD is now a member of the Policy Group, he may still have to communicate with the Policy Group via telephone during a future incident if the situation requires that he serve on-scene.

C.B.9 Virginia Tech's operational policy statement at the time gave the VTPD the authority to issue a warning.

Response:

The policy statement within the VTPD's annual Campus Security Report (Exhibit 16) states:"At times it may be necessary for "timely warnings" to be issued to the university community. If a crime(s) occur and notification is necessary to warn the university of a potential dangerous situation then the Virginia Tech Police Department should be notified. The police department will then prepare a release and the information will be disseminated to all students, faculty and staff and to the local community." The Campus Security Report is supported by Virginia Tech Policy 5615:*Cam pus Security,* dated May 7, 2002 (Exhibit 17) which states:"Un iversity Relations and the University Police will make the campus community aware of crimes, which have occurred and necessitate caution on the part of students and employees, in a timely fashion and in such a way as to aid in the prevention of similar occurrences."

C.B.10 In practice, however, the VTPD's Chief was required to consult with the UPG before a warning was issued.

Response:

See Virginia Tech Policy 5615 (Exhibit 17) as Virginia Tech's response to this statement.

C.B.11 Moreover, access to the technological means to send such communications was under exclusive control of the Associate V.P. for University Relations and the Director of News and Information who had the required codes. None of these additional procedures were disclosed to Virginia Tech's students and employees in the CSR. Virginia Tech's actual policies and practices were not designed to ensure that students and employees received the information they needed on a timely basis.

Response:

As previously discussed, the systems in place at Virginia Tech provided redundancy. The VTPD had the authority to prepare and disseminate notification and "timely warnings". Policy 5615 (Exhibit 17) articulates the relationship between the VTPD and University Relations. The University's Emergency Response Plan is NIMS and ICS based. The ICS structure supports the utilization of a policy group and additional modules as needed.

There is no information contained within the DOE's *The Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4),t hat remotely suggests that the mechanics of how universities physically or procedurally should send a "timely warning" should be contained within the policy statement. The technical and procedural mechanism of how the university physically sends a message is not germane to the policy statement. In preparation of this response scores of policies of other institutions were reviewed. None of these policies discussed the technical mechanisms or internal procedures to physically "push the button" and initiate a message via e-mail or how or who will print a flyer or who programs a message board.

Therefore, the Department has determined that Virginia Tech did not accurately describe its timely warning procedures to its students and employees. The Department has also determined that the institution's timely warning procedures in place on April 16, 2007 were not sufficient to issue warnings in a timely manner to its campus community.

Response:

In preparing this response,t he university has taken the Program Review Report narrative and reformatted it into a more conventional administrative action format comprised of numerated findings of fact, allegations and violations. The university has provided additional information to correct inaccurate facts and responses to the interwoven allegations. The information provided in this response overwhelmingly refutes the allegations and alleged violations. Virginia Tech has accurately described its timely warning procedures and has provided specific responses and supporting documentation. The procedures in place were sufficient to issue a "timely warning".

C.B.14 Our review also indicates that the inconsistency between Virginia Tech's stated timely warning policy and the actual process caused further confusion among the University's students and employees, investigators, and the families and friends of the victims in the aftermath of the tragedy. The review team acquired a copy of Virginia Tech's Emergency Response Plan (ERP). According to the ERP, the responsibility to "issue communications and warnings" was actually delegated to the Emergency Response Resource Group (ERRG), which included members of the VTPD and Environmental Health and Safety Services. However, the ERRG did not clearly delineate the division of authority and duties between the ERRG and the UPG, which was to "provide centralized direction and control".

Response:

There is a misunderstanding of how the NIMS and ICS functions and how they are applied. In 2006 the Virginia Tech Emergency Response Plan organizational structure was modified to reflect ICS and NIMS requirements.

Incident Command system (ICS) has been tested in more than 30 years of emergency and nonemergency applications, by all levels of government and in the private sector. It represents organizational "best practices," and as a component of National Incident Management Systems (NIMS) has become the standard for emergency management across the country. ICS is a standardized, all-hazard incident management concept. ICS has considerable internal flexibility. ICS may be used for small or large events. It can grow or shrink to meet the changing needs of an incident or event. The ICS organizational structure develops in a top-down, modular fashion that is based on the

size and complexity of the incident. As incident complexity increases, the organization expands from the top down as functional responsibilities are delegated (Exhibit 19).

Therefore, in accordance with the ICS, the responsibility as written within the Emergency Response Plan to "issue communications and warnings" was not delegated to the Emergency Response Resource Group.

C.B.15 In an email dated August 17, 2007, President Steger's representative to the Review Panel, a former high-ranking University official, related his understanding of the policy in response to an inquiry from the Panel's staff about the University's timely warning policy and actual practice: "The authorization to send a message would have come from the Policy Group as a provided by the Emergency Response Plan. The message would have actually been sent out by University Relations (see page 6-7 of the plan) and Larry Hincker is the Assoc. VP for Univ. Relations. He and Mark Owczarski, Director of News & Information (reports to Larry) have the codes that are needed to send out a message via the university's telephone system and control the process for sending out email messages to the campus community. On April 16, [VTPD] Chief Flinchum would have needed to go through the Policy Group to get a message sent out."

Response:

The individual referred to was a trusted former employee who retired from Virginia Tech several years prior. He did not have any direct knowledge of university emergency plans and procedures, and was a conduit between university officials and members of the Review Panel. The Review Panel Report errs when it states, "...a former high-ranking University official, related his understanding of the policy in response to an inquiry from the Panel's staff about the University's ***timely warning policy and actual practice***." The Review Panel's question was **not** an inquiry about the University's timely warning policy and actual practice (Exhibit 20). The question was simply; "did the police have the authority to send a message out to the campus on April 16th? The mechanics of sending a message were managed by either the Associate Vice President for University Relations or the Director of News and Information. Each had the ability to access the system from remote locations and one was available 24/7.

C.B.16 This explanation of Virginia Tech's policy does not mention the existence or role of the ERRG. However, it does confirm that, contrary to the timely warning policy disclosed by Virginia Tech to its students and employees, the VTPD did not have the authority to actually develop or issue timely warnings. Therefore, the Department finds that the timely warning policy in place on April 16, 2007 was not sufficient to enable a successful timely warning to its campus community and that the policy that was published was not followed.

Response:

As stated in the response to C.B.15, the Review Panel was not inquiring about the Campus Safety Report or language contained therein. The response to C.B.14 clearly articulates how incident response is managed and the concept of scalability of response. As previously discussed, in accordance with the ICS, the responsibility as written within the Emergency Response Plan to "issue communications and warnings" was not delegated to the Emergency Response Resource Group
Virginia Tech's response to C.B.15 is an accurate summary of practices in place on April 16, 2007. Again Virginia Tech reaffirms it position that there was no violation of the "timely warning" provision as "timely warning" regulation has not been appropriately cited and has been broadly contorted in an attempt to apply it to an incident for which the regulation was not intended.

This is not only supported by the actions of Congress in the original development of the Act but also in the changes promulgated in 2009 (Exhibit 3). Guidance provided to comply with the requirements of the Clery Act further support this position.

In the article *Covering Crime on College Campuses* (Exhibit 7),writt en by S. Daniel Carter, who is vice president of Security on Campus, Inc., a national non-profit campus safety and victim's rights organization, and who was actively involved in the development and enactment of the 1998 campus security amendments,se rving on the "negotiated rulemaking" committee that developed the campus crime reporting regulations,a nd who is also the principal author of the complaint which generated this DOE program review, describes the time frame of a "timely warning". S. Daniel Carter states:"Sch ools continue to have an obligation to issue "timely warnings" to the campus community if they believe a reported crime poses an ongoing threat to students and employees on campus. Unlike the crime log, this reporting is not limited to a police or security department and **should be made in less than two business days**" (emphasis added). Note that the appropriate time frame is being measured in business days not calendar days which further separates the incident from when a "timely warning" is issued.

In 2002, Security on Campus presented the Jeanne Clery Campus Safety Award to the California State University System. The award was presented to California for their development of a Clery Act training video and viewers guide (Exhibit 8). Security on Campus stated: "They (California) have just completed production of a Clery Act Training video, which helps to **clarify the fine points** of the Jeanne Clery Disclosure of

Campus Security Policy and Campus Crime Statistics Act for CSU security personnel. **This video will be helpful to colleges and universities nationwide.** (emphasis added).T he video describes an appropriate timeframe to issue a "timely warning" as 24 to 48 hours. California State University's viewer's guide, *From Understanding to Compliance, Your Campus and the Clery Act* (Exhibit 9, page 14) states: "While the Clery Act doesn't specify a time frame, it does imply a speedy response. Ordinarily that means **within 24 to 48 hours** of a threatening incident."

In the 2008 winter addition of Leadership Exchange published by National Association of Student Personnel Administrators (NASPA) (Exhibit 21),B onnie Hunter, Chair of the NASPA Division of Public Policy on the Board of Directors and John Lowery, Associate professor of educational studies at Oklahoma State University published an article entitled, "*Campus Safety and the Clery Act*". In the article they write: "Although the Clery act requires schools to issue timely warnings to students and employees regarding potentially dangerous situations, it does not specify what "timely" means. Prior to the tragedy at Virginia Tech, no one had seriously suggested that 'timely" would be measured in minutes rather than days."

Further,e vidence that a "timely warning " is measured in days, not minutes, can be found in DOE's *The Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4). On page 65 of the Handbook the following example of a timely warning is provided:

JMU Case 2004-000665

TIMELY NOTIFICATION BULLETIN
Possible Threat to the Community
"Your Right to Know"
January 26, 2004

In compliance with the "Timely Notice" provisions of the federal **Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998** the University Police are giving notice of a disturbing act of violence reported to have occurred near the Tri-Sigma Sorority House, Greek Row "Tree House" Residences, on the campus of James Madison University.

REPORTED OFFENSE: **Reported Assault & Battery, constituting a Forcible Sexual Offense, was reported to have occurred on the university's residential area known as Greek Row at approximately 12:45a.m., early Saturday morning January 24, 2004. This location is on the campus of James Madison University just to the south of the Newman Drive railroad track crossing and the university's power (steam) plant.**

SUSPECTS: **Both described as "college" age males; race unreported; the first attacker of "average" build, approximately 5'10" in height, about 140 lbs.; wearing a black hooded garment and blue jeans; the second attacker shorter than the first, of "medium" build; wearing a grey hooded garment and blue jeans.**

The complainant reported that she was returning to her residence hall very early Saturday morning, unaccompanied. As she walked south along Greek Row she stated that two male subjects approached from behind and threw her to the ground. They then attempted to remove her clothing. Both subjects fled on foot after the victim screamed.

It can be assumed that conditions continue to exist that may pose a threat to members and guests of the community. It is the duty of the institution to warn of possible "dangerous conditions" on or near its campus, and at affiliate organizations off campus; an "affirmative duty" exists to warn persons associated with this university of possible peril at the hands of some third party or parties. Consider carefully whether your presence at or near this complex while unaccompanied could place you in danger.

Please forward this notice to your colleagues and post it on appropriate bulletin boards in your area. If you have any information that might be helpful in this investigation, contact the University Police by telephone at (540)568-6911; in person at Shenandoah Hall, Patterson and South Main; or, if you wish, anonymously through "Silent Witness," at http://www.jmu.edu/pubsafety/silent.htm

Please note that the sample "timely warning" provided as guidance in *The Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4) describes a violent crime that occurs on January 24th however, the "timely warning" is not issued until January 26th, approximately 48 hours or more after the crime occurred. Further note that the "timely warning" states that: "It can be assumed that conditions continue to exist that may pose a threat to members and guests of the community." *The Department of Education Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4), the guidance document for Clery compliance, teaches and advises that even when conditions continue to exist that pose an active threat to the campus, the issuance of a "timely warnings" is measured in days not minutes.

A review of timely warning policies in place contemporaneous with and following April 16, 2007 provides additional support that "timely warning" is not measured in minutes.

- **San Diego State 2007**: "Once all the relative information is received, these notices will typically be posted within 48 hours."
- **Santa Rosa Junior College 2009**:"It is t he practice of CCCCD to have the Police Chief, and/or designee, confer as necessary and applicable with administrators, legal counsel, and surrounding law enforcement agencies, after a violent crime occurs or a crime that is deemed by the Chief of Police and/or designee to represent a continuing threat to students staff, faculty, or visitors and disseminate "timely warning" crime alert information within 24 to 48 hours through the Police Services web site and the Campus e-mail system. Bulletins also include prevention information to assist members of our educational community from becoming a victim of a similar crime. Bulletins shall include, but are not limited to, those crimes that are listed in the Clery Act."
- **Contra Costa Community College 2009**: "It is the practice of CCCCD to have the Police Chief, and/or designee, confer as necessary and applicable with administrators, legal counsel, and surrounding law enforcement agencies, after a violent crime occurs or a crime that is deemed by the Chief of Police and/or designee to represent a continuing threat to students staff, faculty, or visitors and disseminate "timely warning" crime alert information within 24 to 48 hours through the Police Services web site and the Campus e-mail system. Bulletins also include prevention information to assist members of our educational community from becoming a victim of a similar crime. Bulletins shall include, but are not limited to, those crimes that are listed in the Clery Act."
- **UA Birmingham 2008:** For the purposes of this policy, "timely manner" generally means within 48 hours after an incident has been brought to the attention of a "campus security authority" as defined in the Clery Act.
- **California State Channel Islands 2009: "**Once all the relative information is received, these notices will typically be posted within 24 hours."
- **California State Fullerton 2009: "**Each school year brings with it some different and unique crime problems. When these incidents occur, University Police on occasion will post timely warning notices describing recent crime trends or dangerous incidents. It is our policy to post these notices on the exterior doors of all campus buildings to provide our community with information about the incident and crime prevention recommendations. Once all the information is received, these notices will typically be posted within 24 hours.
- **California Maritime Academy 2009: "**On occasion you will see "Timely Warning Notices" describing recent crime trends or dangerous incidents. It is our policy to post these notices on the kiosks and bulletins located in areas frequented by the campus community to provide our community with information about the incidents and crime prevention recommendations. Once all relative information is received, these notices will typically be posted within 24 hours."
- **Clark University 2008**:" Every attempt will be made to distribute the Timely Warning within 12 hours of the times the incidents are reported; however, the release is subject to the availability of accurate facts concerning the incident."

- **Academy of Art University 2008: "**The Academy of Art University will make a timely "Warning Report" to the campus community when a crime occurs that is considered a threat to students or employees. The report will be completed within 48-72 hours from the date the crime was reported."
- **New York Queens College 2008**: "Timely warning reports are made to the members of the campus community regarding when crimes listed in the Clery Act occurred. These warnings are disseminated within 24 - 48 hours from time of reported crime whenever an incident occurs that presents on ongoing threat to the campus community."
- **University of Southern California, University of California Riverside and Pepperdine University 2007**: "At USC, UCR, and Pepperdine, the researcher found that the Departments of Public Safety or the UC Police Department were in compliance with the information dissemination regulations associated with the Clery Act. With regard to providing "timely warnings" to the campus community regarding crimes, at USC and UCR students, faculty, and staff receive electronic mail (e-mail) messages within one to two days of the crime incident, and at Pepperdine, the incidents are published in the university's bi-weekly newspaper. (Sarvenaz Aliabadi, Doctoral Dissertation University of Southern California 2007, " *Understanding the effects of the Clery Act on College Student's Behavior: How Can Student Affairs professionals Change the Current practices of College Students with Regard to Safety*")
- **University of Toledo 2009:** "Every attempt is made to distribute the alert within 48 hours of the time the incident is reported; however, the release of the crime alert is subject to the availability of facts concerning the incident."
- **Long Beach City College 2009**: "Once all the relative information is received, these notices will typically be posted within 24 hours."
- **Pasadena City College 2009: "**Once all the relative information is received, these notices will typically be posted within 24 hours."
- **University of Nevada, Las Vegas 2006: "**In the event of a serious crime occurs on campus, the university Department of Public Safety (DPS) will provide the university community with a timely notice (24-48 hours of the reported incident)"
- **Ohio State's Agricultural Technical Institute at Wooster 2009**: "Every attempt will be made to distribute the alert within 12 hours of the time the incident is reported, however, the release is subject to the availability of accurate facts concerning the incident."

C.B.17 Virginia Tech's failure to issue timely warnings of the serious and on-going threat on April 16, 2007 deprived its students and employees of vital, time-sensitive information and denied them the opportunity to take adequate steps to provide for their own safety. In addition, Virginia Tech's failure to develop and implement an adequate and appropriate timely warning policy and to even adhere to its own published policies effectively nullifies the intent of this disclosure requirement. Accordingly, Virginia Tech violated the Clery Act and the Department's regulations.

Response:

Virginia Tech has overwhelmingly demonstrated that a finding by the DOE that there was a "timely warning' violation is not supported by the evidence. The intent of "timely warning" and the interpretation of timely warning proffered by DOE and those providing interpretation guidance to institutions of higher education did not consider a timely warning as an emergency notification. The record clearly supports that a "timely warning" is provided at best several hours post incident and normally within 24 to 48 hours.

However, even if one assumes the "timely warning" process was applicable,t hen a review of the "timely warning" issuance process is considered. The guidance provided in *The Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4) is found in Chapter 5, page 62 in the section entitled *Making a Decision to Issue a Timely Warning.* The guidance states that: "The issuing of a timely warning must be decided on a case-by-case basis in light of all the facts surrounding a crime, including factors such as the nature of the crime, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts."

The actions and the decisions made by the responding police agencies on April 16, 2007 were consistent with these guidelines. The potential danger to the campus community was evaluated. The evidence at the crime scene presented as an act of targeted violence. The crime scene was evaluated by experienced, trained and nationally accredited law enforcement professionals from three jurisdictions (VTPD, Blacksburg Police Department and the Virginia State Police). The description of the crime scene for the purposes of this response is limited to the comments found within the Review Panel Report: "the female victim was shot with a young man in her room under the circumstances found" and "The last person known to be with female victim was her boyfriend who owned a gun and cared greatly for her (Exhibit 13,p ages 79 and 80)." There were no reported sightings of unusual activity on campus following the WAJ shooting, a person of interest was identified, and his vehicle was not on campus and he was determined to be off campus. Experience and training teach law enforcement officials, as conveyed by a representative of the Virginia State Police, that perpetrators of a homicide will place time and distance between themselves and the location of the crime. All the evidence indicated that a crime of targeted violence had occurred, a person of interest had left the campus and there was not an ongoing threat. This was not the conclusion of one police department, but three independent agencies.

The Review Panel Report found this assessment to be reasonable given the facts (Exhibit 13, page 79). They further report that there are few murders on campuses, the average being 16 across 4,000 universities and colleges and there had been only one college campus mass murder in the past 40 years, the University of Texas Tower incident. On the morning of April 16, 2007 it was no more plausible or comprehensible that the events to follow at Norris Hall would occur than it was imaginable what was to take place on the morning of September 11, 2001. The two events were unequivocally beyond the bounds of societal norms at the times they occurred. A criminal had never perpetrated a mass shooting hours after committing a diversionary or antecedent homicide (Exhibit 13, page 80).

In preparation of this response,man y cases of homicide occurring on campuses between 2001 and 2007 were reviewed. There were no significant differences found between how these police departments and institutions of higher education assessed and responded to an incident and the actions taken following the WAJ shootings. A qualitative review of the data reveals that with respect to providing information to the campus community, Virginia Tech provided notification, in many instances,in a shorter time frame than other institutions of higher education that had experienced a homicide. Illustrative examples are:

- **University of Portland May 2001:** student killed in dorm during summer session, e-mail sent out that evening approximately 8 hours after the incident.
- **Tennessee State University 2005:** shooting occurred in evening, Mass e-mail sent to campus community the following morning.
- **University of Missouri-Columbia January 2005:** stabbing occurred in parking garage, "Clery Release" provided next day, approximately 23 hours later.
- **University of South Florida February 2006**:g raduate student shot at night, no community crime alert issued.
- **Virginia Wesleyan College October 2006:** security officer killed in the evening, administration sent e-mail next morning to college community.
- **Norfolk State University March 2007:** student stabbed, campus community first learns about the incident through the media, campus wide notification not issued because it was considered an isolated event.
- **University of Arizona September 2007:** student stabbed in resident hall, information posted on PD website at 8:59 a.m., incident discovered at 6:30 a.m.
- **University of Memphis October 2007**: student shot, Safety Alert issued the next day.

An additional example, the **Delaware State University** timeline requires a more in depth review and comparison. On September 21, 2007, 5 months after the Virginia Tech shooting,two Delaware State students were shot on the campus mall. The headline of the cbsnews.com story dated September 22, 2007 was, "**Delaware State Reacted Quickly to Shooting"**. The story provides a timeline. The shooting was reported at 12:54 a.m., by 2:11 a.m. university officials were meeting to discuss the school's response and notices were posted on the school web site around 2:40 a.m.

The Chair of the Virginia Tech Review Panel is quoted as saying: "It appears Delaware State responded to the crisis well." The time line of Delaware, measured in minutes, is nearly identical to that of Virginia Tech.

The guidance found on page 62 of *The Handbook for Campus Crime Reporting*, published in 2005 (Exhibit 4) further recommends: "… that the institution meets beforehand with its security personnel and with local and state law enforcement authorities to discuss what is reasonable in terms of timely reporting of crimes." The VTPD as reported in the Review Panel Report (Exhibit 13, pages 11-13) has an "excellent working relationship with the regional offices of the state police, FBI and the ATF. This high level of cooperation was confirmed by each of the federal, state, and local law enforcement agencies that were involved on April 16, 2007. Training together, working cases together, and knowing each other on a first-name basis can be critical when an emergency occurs and a highly coordinated effort is needed." This working relationship was in place following the WAJ shooting. It was the collective knowledge and experience of the responding police departments that assessed the crime scene and evidence and determined that there was not an ongoing threat to the campus.

The actions taken follow the guidelines found on page 62 of the Handbook (Exhibit 4), *Making a Decision to Issue a Timely Warning* and were also consistent with procedures and practices followed at other colleges and universities when responding to a homicide.

RESPONSE TO REQUIRED ACTIONS

This section addresses the requests of the DOE in the *Required Actions* section of the program review. Virginia Tech's policies and procedures met or exceeded the standard of care among similarly situated universities. Nevertheless, in response to the events of April 16, 2007, Virginia Tech has undertaken additional initiatives and enhancements to its policies and procedures pertaining to campus safety.

VIRGINIA TECH'S POLICIES AND PROCEDURES

Policies and Procedures Related to Timely Warnings in Effect on April 16, 2007

On April 16, 2007, the university's timely warning policy located in the VTPD's Campus Security Report (Exhibit 16) read as follows:

> *"At times it may be necessary for "timely warnings" to be issued to the university community. If a crime(s) occur and notification is necessary to warn the university of a potentially dangerous situation then the Virginia Tech Police Department should be notified. The police department will then prepare a release and the information will be disseminated to all students, faculty, and staff and to the local community."*

The policy in place on April 16, 2007 met the requirements of 34 CFR 668.46(b)(2)(i) (Exhibit 5), which states:"Po licies for making timely warning reports to members of the campus community regarding the occurrence of crimes described in paragraph (c)(1) of this section," must be included in the annual security report.

University Policy 5615: *Campus Security*, revision 3, dated May 7, 2002 (Exhibit 17) was the operating procedure behind the timely warning statement. The university would like to highlight section 2, "Policy," which states the following:

> "REQUIRED REPORTS: University Relations and the University Police will make the campus community aware of crimes, which have occurred and necessitate caution on the part of students and employees, in a timely fashion and in such a way as to aid in the prevention of similar occurrences. The Chief of Police will be responsible for publishing annual statistics on the following crimes: murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft, as well as the number of arrests for alcohol, drug, and weapons violations."

Related University Policies and Procedures in Effect on April 16, 2007

In addition to the university's timely warning policies and procedures which have been a focus of the DOE's program review, the following relevant university policies were also in place on April 16, 2007:

University Policy 5616: *Campus and Workplace Violence Prevention Policy*, revision 1, dated August 23, 2005 (Exhibit 22), prohibited university employees, students, volunteers, or any visitor or third party from carrying, maintaining, or storing a firearm or weapon on any university facility. This policy is relevant in terms of the university's response to the Program Review Report because it documents that firearms were banned from campus on April 16, 2007.

Also relevant to this program review by the DOE is the university's Emergency Response Plan, revision 3.0, dated May 2005 (Exhibit 18). Careful consideration should be given to the "Emergency Operations Command Structure" section beginning on page 5, which includes an incident command structure that supported the utilization of the Policy Group on April 16, 2007.

University's Response on April 16, 2007

On April 16, 2007, the Policy Group convened at 8:35 a.m. Information known by individual members was shared. Additional information and updates were provided by the VTPD, as well as other university functional units via a series of telephone calls. A police liaison joined the meeting in person at 9:25 a.m. A logical and reasonable division of responsibility evolved; the police department managed incident command at WAJ and the Policy Group acted as an area command taking responsibility for the university at large, including providing a notification to the campus of the events that occurred at WAJ.

The Policy Group and the VTPD followed University Policy 5615: Campus Security (Exhibit 17), as well as the university's Emergency Response Plan (Exhibit 18). As per the Emergency Response Plan, the following were members of the Policy Group on the morning of April 16, 2007:

- President
- Executive Vice President Chief Operating Officer
- University Provost and Vice President for Academic Affairs
- Associate Vice President, University Relations
- Vice Provost, Academic Affairs
- Vice President, Student Affairs
- General Counsel, Advisor
- Support Staff (administrative)

This membership is clearly outlined on page 6 of the Emergency Response Plan (Exhibit 18). Additional members of the Policy Group that morning included the Executive Director of Government Relations, who reports directly to the President and was invited to the meeting by the President. The Director of News and Information was also present during the meeting to assist with the release of the emergency notification. Not in attendance that morning were the following:

- Vice President, Business Affairs (position was in the process of being filled and was renamed "Vice President for Administrative Services")
- Vice President, Information Technology (Vice President was traveling)

The attached university organizational chart (Exhibit 23) from March 2007 outlines the reporting structure of members of the Policy Group on April 16, 2007, as well as the oversight areas of the various members of the Group.

The VTPD was managed by the Chief of Police, and consisted of 40 sworn officer positions who received assistance from security guards, communication officers, and administrative staff. On the morning of April 16, 2007, the crime scene was evaluated by experienced, trained,and nationally accredited law enforcement professionals from three jurisdictions (VTPD, Blacksburg Police Department and the Virginia State Police).

Changes to Timely Warning Policies Post April 16, 2007

The Campus Security Report and annual Clery compliance document has been modified in each of the last 2 calendar years to incorporate changes associated with the VT Alert capabilities (VT Alerts will be described below). In the 2007 Annual Report (published in 2008),wo rding was added to include University Relations as a provider of the "timely warning" and language was added incorporating the "VT Alerts" as a method of notification. In the 2008 Annual Report (published in 2009), the terminology of "Immediate Notification" was added to the warning information. The language added was: "The Office of University Relations and/or VTPD will notify the campus community of emergencies or crimes that have occurred and necessitate caution, evacuation, or other action on the part of students, employees, and campus visitors. The campus community will be "immediately" notified upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus unless the notification will compromise efforts to contain the emergency". Additional methods for notification are also provided, including cellular phone, text messages, alert lines, classroom electronic message signs, and university website notices.

Timely Warnings Issued by Virginia Tech during 2007, 2008 and 2009

Attached hereto (Exhibit 24) are copies of all timely warnings that were issued by Virginia Tech during 2007, 2008 and 2009. All warnings were sent to the entire university community electronically.

UNIVERSITY INITIATIVES AND ENHANCEMENTS POST APRIL 16, 2007

In response to the tragic events on the Virginia Tech campus on Monday, April 16, 2007, President Charles W. Steger appointed the following internal review groups:

1. Security Infrastructure: this group was chaired by the Executive Vice President and Chief Operating Officer and was charged with examining the university's existing security systems and recommending changes that would enhance the university's ability to respond quickly and effectively in situations where the safety of the campus community is jeopardized. The group was also directed to identify strategies that might decrease the probability of such situations occurring. The group was asked to not only consider technological aspects of the issue, but also the behavior of individuals with regard to campus security;

2. Information and Communications Infrastructure: this group was chaired by the Vice President for Information Technology and Chief Information Officer and was charged with providing a comprehensive inventory and analysis of the communications infrastructure and information systems used during the events of April 16, 2007, as well as the response and recovery time period. The group considered the resources depended upon by emergency responders, investigating law enforcement officers, university officials, media, faculty, staff, students, and families of the university community; and

3. Interface Between Virginia Tech Counseling Service, Academic Affairs, Judicial Affairs and Legal Systems: this group was chaired by the former Dean of the College of Liberal Arts and Human Sciences and was charged with examining the existing systems between Virginia Tech Counseling Service, Academic Affairs, Judicial Affairs and Legal Systems and the interface between them, as well as determining what constraints legal and otherwise hamper effective interaction among these areas.

Each of the three groups developed recommendations for how existing university policies, procedures and systems could be improved and/or enhanced. Following this internal review, the President directed the development of a matrix linking recommendations from the Review Panel Report and the three internal review reports. The matrix of recommendations was reviewed by university administration and presented to the Virginia Polytechnic Institute and State University Board of Visitors at its November 2007 meeting. Following the November presentation to the Board, the Policy Group reviewed and ranked the recommendations and initiatives and then developed cost estimates and an implementation timeline. In total, there were approximately 400 recommendations, which were grouped into 33 major initiatives areas. Even as recommendations were being evaluated, the university began implementation of some recommendations as early as Summer 2007. A presentation (Exhibit 25) was given to the university community on March 19, 2008, which provided information on how the recommendations were evaluated and considered. The Progress Report presented to the Board on November 2, 2008, as well as a listing of

recommendations by initiative (Exhibits 26 and 27) are attached as exhibits. The Vice Presidents with oversight for the areas with recommendations were responsible for ensuring implementation of the initiatives for each of their respective areas. In November 2009, the Virginia Polytechnic Institute and State University Board of Visitors ratified the university's Safety and Security Policy Committee structure which was established by university policy in March 2009. The university provides periodic reports to the Board on emergency management; the annual Clery Report and the new Higher Education Opportunity Act reporting requirements; Cook Counseling Center, threat assessment and the student care team; and other safety and security initiatives and programs.

Policing and Campus Safety Initiatives

The following section will specifically discuss several of the major improvements to Virginia Tech's notification systems, physical and organizational infrastructure, policies, and the coordination of student service offices and associated procedures that respond to concerns expressed by the DOE in its program review. As noted above, necessary funds were allocated to the priority initiatives. Organizational changes that occurred, as well as training programs that have been delivered, are also discussed below.

Emergency Response Plan Revisions

The university's emergency response plan was amended in March 2008, April 2008 and again in April 2010 (Exhibit 28). Changes to the Emergency Response Plan include adding reference to the newly created Director of Emergency Management position and department, the incorporation of emergency support functions, and the addition of emergency notification system protocols.

Modifications to University-wide Safety and Security Policies

University Policy 5615 – Umbrella Safety and Security Policy

An umbrella safety and security policy was approved by the President in February 2009. University Policy 5615 was renamed from *Campus Security* to *University Safety and Security* (Exhibit 29), and major changes were made to provide a comprehensive and overarching campus safety and security policy that provides oversight and coordination for all campus policies and committees responsible for safety and physical security. A section on responsibilities of authorities was added, as well as language providing for the establishment of a Safety and Security Policy Committee appointed by the President. An overview of related safety, security, and violence prevention policies, plans, and programs is now provided, as well as procedures for reporting. Finally, the policy includes provisions that comply with various federal and state laws, regulations, and policies. It should also be noted that revisions were made to Policy 5615 in September 2007 before the umbrella safety and security policy was created. Relevant changes made in September 2007 include: (1) the updating of the title of the Campus Awareness and Campus Security Act of 1990 to the Jeanne Clery Disclosure of

Campus Security Policy and Campus Crime Statistics Act, (2) access to residence halls was change to card access at all times, and (3) a section was added to the policy on reporting crimes confidentially and anonymously.

University Safety and Security Policy Committee

In January 2009, the President established the University Safety and Security Policy Committee referenced in the previous paragraph. This Committee is an operational committee serving as the coordinating and policy body responsible for overarching university safety, security, and emergency management. This Committee supersedes the previous administrative group known as the "Policy Group." The President chairs the Committee, and in his absence, the Vice President for Administrative Services serves as Chair. The following positions serve on the Committee:

- President
- Senior Vice President and Provost
- Vice President for Administrative Services
- Vice President and Dean for Undergraduate Education
- Vice President for Development and University Relations
- Vice President for Finance and Chief Financial Officer
- Vice President for Information Technology and Chief Information Officer
- Vice President for Student Affairs
- Chief of Police
- Director of Emergency Management
- Associate Vice President for University Relations
- Director of News and Information
- Chief of Staff, President's Office
- Executive Director of Government Relations
- University Legal Counsel, Advisor

At its November 2009 meeting, the Virginia Polytechnic Institute and State University Board of Visitors ratified a resolution approving the Virginia Tech Safety and Security Committee Structure, including the Safety and Security Policy Committee (Exhibit 30).

The primary responsibilities of the Committee are:

- Reviewing, evaluating, and determining requirements concerning safety and security assessments, plans, programs, and education, including changes that may affect the quality of the university's living, learning and working environment;

- Overseeing reviews of the university's assessment of vulnerabilities, hazards and risks related to the safety and security of individuals and the physical campus;

- Ensuring that sufficient university resources and funding are available to perform necessary emergency management, safety, and security functions, and that these resources are consistent with anticipated regulatory changes;

- Overseeing the education and prevention of violence on campus in accordance with Section 23-9.2:10 of Code of Virginia including (i) creation of university safety and security policies, and (ii) providing direction to the Campus and Workplace Violence Prevention Committee and the Threat Assessment Team on the development and implementation of violence prevention policies, procedures, education and guidance regarding recognition and reporting of individuals whose behavior may pose a threat, assessment of such individuals and means of action to resolve potential threats;

- Overseeing the Safety and Security Policy and other policies that have implications for emergency management, safety, and security, including but not limited to facilities use, sponsorship of entertainment and events, threatening or intimidating conduct, facilities access control, environmental health and safety, and violence prevention;

- Reviewing and establishing guidelines and standards for departmental emergency response and continuity of operations plans;

- Evaluating the effectiveness of the university's safety and security plans and programs; and

- Advising the President on safety and security issues.

Campus Violence Prevention Committee

Prior to April 16, 2007, in June 2005, the Virginia Polytechnic Institute and State University Board of Visitors approved Policy 5616: *Campus and Workplace Violence Prevention Policy* (Exhibit 31) and in July 2005 a Campus Workplace Violence team was subsequently established. The Committee is currently chaired by the Deputy Chief of Police as designated by the Vice President for Administrative Services. Members are appointed by the President. The current members of the Committee are:

- Deputy Chief of Police (chair)
- Director, Emergency Management
- Director, Residence Life
- Director, Cranwell International Center
- Director, Cook Counseling Center
- Assistant Provost
- Director, Compliance & Conflict Resolution
- Associate Vice President, Human Resources
- Co-Director, Virginia Tech's Women's Center
- Office of the Graduate Student Ombudsperson

- Assistant Dean of Students
- Faculty Senate designee
- Staff Senate President
- Student Government Association Vice President
- Graduate Student Assembly representative
- Director, Converged Technologies for Security, Safety and Resilience
- Associate University Counsel, Advisor

The Committee is responsible for:

- Conducting an annual review to identify potential or existing risks, including gathering and analyzing reports and data to identify high-risk departments, activities, or locations;

- Recommending and implementing employee and student awareness and training programs on campus and workplace violence;

- Implementing plans and protocols for responding to credible threats and acts of violence (crisis management plan);

- Reviewing and developing threat assessment and response policies and procedures;

- Reviewing periodic summary reports from Student Affairs, Campus Police, Human Resources, and other offices;

- Communicating internally with employees and students; and

- Evaluating the effectiveness of the university's workplace/campus violence prevention programs.

It should be noted that the 2008 Virginia General Assembly passed Senate Bill 539 requiring the creation of both a violence prevention committee and a threat assessment team. Since Virginia Tech had created the Campus and Workplace Violence Prevention and Risk Assessment Committee in 2005, and a Threat Assessment Team was appointed in December 2007, the Virginia Polytechnic Institute and State University Board of Visitors approved a resolution affirming the creation and continued operation of the two groups at its June 2008 meeting (Exhibit 32).

Other modifications to Policy 5616 (Exhibit 31) since April 16, 2007, include the prohibition of weapons section was clarified by including reference to dining facilities, and the responsibilities of the new Office of Emergency Management were added.

Establishment of a University Emergency Management and Risk Assessment Committee

Consistent with the provisions of the university's Safety and Security Policy 5615 (Exhibit 29), the Emergency Management and Risk Assessment Committee is an operational committee, appointed by the Vice President for Administrative Services in April 2009, and reporting to the University Safety and Security Policy Committee. It is responsible for oversight of emergency management and risk assessment activities, programs and initiatives. The Committee continually evaluates the needs of the university, and develops appropriate planning, programmatic, response, and mitigation strategies designed to reduce risks and to continually improve the disaster resiliency of Virginia Tech.

The following positions serve on the Committee:

- Director, Office of Emergency Management (chair)
- Assistant Vice President and Chief of Staff, Administrative Services
- Chief, Blacksburg Fire Department
- Faculty representative, Biological Sciences Department
- Director of Special Initiatives, College of Veterinary Medicine
- President, Staff Senate
- Associate Dean and Chief of Staff, College of Engineering
- Director, Risk Management
- Associate Vice President, Human Resources
- President, Virginia Tech Corporate Research Center
- Associate Provost for Resource Management and Planning
- Director, Environmental Health and Safety
- Director of Operations, College of Agriculture and Life Sciences
- Captain, Virginia Tech Rescue Squad
- Blacksburg Town Manager or designee
- Deputy Director, National Capital Region Operations
- Emergency Services Coordinator, Montgomery County
- Emergency Management Specialist,Di vision of Student Affairs
- Director, Housing and Dining Services
- Region 6 Coordinator, Virginia Department of Emergency Management
- Associate Director, Athletics
- Representative from the VTPD
- Director, Converged Technologies for Security, Safety and Resilience

The committee was specifically charged to evaluate the emergency management needs of the university; develop appropriate planning, programmatic response and mitigation strategies designed to reduce risks; and improve the disaster resiliency of Virginia Tech. The committee will serve as a conduit; bring forward the needs and concerns of the University community as well as disseminating information and fostering a culture of emergency preparedness. Committee responsibilities include:

- Provide oversight, coordination, & leadership for risk assessments and promotion of activities & services that reduce or eliminate risks;

- Prepare the university through emergency planning efforts, training and exercises;

- Develop coordinated and effective emergency response capabilities;

- Advise the Vice President for Administrative Services on emergency management programs, policies, and organizations; and

- Provide an annual "State of Emergency Preparedness and Response" report to the Vice President for Administrative Services and the University Safety and Security Policy Committee

Notification Systems and Information Technology

Virginia Tech has several methods to contact community members with urgent information, including campus-wide e-mail, the university homepage, electronic message boards in classrooms, VT Alerts, outdoor sirens and loudspeakers, a recorded hotline, the university switchboard, the campus phone mail system and the public media. The following will briefly discuss the methods that have been implemented since April 16, 2007.

Emergency Notification System

Virginia Tech's new and expanded Emergency Notification System was launched in 2008. It allows the university to deliver messages using the following channels during a campus emergency:

1. The Virginia Tech homepage (www.vt.edu)
2. Broadcast e-mails to all vt.edu accounts
3. Electronic message boards in classrooms
4. VT *Phone* Alerts
5. VT *Desktop* Alerts
6. The weather/emergency hotline (231-6668)
7. Campus sirens and loudspeakers
8. The university switchboard

VT *Phone* Alerts is a subscriber-only feature of VT Alerts that allows members of the university community to receive urgent notifications where and how they want, even if the individual is away from a computer or university phone. Members are allowed to select up to three contact methods.

In August 2009, Virginia Tech further enhanced its emergency notification system with the introduction of the VT Desktop Alerts application — a software module that puts any supported computer connected to the internet in contact with the university's emergency notification system. The software can be downloaded to any desktop or notebook computer running a supported version of Microsoft Windows or Apple Mac OS X. Once installed, the system will monitor Virginia Tech's emergency notification system. When an important message is posted, the desktop application will activate and notify the user with audio and a message window that provides the details of the alert. The user must click the "Dismiss" button to return to a normal screen. When the window is closed, the VT Desktop Alerts application in the taskbar will continue to blink or otherwise indicate an active alert until the message is cleared by university personnel. The application requires an active internet connection to work properly. The message in the window will be consistent with notices posted to the other channels that comprise VT Alerts, Virginia Tech's emergency notification system.

Furthermore, the university developed a single portal web-based system allowing simultaneous distribution using channels (1) through (5) of the Emergency Notification System discussed above.

Messages can be authorized by a number of university administrators, including the following positions. Section 2.3 of the Virginia Tech Emergency Notification Protocols (Exhibit 33) further identifies these positions;

> **2.3 Responsible University Authorities**
> The following University officials have been assigned the authority by the President of the University to authorize emergency notifications to provide alert, warning and safety or protection instructions:
>
> - University President
> - Virginia Tech Police Chief
> - VTPD Senior Officer on Duty
> - Director of Emergency Management
> - Vice President for Administrative Services
> - The following university official(s), if they are *directly involved with the emergency response for a safety-and-security incident at VT*
>   - o Associate Vice President for Facilities
>   - o Director of Schiffert Health Center
>   - o Director of Environmental Health and Safety
>
> These positions will be collectively referred to as "Responsible University Authorities" for the purposes of these Protocols.
>
> At all times in these Protocols, reference to any position at the University shall be understood, in the absence of the referenced individual, to include designees.

In total, over 30 positions can physically send messages. All dispatchers in the police department can send an emergency notification, as well as the staff of the Department of Emergency Management, and staff in the Vice President for Administrative Services office.

Pre-written messages

To save time in crafting emergency messages, the university has developed prewritten templates to help communicators craft emergency messages more expeditiously. By having these templates available, valuable time can be saved in having to look up information for each emergency situation. All messages will contain at minimum the following information, in this order:

1. Nature of the incident
2. Location
3. Actions to be taken by affected populations

Electronic Message Boards

The university has installed electronic message boards in all general assignment classrooms, and is in the process of installing electronic message boards in semi-public areas throughout campus. When an important message is posted to the electronic message boards, a brief audible tone is heard to alert those in the classroom that a message will appear. When not in use, the message boards display the current date and time. The message board is pictured below:

Outdoor Sirens

Prior to April 16, 2007, the siren system was never meant to be used as a component of emergency notifications or timely warnings. The siren system was initially developed to aid in notifying the university community about severe weather and/or natural disasters. On April 16, the university was still in the process of installing six outdoor loudspeakers to make emergency announcements. Four had been installed and were used on April 16, but not until after the Norris Hall shootings. Since the installation of the system was not yet complete, the university community had not been trained on what to do if the sirens were used or even on the purpose of the siren system.

After modifications to the siren system, personalized or pre-recorded messages can now be added in an emergency. The siren system is now intended to reach people located outside for any type of warning. The fundamental message that is being communicated to the university community during emergency training is to "seek shelter, seek information".

Emergency Notification System (ENS) Protocols

In January 2010, the university adopted Emergency Notification System Protocols (ENS) (Exhibit 33) to outline the emergency notification process and organization surrounding its Emergency Notification System that has multi-channel communication capabilities. The purpose of the guidelines is to establish the process for activating the Virginia Tech ENS protocols when a threat or emergency situation is reported to the VTPD or to another Responsible University Authority operating within their direct area of responsibility and directly involved with the emergency response for a safety-and-security incident at Virginia Tech. Authorizing decision-making at the operational response level enables Virginia Tech to disseminate rapid and responsible emergency information to the campus population. The protocols provide operational guidelines for issuing emergency messages via Virginia Tech ENS. The protocols are integrated with and supplement the Virginia Tech Emergency Response Plan. The protocols are consistent with the safety and security policies of the University, and have been approved by the University Safety and Security Policy Committee.

Information Technology

The Telecommunications Working Group examined campus and regional communications and information systems. The Working Group engaged over 80 professionals and faculty from Information Technology, law enforcement and university administration and researched 14 major university and regional systems. The Working Group examined performance, stress-response and interoperability of all communications elements for multiple areas including but not limited to:

- Emergency radio communication systems;
- Relevant local 911 systems;
- Campus and regional data communications systems; and

- Cellular and traditional telephone service utilization and performance.

Physical Infrastructure

A number of changes were made to the university's physical infrastructure immediately following April 16, 2007, including:

Door Hardware and Electronic Access Systems

All classrooms and teaching labs can now be secured from the inside. Entrance and exit hardware were also changed so doors cannot be chained or barricaded. Additionally, policy changes have occurred to make electronic access systems uniform in all campus buildings for security and first responder access.

Beginning in August 2007, all exterior residence hall doors are locked seven days a week, 24 hours a day. Hall residents may access their own buildings by swiping their ID card in readers located at the entrances. Only authorized personnel, residents and their escorted guests are admitted. Prior to this time, the residence halls were open during the day and card access utilized only at night. Security guards are used at night to check for propped doors in the residence halls and also observe subjects who may be trying to enter after a resident activates the exterior door.

Securing Student Mail Rooms

There are forty-four student housing facilities on campus which house 9,000 students. For these facilities, perimeter building access is controlled by electronic card readers which are managed and maintained by a central office. Prior to April 16, 2007, student housing facilities were typically locked between the hours of 10:00 p.m. and 10:00 a.m. daily. During all other times, the buildings were unlocked and fully accessible. Now all residence halls are locked twenty four hours a day, seven days a week, and are accessible only through card access. Further, to limit access to the building envelope in building students do not reside, the door access system throughout residence halls has been enhanced. Through building and system modifications, including wall and door additions, students' access in residence halls in which they do not reside is now limited to public spaces only.

It should further be noted that university building design standards have been revised to ensure compliance with the above changes in all new construction and renovations.

Emergency Safety Posters

So that students, faculty and staff know how to respond during an emergency, emergency notification posters (Exhibit 34) have been placed in all classrooms on campus, as well as other high-traffic areas on campus. Residential Programs created a similar emergency safety poster (Exhibit 35) that was customized for placement in all residence halls with protocols unique to residence life.

Blue Light Phones

Sixty-five emergency telephones, "Blue Lights," are strategically located throughout campus to allow immediate access to a Virginia Tech Communications Officer; 13 of these were added since 2007.

Several VTPD initiatives have further enhanced the safety, security, and response capabilities of the university, including:

- VTPD obtained and installed new radio consoles for the communications center that allow better interoperability between VTPD and local law enforcement agencies.
- A Mobile Command Vehicle has been purchased by the VTPD and may be deployed during any incident demanding the establishment of a command post in proximity to the occurrence of such an event. It is designed to supplement emergency operations in high service demand locations during critical incidents to allow for more efficient and effective delivery of emergency services. The overall objective is to increase public safety authority visibility, provide a centralized location to conduct incident related activities while remaining in the field, and serve as a command center during such occurrences.

Organizational Infrastructure

After April 16, 2007, a number of organizational changes were made so that all safety and physical security functions report to a single vice president. The police and emergency management, as well as all facilities departments, report to the Vice President for Administrative Services. The Virginia Tech Rescue Squad, a volunteer student group, now reports directly to the VTPD.

In terms of organizational changes to the VTPD, eight additional sworn officer positions have been created, including a Deputy Chief and Director of Threat Management Services, administrative sergeant, two officers for community outreach, an officer for investigations, four officers for patrol, as well as an additional administrative position. Building entry tools were placed in police vehicles. In addition, bolt cutters were placed in all police vehicles. Additional training was received in crisis intervention, hostage negotiation, death investigation, active shooter, The Family Educational Rights and Privacy Act (FERPA), and Clery. While the VTPD had been conducting active shooter training, a department member was trained and certified as an active shooter instructor. In 2008, an explosive detection canine was added to the police department. After training, and certification through the Virginia State Police, Boomer began service in the fall. In fall 2007, the VTPD created the Specialized Patrol Unit. This unit operates, mainly on bicycles and electric vehicles, to increase police presence in highly populated areas and in academic buildings. The communication center was reorganized to include the addition of a third dispatch workstation and an upgrade to the radio consoles

and computers. In March 2010, the police department went on-line with a new E-911 phone system which allows for one touch access to local law enforcement and medical services. The communication staff has been increased by one dispatcher and one dispatch supervisor to ensure adequate coverage during crisis situations. As noted previously, the Chief is now a member of the University Safety and Security Policy Committee. Finally, the mission statement of the police department was changed at the recommendation of the Review Panel Report.

The Department of Emergency Management was created in November 2008. This relatively new department oversees emergency planning and preparedness at Virginia Tech. The Director is responsible for an all-hazard approach to the coordination and management of risk assessment, emergency management, disaster planning and continuity of operations planning. The Director works closely with the Chief of Police to coordinate safety policies for the university.

Regional 911 Center

The towns of Blacksburg and Christiansburg, Montgomery County, and Virginia Tech have entered into a formal agreement to establish the New River Valley Emergency Communications Regional authority for the purpose of providing a consolidated system for 9-1-1 emergency calls and communications that will improve response-time, quality of service, and coordination for the communities served by the regional dispatch center. In 2008, a grant was obtained from the Virginia Information Technologies Agency (VITA) Wireless Services Board, and a consultant was engaged to ascertain the feasibility of establishing a joint regional 911 dispatch center. The final report recommended the establishment of a regional center under an independent Authority. Legislation was introduced and passed by the House and Senate during the 2010 General Assembly session to establish the regional 911 Authority. A working group is currently pursuing additional grants to study the communication and equipment needs of the Authority. Concurrently, a Request for Proposals (RFP) has been issued seeking an individual or firm to assist in creating the necessary business processes and practices to form the Authority. This is a multiyear initiative involving local, state, and federal agencies that will significantly enhance the quality of service provided to all residents of Montgomery County, including Virginia Tech.

Crisis Intervention Programs

In September 2007, the university's proposal entitled, "Assessing and Responding to At-Risk Behaviors in a Higher Education Setting: A Virginia Tech Demonstration Project," was approved by the US Department of Education, Office of Safe and Drug Free Schools. The project focused on the development of "a model for identifying, assessing, and responding to students, faculty, and staff whose behaviors might indicate that they might be at risk for perpetrating violence." Another project goal was to provide case management and services coordination for at-risk students and employees; three case manager positions were established with resources provided by university funds and resources provided by the DOE grant. The case management

function, which has now been fully adopted and integrated within Student Affairs and Human Resources, is described below.

Case Management Services

One recommendation in the Working Group Report on the Interface between Counseling Services, Academic Affairs, Judicial Affairs, and Legal Systems was increased capacity for follow up on students who have been considered by the Care Team or seen by Cook Counseling. Two case manager positions for students were added to Cook Counseling and the Dean of Students Office. One case manager/counselor position for employees was added as part of the enhanced employee assistance and wellness program in Human Resources. These positions coordinate the resources necessary to intervene with a person of concern, facilitating their access to assistance, and monitoring progress. The case managers support the Threat Assessment Team by following up on the case management plan developed by the Threat Assessment Team, which increases the capability for early intervention and prevention.

In addition to the Threat Assessment Team, case management occurs at other points throughout the university, as appropriate. Human Resources, the hub for employee services, maintains a case management system for employees in crisis. The Dean of Students office maintains a case management system for students in crisis. Information is communicated from these systems to the Threat Assessment Team, as appropriate. Case management capacity on campus has been expanded to ensure services are available to students in need. Three new case managers and three new counselors have been hired. Policies and procedures have been reviewed, revised and developed to ensure appropriate mental health treatment.

Enhanced communication between Cook Counseling Center, the VTPD and Residence Life staff with regard to students in crisis is a priority. The police department notifies the Cook Counseling Center, the Residence Life on Call Administrator, and the Dean of Students Office whenever any student is issued a mental health detention order. Notification is also made to the parents for instances involving a mental health commitment.

The police department has strengthened its communication with other key stakeholders on campus. In 2007, a member of the police department was added as a permanent member of the Care Team. This allows the police department to obtain information about students that have not reached the threshold for the Threat Assessment Team, but are in crisis. The working relationship between the police department and the Women's Center has also been enhanced. There is an officer assigned as a liaison with the Women's Center as a partner in the Violence Against Women Act grant. A detective has also been assigned as a liaison for cases involving violence against women, including sexual assault. This partnership strengthens the relationship and allows for more efficient flow of information between the two groups.

Employee Assistance Program, Policy 4345

In March 2008, the Virginia Polytechnic Institute and State University Board of Visitors approved University Policy 4345: *Employee Assistance Program* (Exhibit 36), which describes the programs available to employees to help address a broad range of personal problems and allows supervisory or mandated referrals, or a fitness for duty evaluation, where work-related problems are serious and persistent. In extreme cases of deteriorating job performance or unacceptable personal conduct, a referral to the Employee Assistance Program may be a condition of continued employment. The Fitness-for-Duty/Risk Evaluation is a means to address extraordinary situations where an employee may pose a hazard or risk to self or others in the workplace. It may also be used to determine an employee's medical or psychological fitness to perform his/her essential job functions. The Employee Assistance Program will facilitate the evaluation and consult with medical or psychological professionals to determine an appropriate course of action. This type of referral may be considered when an employee: is unable to perform essential duties of the job, displays behavior that may pose a hazard or risk to themselves or others, exhibits emotional or psychological behavior that has the potential to endanger the safety and security of persons or property, or creates serious disruption in the workplace. If the situation is critical, dangerous, or so severe that immediate action is necessary, the supervisor must immediately contact Human Resources, the campus police, or both. Where circumstances warrant, the case/situation will be immediately referred to the University Threat Assessment Team, which may require a fitness-for-duty/risk evaluation.

Enhancements to the Employee Assistance Program

In 2009, Human Resources expanded employee assistance services through the new Employee Advantage program that provides free confidential counseling for Virginia Tech employees and their family members, regardless of health insurance status, to address both personal issues as well as job-related problems. The emphasis of Employee Advantage counseling services is to help employees and family members find solutions that will enable individuals to cope with problems, and achieve optimal wellness. The new program provides access to counseling to Virginia Tech employees who are not covered under the state's health insurance plan.

Establishment of a University Threat Assessment Team

Following the tragic events of April 16, 2007, the President issued Presidential Policy Memorandum 251 in January 2008 (Exhibit 37) to formally establish Virginia Tech's Threat Assessment Team and specify the charge and initial membership. The initial members of the university's threat assessment team included the following positions:

- Chief of Police (Team Chair)
- Dean of Students
- Human Resources Representative
- Student Affairs Representative

- Clinical Psychologist Representative
- Academic Affairs Representative
- Legal Counsel Representative, Advisor
- Student Affairs Representative

In November 2009, two additional positions were added to the Threat Assessment Team: the university registrar and a senior faculty member/administrator.

The Threat Assessment Team serves both students and employees and is charged with the task of convening, assessing the situation at hand, and taking immediate preventative action when a threat of imminent danger exists. The Team has full authority to act on behalf of the university and reports all actions to the President and to the Safety and Security Policy Committee. Support is provided to the Team by the VTPD's four investigators, Investigative Sergeant and a Lieutenant with investigative responsibilities.

It should also be noted that the Threat Assessment Team can be contacted by individuals. Not all cases come to the Team by way of Human Resources or the Dean of Students Office.

Student Affairs

In terms of changes to student affairs, the Interface Between Virginia Tech Counseling Service, Academic Affairs, Judicial Affairs and Legal Systems Working Group focused primarily on (1) reporting and helping distressed students and (2) engaging and assisting students. Most notably:

- The Dean of Students Office maintains a comprehensive database on distressed students;

- Procedures and mechanisms are in place for faculty to report troubled students to the Dean of Students Office;

- Coordination has been established between the Cook Counseling Center and the Community Services Board for the treatment and monitoring of students who are issued Temporary Detaining Orders;

- The role of Judicial Affairs in assisting and monitoring students has been clarified;

- Workshops have been held for faculty on responding to disturbing student writing and behavior; and

- Care team membership and protocol has been revised.

Changes to University Policies for Student Life

At its March 2010 meeting, the Virginia Polytechnic Institute and State University Board of Visitors approved two resolutions modifying University Policies for Student Life (Exhibit 38), more specifically:

Interim Suspension Policy: The resolution modifying this policy (Exhibit 39) gives the university authority to immediately remove students who may pose a risk to the safety of self, others, or property, while allowing the student the choice to request an immediate review of the interim suspension decision. Language regarding medical withdrawal and ban from campus (other than from residential facilities) was removed from the policy, because these types of removal are not part of the interim suspension process.

Weapons Policy: The resolution modifying this policy (Exhibit 40) already stated that unauthorized storage, possession, and/or use of weapons is prohibited on university property. The resolution strengthened the language prohibiting weapons on campus by also prohibiting *ammunition* in campus residential facilities.

Education and Involvement

Campus police continue to train with local police departments on active shooters and other emergencies. The University Safety and Security Policy Committee members have attended emergency management training, which included essential National Incident Management System (NIMS) elements. The Campus Community Emergency Response Team (CCERT) class is a partnership between the Office of Emergency Management and the VTPD. Becoming a member of a Virginia Tech CCERT team enables community members to obtain the ability to respond to disasters at school, in the community and at home. Classes include Terrorism, Disaster Psychology, Medical Operations, Fire Fighting, Search & Rescue, and more. The initial training was conducted in spring 2010 with 35 participants. Additional classes will be held in May and June of 2010.

An emergency preparedness educational flyer was developed and distributed throughout campus. The brochure provides basic information on what to do in event of workplace violence or an active shooter, if the fire alarm sounds, or if there is an earthquake, explosion, power outage or chemical spill. A campus notice was also sent to the community about the Threat Assessment Team in 2009 educating them about suspicious behaviors, how to report concerns and available on campus resources.

In 2008, the police department made available and advertised on-line emergency training on topics that include: active shooter, bomb threats, evacuation, explosion, a terrorist attack, and suspicious packages. In addition, as of fall 2009, all incoming freshmen are required to watch a PowerPoint presentation with emergency tips relating to fire, suspicious persons, the siren system, bomb threats, and hazardous materials. The presentation also contains information on the annual crime statistics and how to obtain/view the annual department report.

In August 2009, the VTPD hired an Assistant Chief of Police and Director of Threat Management Services. The new Assistant Chief is a licensed psychologist, a certified health service provider and a certified law enforcement officer. The Police Department supplemented the Threat Management Team with a Victim Services Special Project Coordinator in summer 2009, with funding provided by grants from the DOE and the Department of Justice. The Assistant Chief of Police and Director of Threat Management Services and the Victim Services Special Project Coordinator have conducted 25 information/training sessions to campus constituents, with a total of 954 participants, between August 2009 and April 2010.

The following table provides a listing of VTPD training since spring 2007:

Active Shooter for Dispatchers
Active Shooter (conducted annually)
Advanced Crisis Intervention
Advanced Hostage Negotiator Training
Advanced Law Enforcement Rapid Response Instructor
Advanced Law Enforcement Rapid Response Training
Best Practices in Campus
Clery Training
Crisis Intervention
Crisis Intervention for Dispatchers
Crisis Negotiator Training
Homicide Investigation
Hostage Dispatch Training
Immediate Action Rapid Deployment
Threat Assessment Training
Threat Assessment/Management
    Basic Forensic Evidence
    Tactical Command Training
Threat Assessments for Large Facilities
Virginia State Police Basic Investigations

The university has also contracted with D. Stafford and Associates to provide a two-day advanced Clery Act training class for Virginia Tech personnel in June 2010. Additionally, D. Stafford and Associates will conduct an audit of the VTPD in July 2010, which will include the following reviews:

- Off-Site Review of Compliance Document: the consultant will review the university's compliance document and verify that the required information is contained within the document.

- On-Site Review of Methodology and Process for Complying with the Clery Act: the consultant will conduct an assessment of the methodology and process for overall compliance with the Clery Act. The assessment will include interviews

with key staff members in areas such as: the public safety/police department, judicial affairs office, office of the general counsel and/or other offices on campus involved in the compliance process.

- Incident Report/Records Review: the consultant will review the relevant records or incident reports for 2008 that were generated by the university related to the crime statistics that the institution is required to report in their annual security report.

- Incident Report/Records Review: Drug, Liquor and Weapons Violations: the consultant will review the relevant records or incident reports for 2008 that were generated related to the drug, liquor and weapons law violations that the institution is required to report in their annual security report.

EXHIBITS

1 Letter from Delores A. Stafford to Michael J. Mulhare, P.E., Director of the Virginia Tech Office of Emergency Management, dated April 6, 2010

2 Federal Register, 59 FR 22314-01, Rules and Regulations Department of Education 34 CFR Part 668, RIN 1840-AB98, Student Assistance General Provisions; Campus Safety, dated Friday, April 29, 1994

3 74 FR 55902-01, Rules and Regulations Department of Education, [Docket ID ED-2009-OPE-0005], 34 CFR Parts 660, 668, 675, 686, 690, and 692, RIN 1840-AC99, General and Non-Loan Programmatic Issues, dated Thursday, October 29, 2009

4 *The Handbook for Campus Crime Reporting*, U.S. Department of Education, Office of Postsecondary Education, 2005

5 34 CFR 668.46, Code of Federal Regulations, Title 34, Education, Subtitle B. Regulations of the Offices of the Department of Education, Chapter VI. Office of Postsecondary Education, Department of Education, Part 668Student Assistance General Provisions, Subpart D. Institutional and Financial Assistance Information for Students, 668.46 Institutional security policies and crime statistics, **effective until July 1, 2010;**

AND

Code of Federal Regulations, Title 34, Education, Subtitle B. Regulations of the Offices of the Department of Education, Chapter VI. Office of Postsecondary Education, Department of Education, Part 668Student Assistance General Provisions, Subpart D. Institutional and Financial Assistance Information for Students, 668.46 Institutional security policies and crime statistics, **effective July 1, 2010.**

6 Federal Register, 74 FR 42380-01, Proposed Rules Department of Education, 34 CFR Parts 600, 668, 675, 686, 690, and 692, RIN 1840-AC99, General and Non-Loan Programmatic Issues, dated Friday, August 21, 2009

7 Carter, S. Daniel, *Covering Crime on College Campuses: Recently enacted regulations mandate that schools open up about security issues*, The Quill,Se ptember 2000

8 Security on Campus, Inc., *Campus* Watch, Volume VIII, Issue 1, Spring/Summer 2002

9 *From Understanding to Compliance: Your Campus and the Clery Act*, Viewers Guide, June 2002, published by The California State University

10 20 USC §1092, United States Code Annotated, Title 20. Education, Chapter 28. Higher Education Resources and Student Assistance, Subchapter IV. Student Assistance, Part F. General Provisions Relating to Student Assistance Programs, §1092 Institutional and financial assistance information for students, effective August 14, 2008

11 Letter to The Honorable Timothy M. Kaine from Charles W. Steger and Jacob A. Lutz, III, dated April 19, 2007

12 Executive Order 53, Commonwealth of Virginia, Office of the Governor, 2007

13 *Mass Shootings at Virginia Tech*, (final) addendum to the Report of the Review Panel, dated November 2009, released January 2010

14 E-mail to campus community entitled *"Shooting on campus,"* dated Monday, April 26, 2007, 9:26 a.m.

15 E-mails from Co-director of Environmental Health and Safety Services dated April 16, 2007

16 Virginia Tech Campus Security Report on April 16, 2007

17 University Policy 5615: *Campus Security*, revision 3, dated May 7, 2002

18 Emergency Response Plan, revision 3.0, dated May 2005 (in effect on April 16, 2007)

19 Federal Emergency Management Agency Incident Command System (ICS) 100 Training Manual

20 E-mails to Virginia Tech representative to the Review Panel entitled *Police Authority to Disseminate Warnings*, dated August 14, 2007

AND

E-mail from Virginia Tech representative to the Review Panel entitled *Message Authorization*, dated August 17, 2007

21 Hunter, Bonnie, and John Wesley Lowery, *Campus Safety and the Clery Act*, 2008 winter addition of Leadership Exchange by NASPA

22 University Policy 5616: *Campus and Workplace Violence Prevention Policy*, revision 1, dated August 23, 2005

23 Organizational Structure of Virginia Polytechnic Institute and State University, March 2007

24 Virginia Tech's Timely Warnings in 2007, 2008, 2009

25 University Town Hall Meeting, April 16, 2007 Initiatives and Recommendations, dated March 19, 2008

26 Progress Report on April 16, 2007 Recommendations & Initiatives presented to the Virginia Tech Board of Visitors, November 2, 2008

27 Progress Report on Recommendations by Initiative, October 31, 2008

28 Emergency Response Plan, revision 7.0, dated April 2010

29 University Policy 5615: *University Safety and Security*, revision 5, dated February 27, 2009

30 Virginia Tech Safety and Security Committee Structure, March 2010

31 University Policy 5616: *Campus and Workplace Violence Prevention Policy*, revision 2, dated March 19, 2008

32 Virginia Polytechnic Institute and State University Board of Visitors approved *Resolution Affirming Creation and Continued Operation of the Campus and Workplace Violence Prevention and Risk Assessment Committee and Threat Assessment Team*, June 2008

33 Emergency Notification System Protocols, Virginia Polytechnic Institute and State University, January 2010

34 Virginia Tech Emergency Notification Poster – Classrooms

35 Virginia Tech Emergency Notification Poster – Residence Halls

36 University Policy 4345: *Employee Assistance Program*, revision 0, dated March 31, 2008

37 Presidential Policy Memorandum 251, *Appointment of a University Threat Assessment* Team, dated January 31, 2008

38 University Policy 8300: *University Policies for Student Life*, revision 0, dated August 21, 2007

39 Virginia Polytechnic Institute and State University Board of Visitors approved *Resolution For Changes to University Policies For Student Life: Interim Suspension Policy* , March 2010

40 Virginia Polytechnic Institute and State University Board of Visitors approved *Resolution For Changes to University Policies For Student Life: Weapons Policy* , March 2010