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PRINCIPAL

Due Diligence Review
March 8, 2011 Fenwick Library Incident

Submitted to:

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And

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Executive Summary

On March 8, 2011, a confrontation at the Fenwick Library between a male student and female student involving the occupancy of a “Study Room” ultimately resulted in the arrest of the male student on a charge of “abduction.” In Virginia, the offense is punishable by 1 to 10 years. A review of the actual incident and actions that followed was undertaken by the University in an effort to ensure that its obligations and commitment to its internal and external stakeholders were continuing to be met.

The search for a consultant to conduct the review was coordinated among three (3) University Administration Officials, Senior Vice President Maurice W. Scherrens, Christine LaPaille, Vice President for University Relations; and Thomas M. Moncure, University Counsel. Tomlinson Strategies, LLC. (www.cornerstone-associates.org) was selected to undertake the due diligence review. The agreed-on approach involved a fact-finding phase, a policy adherence phase, and an opportunity to offer recommendations to be considered by the University.

The examination of the initial incident, informed by interviews, written and electronic media records, and site visits, credits law enforcement with a prompt response and the initial diffusing of a volatile situation. The subsequent discretionary actions by University law enforcement in the arrest of the male student were within lawful and discretionary bounds. The process whereby certain arrest-related decisions were made was/is not governed specifically by written policy, but rather by an assessment of the officer(s) involved and the potential engagement of supervisors, who review available facts and their application to a specific scenario. That was the case in the March 8th incident.

The University reacted in an expedited manner based on initial safety concerns. Related policies, both written and unwritten, received scrutiny in the Review to help determine if they were followed. The results confirmed that University staffs, to include the George Mason University Police Department (GMUPD) made individual and collective efforts to address issues related to the incident. The review found those interviewed to be forthcoming and willing to be responsible for decisions made and positions taken.

The report includes a series of recommendations to be considered in the context of lessons learned. Certain of the proposals will require additional internal and external vetting, while others are more intuitive. Most come with direct or indirect funding implications. Each is offered not in the context of an observed failure, but rather as an effort toward continuous improvement.

Finally, this effort represents the results of the University's willingness to make its actions and decision-making process responsibly transparent. Inherent in the process, is a recognition that certain Office of Judicial Affairs documents and proceedings relating to students are deemed to be student records, and therefore should be protected. Consistent with The Family Educational Rights and Privacy Act of 1974 (FERPA), this Review will not include those categories of information specific to either of the students involved in the incident.

The Incident

(Refer to Attachment 1 for Chronology)

On March 8, 2011, shortly before 1PM, Mr. Abdirishid Dahir , a full-time senior and Resident Assistant(RA), at the Shenandoah Dormitory, entered Study Room 3519, a less than 5' by 8', 1-2 person room located on the fifth floor of the Fenwick Library. The room contained one (1) table and one (1) chair, and could be secured from the interior only by a dead-bolt lock (Attachments 2 and 3). There is a standard 6" wide by 18" long glass panel in the door. On the exterior of the door is posted an 8" by 11" "Study Room Use Policies", form, current as of March 2010 (Attachment 4). The document includes among the 23 elements:

"Unattended personal property cannot be used to reserve/hold a room by any individual or group"

"Unattended personal property left in an unoccupied study room may be removed to Fenwick Library's Lost and Found at the Circulation Desk"

Within minutes Mr. Dahir realized he needed his laptop charging cord and returned to his dormitory to retrieve it, leaving behind his laptop and other property. Within several minutes, a female student discovered that #3519 was "vacant" and decided to occupy it. The female student is referred to as "Ms. Doe" throughout this report because she continues to be fearful of reprisals against her for her actions. Mr. Dahir's property was removed by Ms. Doe, who asked another unidentified student at an adjacent carrel to keep it until the owner returned to claim it. That student was never identified.

Within 7-10 minutes, Mr. Dahir returned to #3519 and confronted Ms. Doe. As admitted by both students in interviews for this report, tempers immediately escalated and voices raised with both refusing to give up their right to the room. Mr. Dahir admitted to using profanity and Ms Doe, also an African American, is alleged to have told Mr. Dahir he should return to his native country. Within 2-3 minutes, Ms. Doe used her cell phone to contact 911 and 3 minutes later contacted 911 a second time (See both 911 transcripts in Attachment 5).

During both 911 calls, Ms. Doe reported that Mr. Dahir was "harassing" her. She added that "he will not leave until I leave"(Transcript 1, page 3, lines 20/21), Ms. Doe reported to the GMUPD Dispatcher that Mr. Dahir had used the dead bolt to lock her in the room. Mr. Dahir is heard on tape #2 disputing that fact. Mr. Dahir reported in his interview for the Review that once he observed that 911 was being called, he in fact then first engaged the dead-bolt to hold the door in a fully accessible mode. Officer James Rapoli, the first officer to arrive at #3519 recalled that the door was closed but

unlocked. Sgt Ganley's report from the March 15 interview states ".....She [Ms. Doe] advised she thinks he locked it." Sgt. Ganley continued "The way she described his [Dahir] actions it was possible that he turned the deadbolt to prop the door open."

Responding officers separated the two parties who were still confrontational and emotional to the point of tears. A verbal statement was taken from Ms. Doe and she was permitted to remain in #3519. Mr. Dahir took exception to the decision and its basis, and offered his position, but finally agreed to leave the library. He stopped at the Circulation Desk to make a complaint, but the supervisor was not available. Sgt. James Van Doren and Officer James Rapoli did not speak with library staff concerning the incident or the rules; but were exiting when they again observed Mr. Dahir. They observed him being loud and emotional again and directed him to depart the library "for the day." Mr. Dahir took the officers' names and departed.

As noted in the Chronology, Mr. Dahir promptly reported to the Police Department, where he eventually spoke to Lt. Willie Morton, requesting that Sgt Van Doren and Officer Rapoli apologize. Both officers responded and spoke with Mr. Dahir, but there was no apology. Mr. Dahir continued to insist that he receive written confirmation as to his inability to have library access, regardless of whether it was a few hours or days. He was issued a "Statement of Trespass Warning" with 14 day duration. At that same time Lt. Morton provided Mr. Dahir a standard form to initiate a complaint against an officer, but no such complaint has been filed to date.

Sgt. Van Doren and Officer Rapoli determined that it was necessary to obtain a written statement from Ms. Doe. Lt. Morton offered to Chief Michael Lynch in passing that there was interest in "charging him [Dahir]." Chief Lynch recalled that he simply acknowledged the decision by the Lieutenant as he departed the building for a meeting, but no specifics beyond that were exchanged at that point. Ms. Doe was located on campus by Officer Rapoli and she provided a written statement later that afternoon.

Lt. Morton shared during the Due Diligence Review, that in reviewing the incident and Ms. Doe's verbal and written statements, he believed the elements of "abduction" to be present. Officer Rapoli was dispatched to the Magistrate's Office, where he was sworn in and related the facts as he knew them at that time to Magistrate Jeanette Jones, a lawyer and member of the Virginia Bar. The facts were reviewed and an Abduction warrant was issued (Virginia Code, Section 18.2-47 – (See Attachment 6)

That same evening, Mr. Dahir was taken into custody, detained, and arraigned on March 9th before being released on a \$2500. Bond. He was initially represented by a Public Defender, but subsequently retained Peter D. Greenspun, Esq.

Consistent with the University's Office of Judicial Affairs policies as detailed in <http://judicialaffairs.gmu.edu>, staff from that office engaged promptly. As stated, the actions taken and their results are considered to be student records and therefore will not be detailed in this report.

On March 10th, Mr. Dahir initiated a visit to Sr. Vice President Maurice Scherrens, wherein he asserted that multiple decisions made by law enforcement were incorrect. There was a commitment by Sr. VP Scherrens that the event was under review within the Administration and GMPDU.

By that same date, there was growing concern by the University Administration that the arrest of Mr. Dahir needed to be reviewed to ensure that it a just response to the incident and would withstand scrutiny by stakeholders that included, but were not limited to the students. There were a range of communications among the GMUPD, Judicial Affairs, and the University Administration as efforts to manage the incident and its media and internet attention.

On March 14th, a senior level staff meeting was convened by Sr. VP Scherrens, who had/has oversight of the GMUPD. The meeting included, at a minimum, University Relations, GMUPD, Judicial Affairs, University Counsel, and University Life senior managers. The agenda centered on getting a better understanding of the incident and the process which led to the arrest, as well as designing a path forward to responsibly address criticisms being leveled against the University and particularly the GMUPD. There were discussions involving whether or not the Commonwealth's Attorney should be contacted, and by whom to request that the felony charge be dropped.

Later that afternoon, Asst. Chief Ginovsky contacted Ms. Doe, requesting that she come to the campus the following morning for an interview. The Asst Chief shared during the Review he recollected the request was, in part, to help ensure that Ms. Doe remained interested in testifying against Mr. Dahir. That evening, there was a telephone conversation between Sr. VP Scherrens and Chief Lynch, wherein a frank discussion of the arrest, in the context of a university setting, was had. Recollections differ as to how the final decision to approach the Commonwealth's Attorney regarding a nolle prosequi action was reached.

Since the incident became public, Ms. Doe had been provided support by Ms. Connie Kirkland and Elizabeth Whittington, Office of Sexual Assault Services, and GMUPD Liaison Officer Kim Taylor. Ms. Doe was concerned for her safety if her identity became known. For that reason, Ms. Whittington and Officer Taylor also met with Ms. Doe on March 15, immediately before the GMUPD interview. In a handwritten statement, Ms. Doe requested that the charges be dropped, citing concern for her safety and that of her family as the primary reasons. In the same interview, Ms. Doe offered that her initial

intimidation was in part based on the fact that when Mr. Dahir entered the small room, he was immediately standing between Ms. Doe and the door and she was in a seated position (that would change when she stood up and he then sat in the chair). In the March 15 Report of Interview, Sgt. Ganley reported that Ms. Doe also admitted that "...it was possible that he [Mr. Dahir] turned the deadbolt to prop the door open."

Later on March 15th, Chief Michael Lynch met with Chief Deputy Commonwealth's Attorney Casey Lingam and requested a Nolle Prosequi. Chief Lynch may have brought a copy of Ms. Doe's March 15 statement or may have simply discussed the salient points of the case. He recalled explaining to Mr. Lingam that justice would be served by giving the University the opportunity to use its Judicial Affairs process to review what took place, and determine what, if any, sanctions should be applied.

On March 16th, Mr. Langan confirmed to Chief Lynch that the charge against Mr. Dahir had been dropped. Via a University-wide email, V.P. LaPaille communicated that fact and a willingness to ".....conduct a thorough and impartial analysis of the actions taken....that led to Dahir's arrest on a felony." That initiative began to take shape the following week.

Mr. Dahir offered during his interview for this Review that he is currently pursuing the expungement of his Abduction arrest.

The Assessment of Options

In revisiting the Fenwick Library incident, there were decisions made by the two (2) students that contributed to both the initial controversy and its escalation into a full confrontation that could have easily resulted in injury to one or both. For example, Mr. Dahir should have followed the posted rules and removed his property when he left the room. Being a Senior, he was or should have been familiar with those rules. Failing that, when he returned to the Study Room and found his property had been set outside rather than returned to the Circulation Desk for safe-keeping, Mr. Dahir should have contacted library staff. At that point the staff would have the obligation to arbitrate Ms. Doe's violation of that applicable Study Room Use Policy concerning abandoned property. Further, rather than aggressively confronting Ms. Doe in the limited space, he should have contacted library staff to complain about what he strongly believed to be unfair occupancy of the room by Ms. Doe.

Ms. Doe, relied on a Study Room policy that benefited her in acquiring a high demand Study Room, i.e. students can't use property to reserve a room. She ignored the rule that required her to take such "abandoned" property to the Circulation Desk for

safekeeping. Instead, she turned it over to an unknown female student expecting that she would safeguard the laptop and assorted property. While Ms. Doe was intimidated when Mr. Dahir entered in an aggressive manner, there appears to be a reasonable expectation that someone whose property has been displaced would raise some objection to that action with the person responsible for removing it; particularly when he was objectively determined to be away for less than a 10 minute period. Lastly, rather than remaining in the room, Ms. Doe should have exited and requested library staff assistance in determining Study Room ownership. In Ms. Doe's signed statement on March 8th, she stated "...He [Dahir]also told me he was not going to leave and that he was staying so he screamed at me some more and told me [to] leave and pulled the [only] chair over towards him and sat down and locked the door." Her statement confirms that she had the opportunity to exit at one point and was actually directed to leave by Mr. Dahir, but refused.

The law enforcement response, based on information received through 911 records was prompt and appropriate. There was no indication that the confrontation was de-escalating, and therefore the law enforcement presence provided both parties with relief. The approach allowed each to provide their respective versions, both sides remaining emotional. Mr. Dahir repeated that in allowing Ms. Doe to remain and directing him to depart, the officers erred. His belief was restated at the Circulation Desk and multiple times at the GMUPD. In an interview during the Due Diligence Review, Mr. Dahir admitted that he was clearly emotional and did curse at Ms. Doe, and at times raised his voice when dealing with law enforcement and repeatedly declined to accept direction by law enforcement. That demeanor frustrated law enforcement. During the Review, officers expressed a concern that Mr. Dahir's volatility might re-ignite and they had an obligation to provide protection, using the arrest as a tool. That position becomes less valid the more protracted the period of time since the last contact with police. There were multiple options available to law enforcement, for example:

A. Abduction. In assessing the appropriateness of Abduction as a charge, the elements of Virginia Criminal Code Section 18.2-47(A) (Attachment 6) were reviewed. The use by Mr. Dahir of the deadbolt lock in Room 3519 on March 8, as Ms. Doe alleged, had significance because it directly supported the elements of detention and deprivation of personal liberty. The size and configuration of the room was a factor because it made the element of intimidation easy to satisfy. Magistrate Jones' notes included the fact that Mr. Dahir took a seat at the table, placing himself between Ms. Doe and the door, "blocking" the exit. Magistrate Jones re-confirmed for Chief Lynch on May 4th that the officer's testimony contained the elements that met the threshold

necessary for obtaining the warrant. She reported that it was then her decision alone to issue a warrant for Abduction.

During the March 15th interview, Ms. Doe was not as certain about how the deadbolt was used. As reported by Sgt. Ganley “....she thinks he [Dahir] locked it [door].” On March 8th, officers did not have the benefit of that reporting. However, prior to contacting the magistrate, the GMUPD did have Ms. Doe’s March 8 signed statement wherein she stated “....He [Dahir] also told me he was not going to leave and that he was staying so he screamed at me some more and told me [to] leave and pulled the [only] chair over towards him and sat down and locked the door.” That indicated that at one point at least, she was not being detained or coerced to remain, but was actually told to leave by Mr. Dahir, but refused, apparently believing she had a right to occupy the Study Room. The officers had not seen the transcriptions of both 911 calls, in which Ms. Doe referred to Mr. Dahir’s actions as “harassment.”

Further, fully consistent with her own statement provided to Officer Rapoli three (3) hours later that day, Ms Doe did tell the dispatcher that “.....he [Dahir] will not leave until I leave.” Lastly, accessing the tapes would have given investigating officers a sense of Ms. Doe’s state of mind during the incident. For example, when the dispatcher queried Ms. Doe as to her being on the 5th floor, and Ms. Doe responded “Yes, I need to study for an exam later on today.” Having those statements considered in the aggregate would inform the decisions of both the officers and the magistrate, not presuming that the more informed decision would have impacted the Magistrate’s decision-making. Having more is considered better than having less information.

B. Breach of Peace/Disorderly Conduct The officers did not immediately access the 911 tapes to review what was reported to the dispatcher, nor were they in a position to do so as the initial incident was unfolding. Based on GMUPD reports as well as later statements made during informal interviews for this Review, there may well have been a sufficient basis to issue a criminal summons for a Breach of Peace or Disorderly Conduct- related offense. There are three (3) such available misdemeanor statutes detailed in Attachment 6. That issuance would have required the defendant to appear in court at a future date. The officer(s) also had the discretion to make a physical arrest based on behavior the officers observed/heard, if in his/their professional opinion there was concern that the volatile behavior would re-ignite.

Inherent in charging an individual, whose identity has been confirmed, with such a misdemeanor is the sense that the individual’s behavior is ongoing and disruptive, or was curtailed only by law enforcement’s arrival/posture. The GMUPD reported several exchanges, wherein Mr. Dahir could have been cited, but the officers exercised discretion. That said, there were more than three (3) hours that lapsed between Mr.

Dahir's last contact with law enforcement and the securing of the Abduction warrant, wherein there was no recurrence of any disruptive behavior. As examples, Mr. Dahir was not seen at the entrance to the library potentially waiting for Ms. Doe to exit, nor had there been information received that he was agitated or argumentative in his dormitory. Absent such a recurrence of questionable conduct, the basis for then issuing a Breach of Peace-related summons or physical arrest would be more difficult to articulate, but still within discretionary bounds.

C. A Verbal Warning The officers made the determination, based on Mr. Dahir's decision to leave the Study Room and his property to return to his dormitory, that Ms. Doe was entitled to remain. Officers did provide Mr. Dahir with direction multiple times in multiple venues. His willingness to abide was reluctant, but he did finally comply. The officers believed that the confrontation was not harmless and sought Ms. Doe out specifically to record her statement. That decision was driven by multiple factors to include the "close quarters' confrontation, the reported locked door, and Mr. Dahir's two (2) outbursts in the library followed by two (2) outbursts at the police department. While there was no request made of Mr. Dahir to submit a written statement, there was still a fair basis for issuing a stern warning about any similar actions, followed by a decision to write a report detailing the incident. Such documents would detail exactly what had taken place on March 8th and what actions were taken. In the event there was a recurrence of hostility between the two (2) students at a future time, the documents would simultaneously help inform law enforcement and Office of Judicial Affairs decision-making regarding any second incident and commensurate response actions.

D. Citizen Request for an Arrest Warrant Officers had the discretion to advise Ms. Doe either at the library or when she completed her statement later that day that, while the GMUPD was not going to cite Mr. Dahir, she had the right to contact a Magistrate to file a criminal complaint against him. Ms. Doe would have been sworn in as Officer Rapoli was, and then asked by a Magistrate to provide the details of the incident, with the Magistrate making a determination as to what charge, if any, would be brought against Mr. Dahir.

The Police Role

The GMUPD Annual Report states ".....we are committed to providing a safe, secure environment for all university employees, students and guests." Both the sworn and non-sworn employees servicing all campuses are obligated to meet that goal. To that end, in 2009 there were 16,051 "Calls for Service" logged resulting in 516 arrests, of

which 54 were felonies. There were also 959 summonses issued for criminal and traffic-related violations. There were 16 incidents wherein use of force was used. Through the Commission on Law Enforcement Accreditation (CALEA)**, the GMUPD reported eight (8) complaints being received/reviewed regarding the actions of its personnel for 2009.

** GMUPD is fully accredited by CALEA, and is scheduled to undergo a re-certification later in 2011.

In 2010, there were 13,796 "Calls for Service" logged resulting in 309 arrests, of which 37 were felony arrests. There were also 1189 summonses issued for criminal and traffic-related violations. There were 18 incidents wherein use of force was used. The GMUPD reported during 2010 there were nine (9) complaints received/reviewed regarding the actions of its personnel.

Regardless of the activity level, an integral part of police service in any environment, is an appreciation for the demographics and the culture of the community. Each needs to be leveraged to help ensure that the expectations of the community which is being protected align generally with the expectations of those doing the protecting. That success formula needs to constantly receive care and feeding. Further it needs to be reinforced by University management, including but not limited to the GMUPD.

Specific to the Fenwick Library incident, the GMUPD was responsible for maintaining order and protecting the safety of the two students as well as others in the library. An objective assessment of the initial police actions indicated that responsibility was met. There was no imminent threat requiring an immediate response confirmed by the fact that officers did not take anyone into custody at the library. That said, in the four hours following the library confrontation, there were other decisions made by law enforcement that, while also within their discretionary authority, do not appear to meet the threshold for establishing that Ms. Doe needed additional protection from Mr. Dahir. There is no indication from interviews conducted during the Review with multiple officers or written reports by officers that officers warned Ms. Doe to be cautious or felt compelled to warn Mr. Dahir not to approach her. Her concern for her safety started well after his arrest. There is no indication that on March 8, Mr. Dahir knew Ms. Doe's name or where she resided. After he exited the 5th floor, none of Mr. Dahir's actions or speech was directed toward Ms. Doe. Rather, it was directed at the police officers that engaged with him, and his perception that he had been mistreated.

Absent an exigent need for the GMUPD to take action judged to be required to protect the victim, and/or an articulated basis for believing the suspect might flee, there may well have been a benefit to taking time to more completely investigate; for example, assessing available evidence, such as the 911 tapes and Ms. Doe's statement;

attempting to secure a “mirandized” statement from Mr. Dahir and contacting library staff to see if any witnesses had been identified or came forward. That effort would have made a more complete case on which the GMUPD could make a more informed decision. In the “Recommendation for Consideration” section that follows certain recommendations highlight law enforcement tenets, which should be appropriately vetted to determine if their inclusion would add value in the context of continuous improvement.

GMUPD Operational Supervision/Control

There exists in the GMUPD a straightforward chain of command responsible to the Chief, the University and then to the Senior Vice President, for the efficient operation of the Department and its resources. The Department needs to continue to be provided the tools necessary to perform its mission. The policy making/oversight role of the Senior Vice President appears to interface well with the Chief of Police.

The Chief and his staff are accountable for decisions made and decisions delayed. Within the operational mission, supervisors are expected to manage. Those personnel reporting to them expect it and deserve it. The GMUPD is directly responsible for hiring qualified personnel, both sworn and non-sworn. What is equally critical is that those same personnel are mentored well, so that each matures in their respective role. Inherent in the “growing” process is the learned ability to make good decisions. Each officer is responsible for their actions, but there must continue to be oversight by those line supervisors. Such accountability for both the mentor and mentee cannot be allowed to fade. Each has to demonstrate proficiency. As importantly, and regardless of the profession, if an individual has his/her authority or ability to make decisions taken away or neutered, those employees will lose the ability and will to make decisions. That dynamic would be an irreconcilable flaw in a law enforcement organization.

Recommendations for Consideration

The Due Diligence Review offered a platform for viewing a range of inter-related University program elements and policies. In the process there was, on occasion, an observation which is offered for future consideration. That which follows is a series of such considerations the University may choose to explore on the basis of need, practicality, and cost. They should not be construed as examples of poor performance, but rather in the context of a commitment to potentially enhancing those same program areas and the University generally. They are not listed in any specific order.

1. Fenwick Library Safety and Security

Background

The Fenwick Library is fully accessible to students and the general public, with no identification required to enter or use resources. There is no library staff assigned to floors 2 through 5. Staff who re-shelve books on the upper floors return to the 1st floor, when that duty is complete. The 5-floor facility combines multiple structures, making portions of the building and stairwells remote and activity not easily observed. Further, the Study Rooms have multiple types of door locking mechanisms, to include some with interior deadbolts and some with in-the-handle key locks. The library remains open until midnight during the week and during periods of less activity, library staffing is also reduced. There are no surveillance systems and no “panic alarms” in the facility. Students/visitors are expected to respond to the first floor Circulation Desk to request assistance.

Recommendation (1-A)

Installation of panic alarms at multiple points on the floors. They can be activated by a victim or by a witness, permitting staff to respond and/or call the GMUPD. The readout panel, located at the Circulation Desk would identify the location of the alarm, providing responders with critical information. The application serves as a deterrent and also a response tool for health and threat scenarios. The panic alarms would be placed in a clear case, limiting inadvertent activations.

Recommendation (1-B)

Access by thousands of students and unvetted public supports the integration of video capture at the library entrance and potentially other common hallways. It would serve as a deterrent as well as a tool for accountability, in the event of an incident.

Recommendation (1-C)

Removal of all Study Room deadbolt locking mechanisms and replacement of all keyed locks not necessary to secure faculty or library staff property during periods of office shortages.

Note: University Librarian John G. Zenalis and his team have self initiated a project to remove a significant portion of such locks at all George Mason libraries, with the exception of the Law Library. The team is also exploring a reservation system for Study Rooms, which would potentially mitigate friction and conflicts during high demand periods.

Recommendation (1-D)

The current “Study Room Use Policies” Personal Property Section directs a student who, in locating an unoccupied Study Room, finds property in that room to take that property to the Circulation Desk for safekeeping. If a student follows that policy, then he or she could well “lose” the same Study Room to yet another student while the student takes “abandoned” property to the Circulation Desk. It may also set up the basis for a confrontation over occupancy rights. Library staff should consider a different methodology, whereby students are not expected to choose whether to turn in found property or secure a “Study Room.”

2. Keeping the Banner System Current and Responsive

Background

The Banner is a system designed to, in part; provide authorized persons current information on students. To be effective it must remain current. Two (2) cites in the University Catalogue, and a cite in the President’s Handbook, remind students of their responsibility to keep their respective contact information current. From multiple sources, there is a concern that the Banner database is often lacking. Should there be a threat directed at a student or a larger threat; time lost in contacting students could be catastrophic. There must also be a transparent process to ensure that offices with a responsibility for student safety have access to the database on a 7 x 24 basis. The GMUPD, because of its role and hours of operation should remain integral in that process.

Recommendation

The University should explore opportunities to link the updating of students’ critical locator information with other processes wherein students are required to participate. As an example, as part of registering for each semester, the Banner template is to be presented to the student for completion. Another option might be a “blast” email message sent on a bi-monthly basis briefly reminding all students of the importance of the updates. While the responsibility rests with the student, the University has a due diligence responsibility to reasonably facilitate that effort. The University should also ensure alignment on which departments and offices have a role in exigent notifications and ensure each has both access and accountability. The Emergency Management Council is overseeing a series of related initiatives designed to enhance operations and communications during a crisis. As the plans are rolled out, the Banner system may well benefit or potentially be integrated.

3. The George Mason Emergency Management Council (EMC) Emergency Communications Support

Background

With linkage to the Banner, the Office of University Affairs raised the EMC as a multi-pronged tool that could be employed for a range of security/safety-related needs. While there was absolutely no indication that the events of March 8th approached an activation threshold, it was decided to do a limited review of the Emergency Support Function-Communication aspects in order to offer some observations.

Recommendation

There are redundancies built into the system, which are being tested and enhanced through performance-based testing, such as “tabletops” to ensure there are adequate notification capabilities, regardless of time of day/week. Such efforts will validate technical measures and help ensure the University’s decision-making process is seamless. What may work on a Tuesday morning may be challenged on a Saturday evening. Communication and well-understood roles and responsibilities are critical and need continued performance-base testing.

Integral in achieving success is the full incorporation of the GMUPD. In addition to its 7 x 24 presence, the department is part of a first-responder network that will engage during disasters, either natural or the result of a malevolent act. The University should understand what first-responders can and cannot do, so that everyone’s expectations align.

There is a caution that notification protocols must facilitate vs. confuse. As part of the tabletops and performance based testing, the “George Mason University Crisis Communications Procedures” card should be reviewed and more potential contacts such as University Life and Environmental Health and Safety added. The form should contain contact information for after-hours notifications as well. The litmus test would be does it help or hinder.

Lastly, on April 26, the Department of Homeland Security replaced the 2002 color-coded Homeland Security Advisory System (HSAS) with the new National Terrorism Advisory System (NTAS). It places elevated threats into one of two categories, i.e., “Elevated” and “Imminent.” As part of the process the University may want to integrate that change into the EMC’s final draft. See www.dhs/threats.org for additional information.

4. Incident-Driven Information Sharing

Background

The need to ensure that Offices with potential equities are included in information-sharing as quickly as practical is a basic tenet in managing an incident, whether it is an accident or a malevolent act. The Sr. Vice President and Vice President for University Relations learned of the library incident from Mr. Dahir and the Internet respectfully. At least in the current case, the notification protocols failed. The University has a sufficient number of incidents from which lessons learned should be extracted and policies designed or enhanced.

Recommendation

Communication is a cornerstone of good governance. It needs to be both accurate and timely. There should be a small working group established consisting of the GMUPD, University Relations, and University Life/Judicial Affairs to set in place a mechanism for sharing information related to a range of incidents. The greatest challenge will be to establish a reporting threshold and a system for executing on that threshold. The GMUPD executed 54 felony arrests in 2009 and 37 felony arrests in 2010. To consider making any felony within the reporting threshold, the working group might look at the types of felonies and weigh that against potential media or other stakeholder attention.

The process should be timely, and consideration for after-hours notifications should be addressed. Any proposal must ensure that it not interfere with law enforcement actions either by the GMUPD or agencies external to the University, e.g. DEA, State Police. Related to that is the factor that certain facts related to an investigation are law enforcement sensitive, so information-sharing needs to be viewed in that context. Lastly, the “reporting stream” must acknowledge that initial notifications are not complete and should be presumed to be inaccurate in some respects.

That same working group would be positioned to assess if information needed by the GMUPD is received in a timely manner; for example, the policy related to communicating a threat received by an office within the Administration. The working group might offer a platform to ensure communication is flowing in both directions with a focus on continuous improvement.

Attachment 7 Details the current GMUPD “Public Information and Community Relations General Order.”

5. Training Tools for the GMUPD and Those they protect

Background

The student population at any university is in a steady state of flux, with more than a 20% turnover each year. Both the students and the officers sworn to protect them, must align generally on expectations, which includes a definition of success for both groups. That does not happen by coincidence. Training is a perishable skill, which needs to be reinforced. For example, the Counter-Bias training conducted in 2010 has a certain shelf-life. Training, or lack thereof for law enforcement is critical because any perceived failures are generally visible and therefore easily highlighted. That said, the exposure of students to applicable student-to- student and student-to-law enforcement authority “sensitivity training” opportunities needs equal visibility and emphasis. On March 8th there was friction initially because of the scenario, but that adversarial model continued through the arrest as both Mr. Dahir and law enforcement stood their ground. There were options for both to employ a measured approach. A better understanding of each others’ expectations and role within the University environment might have added value at any one of several critical points.

It would also be important to make any training efforts as transparent as possible, providing all stakeholders with a sense that the University is genuine in its efforts to provide tools to help ensure progress is being made. Such efforts, in the aggregate, would provide a theme that could then be capitalized upon.

The end of the academic year would provide the University with a three (3) month period in which to design multiple initiatives that could be rolled out as a University Partnership Plan (UPP). The focus would be on increased accountability for both students and police through communication.

Recommendation (5-A)

The University might consider an initiative to establish a working group focusing on the relationship between the GMUPD and those they protect. The effort would involve willing participation by those representing their respective constituencies, as well a commitment to “honesty in exchange.” Such a “Partnership Working Group” would be based on a charter that would include tenets such as a draft time line, a definition of success, consideration for including ad hoc members, such as University Life and University Counsel, and an approach that included non-attribution. It would potentially serve as a platform to consider new initiatives and enhance existing applicable program areas.

Recommendation (5-B)

Increasing further, opportunities to initiate and maintain liaison contacts with the student body. That effort needs prioritization; both by the GMUPD and the Administration. The expanded effort should include written objectives and performance-based evaluations of the liaison effort. The effort would provide a base for informing a path forward for the University, while providing feedback on GMUPD's successes and challenges. That feedback can in turn be used by trainers to enhance officers' performance on the street. It can also be used by University Life and Judicial Affairs in orientations and related presentations to students.

Recommendation (5-C)

The GMUPD sworn officers could benefit from additional training relating to arrest protocols and options to help ensure they remain comfortable with their authorities. A periodic interface by the GMUPD Chief with the Commonwealth's Attorney Office and/or Magistrate's Office would serve as a barometer reflecting the Department's standing, successes, and challenges. A representative from either office could address officers directly and answer questions or concerns in the classroom versus in a stressful environment. Inherent in that effort would be participation of supervisors who remain fully accountable for the actions of their subordinates.

Recommendation (5-D)

As shared by the GMUPD, Virginia requires police officers to participate in forty hours of training every two years. The training regimen devotes 4 hours to legal training and 2 hours to sensitivity training. The GMUPD training staff should confirm that such training is current, but more importantly the training should be specific to the George Mason University environment rather than a generic approach. Supplementing the existing training with a greater periodicity, would add value. Officers need tools specific to their mission and the University's expectations.

Recommendation (5-E)

The GMUPD is one of the few organizational entities that operate on a 7 x 24 basis. That role takes on added significance during critical events and events that, by their nature attract the immediate attention of stakeholders and the media. The GMUPD has General Order – 54, "Public Information and Community Relations, last revised in June 2008 (Attachment 7). It is suggested that it be reviewed to ensure focus on establishing more exigent accountability for officers who engage with the media, to ensure the Public Information Officer is kept current on what has been shared to help minimize the opportunity for conflicting reporting, while also mitigating against certain miscommunication issues that could arise. Advantages of a designated "one voice policy" should be weighed against multiple spokespersons.

6. Interim Eviction or Suspension

Background

During the Due Diligence Review, it was learned that Mr. Dahir had been notified that he was the subject of an interim eviction from his dormitory. He voluntarily complied and departed the dormitory. Judicial Affairs staff, when queried, was unfamiliar with any policy that would apply if a student refused to comply with a dormitory eviction or a suspension. There would be a series of options available to a Resident Director, but there is not a written guideline or policy. While law enforcement is always an option, there may be others that would be considered first.

Recommendation

The University, Housing, Counsel, GMUPD and perhaps others meet to develop a policy as to how to proceed in a case whereby an individual passively refuses to comply with the Judicial Affairs directive. For example, would law enforcement physically escort the individual out of the dormitory, or in the case of a suspension, escort the student off campus. Does that passive refusal rise to the level of issuing a criminal summons? The refusal itself would cause enough concern for university staff. It would be helpful to have agreement in advance as to how to best proceed, rather than trying to coordinate multiple Offices, particularly if the eviction was exigently needed, resulting in an after-hours execution. Having something in place would give the University a more orderly and thereby safer path forward for all involved.

As follow-on, is there a process for removing faculty/staff who passively refuse to leave the campus? While clearly a very remote possibility, having an understanding of roles and responsibilities in advance would be helpful in helping ensure safety and maintaining order.

In Closing

The events of March 8, 2011, were unfortunate on multiple levels. They placed students in conflict; they resulted in a student being arrested for a felony; and there was significant friction on campus, placing the GMUPD and its reputation on the defensive. There was unwanted publicity and significant resources spent in helping ensure that the result was/is fair and could/can withstand the scrutiny of a range of stakeholders. There was no winner, everyone lost a little.... there is no silver bullet. The result is a resolution

which attempts to reasonably represent diverse interests and positions in what became an adversarial process. The acknowledgement that the incident caused a pause of sorts, offering sometimes diverse interests an opportunity to accept lessons learned and move toward integrating those same lessons. Among those lessons must be the reality that mutual respect is essential in any legitimate environment, to include the University.

The Due Diligence Review began with fact-finding that involved interviews of sixteen individuals, who were presented a form indicating their willingness to participate (Attachments 8/9). There was additional assistance by a range of staff from various Offices and Departments. All appeared forthcoming and were found to be credible. The scope of the project and the interest in reaching a resolution did not permit time to focus outward. Certain areas would benefit from comparing GMU practices with other Universities, but clearly the University's procedures and policies are legitimate and successful generally.

It should be re-emphasized that the recommendations being offered present opportunities to be considered. Certain of the recommendations may involve costs which are too significant or benefits which may be considered minimal. They are being offered absent any specific understanding of financial resources available to the University. However, what is important in any organization is that the status-quo always be challenged a bit to help ensure the organization remains viable and forward-leaning. That was the thrust here.

Tomlinson Strategies appreciates having had the opportunity to participate in the Due Diligence Review, and the professional attitude of those at the University who participated in the Review.

Thank you.

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