

Executive Summary to Accompany the Redacted External Review Reports

The November 13, 2022, shooting profoundly impacted the University community. In the wake of that horrific night, the University committed to learn all that it could about the events leading up to the shooting that took the lives of students Devin Chandler, Lavel Davis Jr., and D'Sean Perry, seriously injured students Michael Hollins, Jr. and Marlee Morgan, and deeply impacted those who were on a field trip with them that evening and the University community as a whole. The University also committed to identify and make changes that could improve the safety and security of students, faculty, staff, and visitors.

The University's Board of Visitors and President asked the Attorney General of Virginia to "appoint outside special counsel with expertise in these matters to conduct an independent review of the University's response to the shooting, as well as efforts the University undertook in the period before the tragedy to assess the potential threat" posed to the University community. The University further requested "that the special counsel review all relevant University policies and procedures and make recommendations if opportunities for improvement or needs for change are identified." On December 9, 2022, the Attorney General appointed the law firms of Quinn Emanuel Urquhart & Sullivan, LLP (Quinn Emanuel) and Vinson & Elkins, LLP (Vinson & Elkins) to undertake the external review.

Quinn Emanuel was appointed specifically "for the purpose of reviewing the events that led to the November 13 shooting of five university students. The work included reviewing university policies, procedures, and actions and conducting such interviews and gathering such documents and information as necessary to assess compliance with all applicable laws and regulations and well-established practices for the operation of an institution of higher education of UVA's size and scope. The work included a report to be shared with the Board of Visitors detailing factual findings and legal conclusions as well as recommendations for policy and procedural changes to improve campus safety."

Vinson & Elkins was appointed "to investigate and review the actions of law enforcement and prosecutors prior to the shooting . . . as well as the immediate emergency response to the shooting by law enforcement."

In response to the University's own assessments and to the recommendations resulting from the external review, the University has approved, initiated, and in many instances, already implemented a series of action items including policy updates, training, resource allocation, and facility enhancements in the areas of threat assessment, communications, mental health services, law enforcement and public safety, student care and support, and student accountability.

As a result of the necessary student privacy and public safety redactions to the reports, we acknowledge that they may be cumbersome and challenging to read. To facilitate a more complete understanding of these reports, we have provided this roadmap about the background leading to the external review, the process undertaken by the firms engaged to conduct the review, the recommendations resulting from the review, and the actions the University has taken in response to those recommendations. Despite the redactions, the reports contain a thorough discussion of the analysis, conclusions, and recommendations made by the outside firms engaged to conduct the review. In addition to copies of the reports and this roadmap, we also are providing a list of action

Executive Summary to Accompany the Redacted External Review Reports

items the University has implemented or is undertaking in response to the review process and recommendations.

On October 20, 2023, two reports were delivered to the Board of Visitors, one from each contracted firm. After receiving the reports, the University Board of Visitors reviewed the materials and requested a meeting with representatives from each firm to discuss their findings and to inquire as to certain potential factual errors and omissions. Following that meeting, all parties agreed that certain revisions were necessary to ensure the accuracy and completeness of the reports. Following these meetings, the Board of Visitors and the University also made the decision, in consultation with Jim Hingeley, the Commonwealth's Attorney for Albemarle County, to delay the release of the reports until the conclusion of the criminal prosecution of the shooter, so as not to inadvertently affect those proceedings. The law firms delivered final amended reports to the University on January 31, 2024. None of the revisions impacted the reports' conclusions or recommendations. The reports include information that is prohibited from disclosure by federal law, or that is otherwise exempt from disclosure under the Virginia Freedom of Information Act. That information has been redacted in the reports that have been released.

Background on Redactions

The Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, (FERPA) prohibits an educational institution from disclosing information related to a student's educational record. FERPA defines an "education record" broadly. Under FERPA, "education records" are those records that are: (1) directly related to a student,¹; and (2) maintained by an educational agency or institution. 34 C.F.R. § 99.3. FERPA prohibits the University from disclosing personally identifiable information in an education record without the student's consent. 34 C.F.R. § 99.30². Virginia law is consistent with these requirements of federal law.

¹ The definition of an "education record" under FERPA is consistent with the definition of "scholastic records" under the Virginia Freedom of Information Act (FOIA). Under Virginia FOIA, "'scholastic records' means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution." Va. Code § 2.2-3701. Similarly, as required by FERPA, Virginia FOIA exempts "scholastic records" from public disclosure. Va. Code § 2.2-3705.4(A)(1) ("The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter . . . 1. Scholastic records containing information concerning identifiable individuals . . .").

² The U.S. Department of Education's regulations, implementing FERPA, define personally identifiable information as "'other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.'" 34 C.F.R. § 99.3. The Department's guidance states: "In some cases, there may not even be a direct or even an indirect identifier in an education record, but, for example, because of publicity, if the school disclosed the education record, even redacted, the school may have disclosed PII [Personally Identifiable Information] in violation of FERPA."

Executive Summary to Accompany the Redacted External Review Reports

The assailant and the victims of the November 13, 2022 shooting were all University students. As described above, the University is prohibited by federal law from releasing information, including those portions of the reports, which are directly related, linked, or linkable, to identifiable current or former University students. Redacted information includes any information relating to the assailant's background; his application to the University; his documented experiences and interactions while at the University; and any other information relating to the assailant. Similarly, the University must redact information relating to the student victims, or any other information related to students at the University referenced in the reports. In recognition of the significant FERPA-related redactions in the reports, the University complied with FERPA's requirements by requesting consent to remove certain redactions. To date, the University does not have consent to share information from any student's education records. As a result, portions of the reports relating to students, which includes most of the factual background pertaining to the assailant, had to be redacted. Despite the University's inability to release portions of the reports containing this student information, it is important to note that Quinn Emanuel was not charged with investigating a motive for the shooting and nothing within the redacted material relates to the alleged assailant's motivation. In addition, even though the University is legally barred from releasing it, the vast majority of that factual background information contained in the reports already has been previously publicly reported from outside sources.

In addition to FERPA, Virginia FOIA exempts certain information from disclosure, including information containing operational plans and protocols, the disclosure of which would jeopardize the safety or security of governmental facilities, buildings, or structures, and/or persons using those facilities. In accordance with these exceptions, minimal portions of the reports the revelation of which could jeopardize future safety and security have been redacted. Those redactions are clearly marked with the applicable exemption throughout the reports.

Quinn Emanuel Report

The redacted report includes information developed during the external review relating to applicable University policies and procedures, an assessment of UVA's compliance with applicable laws and regulations, an evaluation of the protocols and operations of the University's Threat Assessment Team and other offices and departments, as well as recommendations for policy and procedural changes to improve the overall safety of the University community. Fundamentally, to quote the Quinn Emanuel report, the review:

“does not conclude that the facts available to the Threat Assessment Team (TAT) prior to the shooting would have put a reasonable person on notice that [the assailant] would commit the types of acts for which he is now criminally charged. Nor does the Report intend to suggest that the changes proposed herein will prevent all instances of violence. Rather, the Report highlights areas for improvement in

Executive Summary to Accompany the Redacted External Review Reports

the University’s approach to student support, campus safety broadly, and the threat assessment process specifically.”

The Quinn Emanuel report contains an Executive Summary which briefly summarizes its discrete recommendations to strengthen the University’s safety and support structures and improve the threat assessment process. The report briefly describes Quinn Emanuel’s plan and the methodology it used to conduct the external review. Two sections in Quinn Emanuel’s report discussing the background of the assailant are completely redacted as described above. The report next describes the history and practice of the University’s Threat Assessment Team including developments that have occurred after the November 2022 shooting and comparisons to teams at other institutions of higher education.

The Quinn Emanuel report concludes with a discussion of the identified strengths, weaknesses, and recommendations for improvements in the University’s policies, protocols, and systems. Below is a high-level summary of those recommendations, grouped by subject-matter, and key action items the University already has undertaken.

Recommendation: Ensure Resources Are Adequate and Properly Allocated, Improve Intake and Assessment Processes, and Prioritize Weapons-Related Concerns

University Response:

The report notes that “the University dedicates substantial resources to threat assessment and attempts to address and prevent the escalation of reported threats of violence through a large team of senior University officials.” Indeed, by comparison, “[r]elatively few institutions have a full-time staff member or members dedicated to threat assessment. . .” Nonetheless, several of the recommendations focused on the need for greater investigative and case management resources dedicated to threat assessment and management.

- University Police Department assigned a full-time threat assessment liaison officer, adding to the previous law enforcement representation on the Threat Assessment Team
- The University hired two licensed clinical psychologists who currently serve as the Associate Director and Assistant Director within the Office of Threat Assessment.
- The University hired two full-time Response Specialists – one is a clinical social worker and the other has a significant law enforcement background.
- To complement the personnel additions, the University’s Threat Assessment Team enhanced its communications and outreach to members of the University community by updating the website with information and FAQs; requiring on-line active attacker training for students and making it available to faculty and staff; increasing in-person training opportunities for units and departments; and hosting Threat Assessment training for more than 100 University and community partners.
- The Threat Assessment Team modified its standard operating procedures to prioritize weapons-related concerns. University Police will immediately investigate if a firearm is reported to be on Grounds or in the possession of someone who lives on Grounds and

Executive Summary to Accompany the Redacted External Review Reports

provide updates to Office of Threat Assessment to initiate an expedited Threat Assessment Team meeting. The revised procedures also describe the required reporting for cases involving articulable and significant threats to law enforcement and commonwealth's attorney within 24 hours of the determination.

- These additional resources and process changes have greatly improved the investigative and assessment capabilities of the Threat Assessment Team.

Recommendation: Add Resources to Support Students in Distress Outside of the TAT Framework and Increase Administrative Involvement in Public Safety and Discipline.

University Response:

- The University realigned certain functions within the Student Affairs Division to better define the role of the student Care and Support Services (CASS) team and repositioned the team within Student Health and Wellness to reaffirm the CASS mission as one of care and support for students.
- CASS has increased its capacity by adding three Case Managers, two Assistant Deans, and a Program Coordinator.
- CASS streamlined practices and protocols to enhance its administrative functions. Also actively engaged in outreach efforts to increase awareness and use of CASS resources for students, University partners, and other stakeholders.
- At the same time, the Student Affairs Division created and staffed the new Policy, Accountability & Critical Events (PACE) unit to support the University's processes and procedures associated with student conduct accountability including interim suspensions, Contributory Health Impairments (CHI), disciplinary clearances, arrest disclosures, hazing investigations, and Title IX appeals.
 - PACE provides advising and support for the University's Judiciary and Honor committees who investigate and adjudicate allegations of student misconduct.
 - PACE manages policy and compliance work for the Student Affairs Division as well as planning and response for critical incidents.

Recommendation: Define and Disseminate a Position on the University's Right to Access on-Grounds Housing.

University Response:

- Provided training for non-law enforcement University stakeholders of existing policies for entering on-Grounds student housing to conduct inspections for health and safety-related concerns, especially when a weapon may be involved.
- Increased the emphasis on University websites concerning firearms and other weapons classified as prohibited by University policy for on-Grounds housing.

In conjunction with the changes to the Threat Assessment Team's Operating Procedures discussed above concerning prioritization of weapons-related concerns, these changes promote a rapid

Executive Summary to Accompany the Redacted External Review Reports

engagement with individuals who are suspected of possessing a weapon in on-Grounds housing or in other University facilities, resulting in a consensual or administrative search when appropriate.

Recommendation: Improve the Incident Management and Referral System.

University Response:

- The University implemented an array of technological improvements to SafeGrounds, its case management system, including, the creation of new case types, functionality, and the expansion of users.

The improvements have made SafeGrounds easier to use, expanded the scope of users and available data, and enhanced its capability of producing data and metrics with greater accessibility and transparency.

Vinson & Elkins Report

Unlike the Quinn Emanuel report, which focuses broadly on the University's policies and systems related to the identification, intervention and support of students of concern, the Vinson & Elkins report focuses more narrowly on the emergency response following the shootings, particularly the law enforcement response. The Vinson & Elkins report contains an executive summary and a discussion of the methodology undertaken during the review process. The first portion of the report contains background information concerning the assailant, largely redacted as required, and recommendations for law enforcement agencies relating to those background activities. The next portion of the report focuses on the University's emergency response to the shooting, including the activation of the University's Critical Incident Management Team. In its analysis of the immediate emergency response to the tragedy, Vinson & Elkins concluded:

“UVA's extensive critical incident policies and training enabled a quick response to a dynamic and multifaceted traumatic event by UPD and other University officials. The initial emergency response in the aftermath of the shooting appropriately prioritized the preservation of life and the prevention of further injury by the perpetrator. Measured against that critical metric, the response was a success.”

Even an effective response, however, can be improved. Vinson & Elkins report includes a discussion of “practical improvements to increase the effectiveness of the University's law enforcement and emergency response in the event of another critical incident.” The report concludes with recommendations focused on improving the University's emergency response, as follows:

- The University should establish a permanent Emergency Operations Center that can activate immediately in response to no-notice events and include key infrastructure that will enable effective operation in emergency conditions;

Executive Summary to Accompany the Redacted External Review Reports

- The University should empower University Police Division Services personnel to issue UVA Alerts immediately upon learning of an active threat on Grounds and train personnel to issue such alerts without delay;
- The University Police Division should review its policies and practices to ensure that it shares critical information in real-time or near-real-time with the University's Incident Assessment Group during emergency events;
- The University should develop and train with regional law enforcement agencies regarding specific response protocols for active threat emergencies;
- University Police Officers should receive additional training regarding on-scene command post set-up;
- The University Police Division should review its policies and training practices to ensure that officers record the identities of subjects encountered during a critical incident; and
- The University Police Division should develop and implement policies and training ensuring that officers, including partners from regional law enforcement agencies, announce their presence before entering buildings during critical incidents where safe and feasible to do so.

In response to these recommendations, the University's Board of Visitors has approved a dedicated facility for public safety purposes, including the establishment of a permanent Emergency Operations Center. This will allow the University to activate the EOC without delay in response to no-notice emergency events. The University Police Division also will continue to develop and strengthen coordination and training opportunities with its regional law enforcement partners. Additional public safety enhancements addressing communications, training, facilities and coordination with local and regional partners are described in the accompanying list of on-going and completed University action items.