



# **Death and Rape Investigations by Campus Police Departments (HB 2490)**

November 16, 2011

---

# Overview



- Study Authorization
- Overview of HB 2490
- Other States
- Nature of Campus Crime and Sexual Assaults
- Data and Survey Results
- Campus Death Investigations
- Campus Rape Investigations
  - Criminal Investigations
  - Judicial Investigations
  - Title IX Investigations
- Policy Considerations

# Study Authorization



- House Bill 2490, introduced by Delegate Paula Miller, was referred by the House Militia, Police and Public Safety Committee to the Crime Commission for review.
- HB 2490 proposes to amend Va. Code § 23-234, relating to investigations by campus police departments.

# Overview of HB 2490



- Specifically, HB 2490 would require that:
  - The chief law enforcement officer of a public or private institution of higher education, or his designee, shall immediately notify the local law enforcement agency of the locality in which the institution of higher education is located of:
    - (i) the death of any person on the property of the institution when such person is medically unattended; and,
    - (ii) any report alleging that a rape has occurred on the property of the institution.

# Overview of HB 2490



- Upon notification, the local law enforcement agency shall assume responsibility for leading the investigation. The campus police department and all other employees of the institution of higher education shall cooperate with the local law enforcement agency conducting the investigation and shall provide any assistance requested by the local law enforcement agency.

# Overview of HB 2490



- HB 2490, if passed, would impact at least 43 local law enforcement agencies that surround campus police department jurisdictions:
  - 23 city/county police departments;
  - 14 sheriff's offices; and,
  - 6 town police departments.

# Overview of HB 2490



- Colleges and universities either have a campus police department or a security department.
- The focus of HB 2490 is only upon campus police departments.
  - Campus security departments already rely on local law enforcement or the State Police to conduct any death, rape, or other criminal investigation.

# Overview of HB 2490



- There are currently 33 campus police departments in the Commonwealth:
  - 15 public four-year and above;
  - 9 private four-year and above; and,
  - 9 public two-year.
- Campus police departments employ sworn, DCJS-certified law enforcement officers who undergo the same training as all sworn law enforcement officers in the Commonwealth.
  - Campus security departments will rely upon:
    - Special conservators of the peace;
    - Proprietary officers; or,
    - Contracted security officers.



# Other States



- Only 2 states have a statute similar to that of HB 2490 (Tennessee and South Carolina).
- Tennessee Code § 49-7-129 (“Robert 'Robbie' Nottingham Campus Crime Scene Investigation Act of 2004”):
  - “...the chief security officer or chief law enforcement officer of the institution shall immediately notify, unless otherwise prohibited by federal law, the local law enforcement agency with territorial jurisdiction over the institution, if the medically unattended death of a person occurs on the property of the institution, or if the officer is in receipt of a report from the victim alleging that any degree of rape has occurred on the property of the institution.”



- Tennessee Code § 49-7-129 (continued):
  - Upon notification, it shall be the duty of each law enforcement agency to participate in a joint investigation of the death or alleged rape reported.
    - In the case of a medically unattended death, the local law enforcement agency shall lead the investigation.
    - In the case of an alleged rape, the institution's law enforcement agency shall lead the investigation.
  - Officers and all other employees of the institution shall cooperate in every respect with the investigation conducted by the local law enforcement agency.

# Other States



- Tennessee Code § 49-7-129 (continued):
  - Any official of a public or private institution of higher education receiving a report from a victim of rape occurring on the property or in the vicinity of the institution shall refer the victim to a sexual assault programs or other service on campus or in the community.
  - Sexual assault programs shall report annually, by January 31, to the chief security or law enforcement officer of the institution of the number of requests for assistance received from victims who were raped on or in the vicinity of a public or private institution of higher education during the preceding calendar year.
  - A knowing violation of this section shall be a Class C misdemeanor.



- South Carolina Code § 59-154-10 (“Jessica Horton Act,” 2007):
  - “The chief of the campus police of an institution of higher learning, or his designee, immediately shall notify the State Law Enforcement Division if there is a death resulting from an incident occurring on the property of the institution or if the officer or another official of the institution is in receipt of a report alleging that an act of criminal sexual conduct has occurred on the property of the institution.”



- South Carolina Code § 59-154-10 (continued):
  - Upon notification, the State Law Enforcement Division shall participate in a joint investigation of the death or alleged act of criminal sexual conduct.
    - In the case of a death, the State Law Enforcement Division shall lead the investigation.
    - In the case of an alleged act of criminal sexual conduct, the campus police shall lead the investigation.
  - The campus police and other employees of the institution of higher learning shall cooperate with an investigation conducted by the State Law Enforcement Division.

# Nature of Campus Crime



- Campus crime rates are impacted by a variety of factors:
  - Size of enrollment;
  - Number of students living on campus;
  - Financial characteristics of institution and student body;
  - Surrounding community (urban, suburban, rural, economic conditions);
  - Student body demographics; and,
  - Influence of alcohol/drugs and certain organizations.

# Nature of Campus Crime



- In general, campus crime is:
  - *Lower* than rates of crime in the overall community;
  - *Less violent* than the surrounding community and the nation, as a whole; and,
  - Primarily property offenses, specifically larceny.

# Nature of Sexual Assaults



- Sexual assault is a highly underreported crime both in the general community and on campuses.<sup>1</sup>
- Reasons that such crimes go unreported include:
  - Shame, guilt, embarrassment;
  - Fear of not being believed;
  - Concerns about confidentiality;
  - Unwillingness to recount details multiple times;
  - Fear of retaliation; and,
  - Fear/distrust criminal justice system.<sup>2</sup>

See, for example, <sup>1</sup> Fisher et al., (2003), *Reporting sexual victimization to the police and others*; National Crime Victimization Survey (NCVS) data.<sup>2</sup> Sable et al. (2006), *Barriers to reporting sexual assault for women and men*; NCVS data.



# Nature of Sexual Assaults



- The vast majority of campus sexual assaults are acquaintance rapes.<sup>3</sup>
- Many campus sexual assaults involve alcohol consumption by assailant, victim, or both.<sup>4</sup>
- Only a very low percentage of sexual assault cases result in convictions from cases stemming from either the general community or from campuses.<sup>5</sup>
  - Virginia is no exception.

See, for example, <sup>3</sup> Fisher et al. (2000), *The sexual victimization of college women*; <sup>4</sup> Abbey (2002), *Alcohol-related sexual assault: A common problem among college students*. <sup>5</sup> Campbell et al. (2009), *Predicting sexual assault prosecution outcomes*; Campbell, R. (2008), *The psychological impact of rape victims' experiences with the legal, medical and mental health systems*.

# Nature of Sexual Assaults

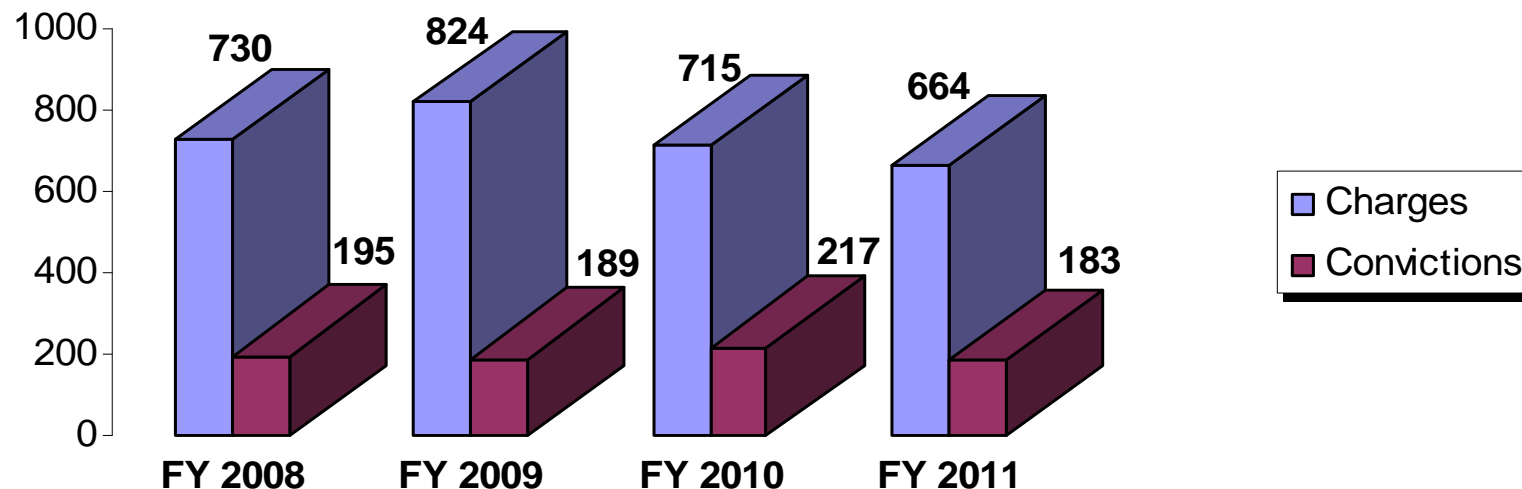


- Staff requested the total number of charges and convictions in Virginia between FY2008-FY2011 for:
  - Rape (Va. Code § 18.2-61 (A)(i) and (ii));
  - Forcible sodomy (Va. Code § 18.2-67.1 (A)(2)), and;
  - Forcible object penetration (Va. Code § 18.2-67.2 (A)(2)).

# Nature of Sexual Assaults



**Total Number of Charges and Convictions for Rape, Forcible Sodomy, and Object Penetration in Virginia, FY2008-FY2011**



Source: Virginia Criminal Sentencing Commission, Supreme Court's Circuit Court Case Management System.

Note: Includes offenses under Va. Code §§ 18.2-61 A (i) and (ii), 18.2-67.1 (A)(2), and 18.2-67.2 (A)(2);

Figures are based on concluded cases. Cases still pending in Circuit Court are not included in the figures above.

Fairfax, Alexandria and Prince William County were not participating in the Supreme Court's Circuit Court Case Management System during FY2007-FY2010. During FY2011, Prince William rejoined the Supreme Court's system and Virginia Beach left the system.

# Nature of Sexual Assaults



- Approximately 20-30% of charges under Va. Code §§ 18.2-61 (A)(i) and (ii), 18.2-67.1 (A)(2) and 18.2-67.2 (A)(2) result in a conviction.

<b>Total Charges</b>				
<b>Offense- Total Charges</b>	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FY2011</b>
<b>Rape- §§ 18.2-61(A)(i) and (ii)</b>	<b>352</b>	<b>428</b>	<b>305</b>	<b>338</b>
<b>Forcible Sodomy- § 18.2-67.1(A)(2)</b>	<b>216</b>	<b>250</b>	<b>230</b>	<b>181</b>
<b>Object Penetration- § 18.2-67.2(A)(2)</b>	<b>162</b>	<b>146</b>	<b>180</b>	<b>145</b>
<b>Total Convictions</b>				
<b>Offense- Total Convictions</b>	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FY2011</b>
<b>Rape- §§ 18.2-61(A)(i) and (ii)</b>	<b>84</b>	<b>86</b>	<b>81</b>	<b>93</b>
<b>Forcible Sodomy- § 18.2-67.1(A)(2)</b>	<b>60</b>	<b>66</b>	<b>76</b>	<b>49</b>
<b>Object Penetration- § 18.2-67.2(A)(2)</b>	<b>51</b>	<b>37</b>	<b>60</b>	<b>41</b>

Source: Virginia Criminal Sentencing Commission, Supreme Court's Circuit Court Case Management System.

Figures are based on concluded cases. Cases still pending in Circuit Court are not included in the figures above.

Fairfax, Alexandria and Prince William County were not participating in the Supreme Court's Circuit Court Case Management System during FY2007-FY2010. During FY2011, Prince William rejoined the Supreme Court's system and Virginia Beach left the system.

# Sexual Assault Response Teams



- Va. Code § 15.2-1627.4 requires each Commonwealth's Attorney to coordinate the establishment of a multidisciplinary response to criminal sexual assault and hold a meeting, at least annually, to:
  - Discuss implementation of DCJS protocols and policies for sexual assault response teams; and,
  - Establish and review guidelines for the community's response, including the collection, preservation and secure storage of evidence from PERK examinations.

# Sexual Assault Response Teams



- The following persons or their designees shall be invited to participate in the annual meeting:
  - Commonwealth’s Attorney;
  - Sheriff;
  - Director of the local sexual assault crisis center, if any;
  - Chief of each police department in the jurisdiction, if any;
  - Forensic nurse examiner or other health care provider who performs PERK examinations in the jurisdiction, if any; and,
  - Director of the victim/witness program in the jurisdiction, if any.
- Currently, at least 12 campus police departments are involved with an existing or developing local or regional SART.
  - 8 indicated that they are not currently involved in a SART.

# Reported Campus Crime Data



- There are a number of data sources available to examine reported campus crime, such as:
  - Clery Act statistics;
  - Virginia Incident Based Reporting (IBR) statistics; and,
  - Campus crime logs.
- Note: These sources are not strictly comparable due to a number of issues, including definitional differences, the manner in how incidents/offenses are counted, and differences in state versus federal reporting requirements.

# Clery Act Statistics



- Compiled by the U.S. Department of Education.
- All eligible Title IV institutions must comply.
- All crimes are categorized into the following categories:
  - On-campus;
  - Residence hall (subset of on-campus);
  - Non-campus; and,
  - Public property.



# Clery Act Statistics



- Must disclose the following reported crimes:
  - Murder, forcible and non-forcible sex offenses, robbery, aggravated assault; burglary; motor vehicle theft; arson; and negligent manslaughter.
  - Total number of arrests and referrals for liquor, drug and weapon law violations.
- Includes offenses reported to ANY campus security authority, such as:
  - Campus police or security officers, deans of students, directors of athletics, coordinators of Greek affairs, campus health centers, campus counseling centers and victim advocacy centers or campus rape crisis centers (U.S. Dept. of Education, 2011).

# Clery Act Statistics



- According to 2010 Clery Act statistics, there were a total of 815 crimes reported at institutions with campus police departments.
- Due to the exclusion of crimes such as larceny and vandalism, these statistics do not capture the true nature or volume of campus crime.

2010 Reported Clery Act Crimes			
Rank	Type of Offense	Number of Offenses (N=815)	Percent of Offenses
1	Burglary	539	66%
2	Forcible Sex Offenses	83	10%
3	Motor Vehicle Theft	65	8%
4	Aggravated Assault	56	7%
5	Robbery	51	6%
6	Arson	21	3%

Source: U.S. Department of Education, Clery Act statistics, 2010. N=33.

Note: Figures account for all on-campus, non-campus and public property offenses reported to campus authorities.

# VA IBR Statistics



- IBR data is compiled by the Va. State Police.
  - Enumerates all Group A reported offenses and arrests and Group B arrests.
  - Incident-driven (counts all offenses that occur in incident).<sup>1</sup>
- 24 of the 33 campus police departments are currently listed in the Va. State Police's *Crime in Virginia (2010)*.
  - Provisions under Va. Code § 52-28, "shall not apply to any police agency not paid entirely from public funds."
- In general, IBR figures will be lower than Clery Act statistics since data does not reflect all 33 departments and IBR data only records crimes reported directly to law enforcement.

<sup>1</sup> The IBR system records crime differently than Clery and UCR data, which both use the summary system-counting only the most serious offense in an incident.

# VA IBR Statistics



- There were a total of 485,901 Group A offenses reported across the Commonwealth in CY2010.
- 1% (6,459 of 485,901) of such offenses were reported by campus police departments, with 68% being larceny or vandalism:

<b>Top 5 Group A Offenses Reported at Virginia Campus Police Departments, CY2010</b>			
<b>Ranking</b>	<b>Type of Offense</b>	<b>Total Offenses</b>	<b>Percent of Total Offenses</b>
<b>1</b>	<b>Larceny</b>	3,015	<b>47%</b>
<b>2</b>	<b>Vandalism</b>	1,367	<b>21%</b>
<b>3</b>	<b>Drug/narcotic offenses</b>	655	<b>10%</b>
<b>4</b>	<b>Simple assault/intimidation</b>	566	<b>9%</b>
<b>5</b>	<b>Burglary</b>	340	<b>5%</b>

Source: Virginia State Police, *Crime in Virginia* (2010)  
n=24 campus police departments; 6,459 offenses.

# VA IBR Statistics



- Total Murder/Non-Negligent Manslaughter Offenses

<b>Total Murder/Non-Negligent Manslaughters Reported Statewide and by Va. Campus Police Departments, CY2006-CY2010</b>		
<b>CY</b>	<b>Virginia Murder Offenses</b>	<b>Campus Murder Offenses</b>
<b>2006</b>	<b>398</b>	<b>0</b>
<b>2007</b>	<b>411</b>	<b>3*</b>
<b>2008</b>	<b>369</b>	<b>1</b>
<b>2009</b>	<b>349</b>	<b>1</b>
<b>2010</b>	<b>369</b>	<b>0</b>

Source: Virginia State Police, *Crime in Virginia* (2006-2010).

n= 22 campus police departments for CY2006-CY2008; n=23 for CY2009; n=24 for CY2010.

\*30 of the 32 murders occurring at Virginia Tech in 2007 were captured by the Virginia State Police IBR figures in Montgomery County.

# VA IBR Statistics



- Total Forcible Sex Offenses Reported

<b>Total Forcible Sex Offenses Reported Statewide and by Va. Campus Police Departments, CY2006-CY2010</b>		
<b>CY</b>	<b>Virginia Forcible Sex Offenses*</b>	<b>Campus Forcible Sex Offenses</b>
<b>2006</b>	<b>5,475</b>	<b>50</b>
<b>2007</b>	<b>5,317</b>	<b>33</b>
<b>2008</b>	<b>5,259</b>	<b>46</b>
<b>2009</b>	<b>4,779</b>	<b>42</b>
<b>2010</b>	<b>4,981</b>	<b>31</b>

Source: Virginia State Police, *Crime in Virginia* (2006-2010).

n= 22 campus police departments for CY2006-CY2008; n=23 for CY2009; n=24 for CY2010.

\* Figure represents total number of victims involved in all offenses reported.

# Va. IBR Statistics



- Of the 485,901 Group A offenses reported in Virginia, there were 142,524 arrests.
  - Note: From these figures, one cannot determine a precise clearance rate as 1 arrest can “clear” multiple offenses/incidents.
  - Of the 6,459 Group A offenses reported by campus police departments, there were 580 arrests.
    - Larceny and vandalism have very low clearance rates.
- Campus police departments made a total of 3,330 arrests in CY2010.
  - 17% (580 of 3,330) Group A arrests.
  - 83% (2,750 of 3,330) Group B arrests.

# Va. IBR Statistics



## Total Number of IBR Forcible Sex Offenses and Arrests, CY2010

Type of Incident	Total VA Offenses	Total VA Arrests	Total Campus PD Offenses	Total Campus PD Arrests
<b>Forcible Rape</b>	<b>1,518</b>	<b>377</b>	<b>16</b>	<b>0</b>
<b>Forcible Sodomy</b>	<b>506</b>	<b>177</b>	<b>15</b>	<b>0</b>
<b>Forcible Object Penetration</b>	<b>301</b>	<b>105</b>		<b>0</b>
<b>Forcible Fondling</b>	<b>2,362</b>	<b>775</b>		<b>3</b>
<b>TOTAL</b>	<b>4,687*</b>	<b>1,434</b>	<b>31</b>	<b>3</b>

Source: Virginia State Police, *Crime in Virginia* (2010). n= 24 campus police departments.

Note: When comparing offenses and arrests, one cannot determine a precise clearance rate as 1 arrest can “clear” multiple offenses/incidents. Also, specific breakdown for reported “other forcible sex offenses” was not readily available for campus police departments. \* 4,687 offenses involving 4,981 victims.



# Campus Crime Logs



- Every institution with a campus police or security department must maintain a crime log (C.F.R., Title 34, § 668.46).
- Entries must contain:
  - Nature of crime;
  - Date;
  - Time;
  - General location; and,
  - Disposition (if known).

# Campus Crime Logs



- Staff requested crime logs from all 33 campus police departments.
  - 79% (26 of 33) submitted their logs.
- Crime logs will capture both Group A and Group B offenses that are reported.
- There were nearly 10,000 log entries submitted for analysis.
  - 8,669 log entries were IBR Group A or Group B reported offenses.

# Campus Crime Logs



- Of the total Group A and B offenses, alcohol violations are ranked among the top reported incidents.

<b>Top 15 Group A and Group B Offenses Reported in Virginia Campus Police Department Crime Logs, CY2010</b>			
<b>Ranking</b>	<b>Type of Offense</b>	<b>Total Log Entries</b>	<b>Percent of Total Log Entries</b>
1	Larceny	2,803	32.3%
2	Vandalism	1,436	16.6%
3	Liquor Law Violations	1,310	15.1%
4	Drunkenness	774	8.9%
5	Drug/Narcotic Offenses	545	6.3%
6	Assaults	529	6.1%
7	Burglary	286	3.3%
8	Trespassing	264	3.0%

Source: 2010 Virginia campus police department crime logs; N= 8,669 log entries; n= 26 campus police departments.

# Campus Crime Logs



## Top 15 Group A and Group B Offenses Reported in Virginia Campus Police Department Crime Logs, CY2010

Ranking	Type of Offense	Total Log Entries	Percent of Total Log Entries
9	DUI	178	2.1%
10	Disorderly Conduct	146	1.7%
11	Fraud	126	1.5%
12	Weapon Law Violations	63	less than 1%
13	Robbery	57	less than 1%
14	Forcible Sexual Assaults	45	less than 1%
15	Counterfeit	26	less than 1%
*	All Other	81	less than 1%

Source: 2010 Virginia campus police department crime logs; N= 8,669 log entries; n= 26 campus police departments

# Other Data



- According to the Virginia Department of Health:

Type of Death	CY2007	CY2008	CY2009	CY2010*	CY2011**†
Total Suicide	906	949	974	1,002	480
<b><i>Total Campus Suicides</i></b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>
Total Accidental Deaths	2,404	2,297	2,175	2,245	901
<b><i>Total Campus Accidental Deaths</i></b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>

Source: Virginia Department of Health, Office of Chief Medical Examiner

\*Numbers are preliminary and subject to change; † Cases reported and/or finalized by 6/30/11.

Note: Figures represent reports from all campuses in the Commonwealth.

# Other Data



- According to Va. campus police self-report data:

Type of Death	CY2007	CY2008	CY2009	CY2010	CY2011*
<b>Suicides</b>	4 students 1 other	1 student 1 faculty/staff 1 other	1 student	5 students	1 student
<b>Accidental Deaths</b>	1 student 1 other	2 students	1 other	1 student	0
<b>Natural Deaths</b>	2 faculty/staff	2 students 2 other	3 students 1 faculty/staff 2 other	1 student 2 faculty/staff 4 other	1 student 1 faculty/staff 2 other
<b>Undetermined Deaths</b>	0	0	0	0	1 other
<b>TOTAL</b>	<b>9</b>	<b>9</b>	<b>8</b>	<b>13</b>	<b>5</b>

Source: Virginia State Crime Commission, Campus Police Department Survey, 2011.

N=33; \*Figures include all deaths up to and including September 1, 2011.

# Campus PD Survey Results



- Staff created an informal work group to examine HB 2490 and to assist in the development of a comprehensive survey for both campus police departments and administration. The work group included representatives from:
  - Campus police departments;
  - Campus Women’s Center directors;
  - College/university administrators;
  - Commonwealth’s Attorneys Offices;
  - Council for Independent Colleges in Virginia;
  - Local law enforcement;
  - Judicial/student conduct directors;
  - Sexual assault and suicide prevention specialists;
  - Virginia Association of Chiefs of Police;
  - Virginia Department of Criminal Justice Services;
  - Virginia Department of Health; and,
  - Virginia Sheriff’s Association.

# Campus PD Survey Results



- ALL (33 of 33) campus police departments responded to the survey for a 100% response rate.
- The survey addressed the following:
  - Agency Profile;
  - Collaboration with Other Law Enforcement Agencies;
  - Death Investigations on Campus;
  - Rape Investigations on Campus;
  - Accreditation, Recruitment, Training and Evaluation;
  - Data Reporting;
  - Threat Assessment Teams; and,
  - Resource Concerns.



# Campus PD Investigations



- The powers, duties and jurisdiction of campus police officers is defined by Va. Code § 23-234.
  - Any crime occurring upon any property owned or controlled by the relevant public or private institution of higher education...and upon the streets, sidewalks, and highways immediately adjacent thereto...
- Jurisdiction of a criminal investigation is determined by *where* the crime took place.

# Campus PD Investigations



- However, just because campus police departments have jurisdiction, does not necessarily mean they *automatically* will be responsible for or choose to take the lead in investigations of certain crimes.
  - For example:
    - Investigations at satellite campuses.

# Campus PD Investigations



- Investigations at satellite campuses:
  - 42% (14 of 33) of campus police departments do not have any satellite campuses.
  - 30% (10 of 33) of campus police departments are responsible for investigating crimes at a satellite campus.
  - 24% (8 of 33) of campus police departments indicate that another law enforcement agency is responsible for investigating crimes at their satellite campus(es).
  - 3% (1 of 33) of campus police departments are responsible for investigating crimes, except for homicide and rapes, at a satellite campus.

# Joint Investigations



- Joint investigations involve two or more agencies in an investigation with one of the agencies taking the lead.
- 85% (28 of 33) of campus police departments were involved in joint investigations with other law enforcement agencies between FY08-FY11, such as:
  - Local law enforcement;
  - Va. State Police;
  - Federal agencies, including FBI, DEA, ICE, USSS, U.S. Postal Service;
  - Other college/university police departments;
  - Regional Drug Task Forces and Crash Investigation Teams; and,
  - Va. ABC and Va. Game and Inland Fisheries Department.
- Specifically,
  - 29% (8 of 28) indicated that a joint investigation involved a death occurring on their campus between FY08-FY11.
  - 43% (12 of 28) indicated that a joint investigation involved an alleged rape occurring on their campus between FY08-FY11.

# Concurrent Jurisdiction



- Concurrent jurisdiction is a legal agreement filed in Circuit Court by local governing bodies pursuant to Va. Code § 23-234.
  - Jurisdiction of a campus police department is extended with this type of agreement, which allows the campus police to respond to situations near the campus with the same authority as if in their campus jurisdiction.

# Concurrent Jurisdiction



- 30% (10 of 33) of campus police departments have concurrent jurisdiction with at least one of their surrounding localities.
  - 6 campus police departments are working towards concurrent jurisdiction.

# Mutual Aid Agreements



- Mutual aid agreements involve a reciprocal agreement for cooperation in providing police services in specific circumstances, such as emergencies, special events, or assistance with investigations, equipment or technology.
  - Can be made between two agencies or many. For instance, there is the Northern Virginia Law Enforcement Mutual Aid agreement that involves nearly 20 agencies.
  - Can be written or verbal.
- 88% (29 of 33) of campus police departments have a mutual aid agreement with another jurisdiction.
  - 6 campus police departments are working towards a mutual aid agreement with another law enforcement agency.
- Typically, the agency who requests assistance is responsible for the investigation of any crimes that occur.

# Campus Police Chiefs



- All campus police chiefs have a significant amount of prior law enforcement experience.
  - Average of 20 years prior experience.
    - Primarily at local police departments, Sheriff's Offices with primary law enforcement responsibilities, and/or other campus police departments.
- 61% (20 of 33) of campus police chiefs have served an *additional* 3 or more years in their current position.
  - 24% (10 of 33) of campus police chiefs have served more than 10 years in their current position.



# Chiefs of Campus Police



- To whom do Campus Police Chiefs report?
  - 91% (30 of 33) report directly to a vice-president level administrator for finance/administration/business.
  - 9% (3 of 33) report directly to a student affairs/services administrator.

# Campus Police Officers



- There were a total of 740 sworn campus police officers employed as of 9/1/2011.
  - 688 full-time officers; 52 part-time officers.
  - Average of 21 full-time sworn officers per agency.
  - Range of 0-80 full-time and 0-8 part-time sworn officers.
- Length of time employed with campus police department:
  - 27% (194 of 730) less than 3 years;
  - 21% (155 of 730) 3-5 years;
  - 20% (149 of 730) 6-10 years;
  - 13% (94 of 730) 11-15 years;
  - 9% (65 of 730) 16-20 years; and,
  - 10% (73 of 730) over 20 years.
- 57% (414 of 741) of campus police officers have previously worked for a local, state or federal law enforcement agency.

Source: Virginia State Crime Commission, Campus Police Department Survey, 2011.

# Accreditation



- Campus law enforcement agencies can be accredited by three different entities:
  - Virginia Law Enforcement Professional Standards Commission (VLEPSC)
    - 12% (4 of 33) of campus police departments (College of William and Mary, James Madison University, Radford University, and Virginia Commonwealth University).
    - 55% (74 of 134) of police and sheriff's offices.
  - Commission on Accreditation for Law Enforcement Agencies (CALEA)
    - 12% (4 of 33) of campus police departments (George Mason University, University of Richmond, University of Virginia\*, and Virginia Tech).
    - 16% (21 of 134) of police departments, sheriff's offices, and VSP.
  - International Association of Campus Law Enforcement Administrators (IACLEA)
    - 6% (2 of 33) campus police departments (University of Richmond and Virginia Tech).

\*Note: University of Virginia expected to receive their full accreditation this week.

# Training



- Campus police officers undergo the same basic training as all sworn law enforcement officers in the Commonwealth.
- They also have the same requirements for in-service training.
  - Annual firearms certification
    - To include policies, procedures and use of force
  - 40 in-service hours every two years
    - 4 hours of legal training
    - 2 hours of cultural diversity training
    - 34 hours for career development training
      - Varies from academy-to-academy; department-to-department; officer-to-officer across the Commonwealth.

# Training



- Currently, there is no way to readily identify all of the specific courses each law enforcement officer attended for their 40 hours of in-service training. Therefore, we cannot readily compare training received by campus law enforcement officers to local law enforcement officers.
- Training is available by many providers, such as:
  - Department of Criminal Justice Services (DCJS);
  - Virginia Department of Forensic Sciences (DFS);
  - Local/state/federal law enforcement;
  - Virginia Center for Policing Innovation (VCPI);
  - Private entities; and,
  - Non-profit entities.
- One campus police department has its own DCJS-certified training academy.

# Va. DFS Training



- Staff requested the list of agencies whose officers attended courses offered by the DFS between FY2007-FY2011.
- Virginia Forensic Science Academy:
  - Intensive 9-week school which teaches officers to:
    - Properly locate, recognize, document and collect items of physical evidence utilizing a systematic approach to crime scene investigation;
    - Preserve items of evidence;
    - Recognize the laboratory potential of examining physical evidence; and,
    - Properly package and submit physical evidence.
  - The academy was offered 12 times between FY2007-FY2011.
    - 87 local law enforcement agencies sent officers.
    - 4 campus police departments sent officers.
  - DFS also provides annual retraining seminars that graduates may attend.

# Va. DFS Training



- The DFS also provides other forensic/crime scene investigation courses to law enforcement, such as:
  - Basic Crime Scene Investigation;
  - Bloodstain Pattern Analysis (Basic and Advanced);
  - Crime Scene Photography courses
  - Crime Scene Sketching courses;
  - Drug Evidence Seminar;
  - Fingerprint Examiners and Processing Seminars;
  - Fire Investigations;
  - Hit and Run Investigations; and,
  - Homicide Scene Seminar.
- 174 agencies sent officers to attend such courses between FY2007-FY2011.
  - 8 campus police departments sent officers.

# Campus Death Investigations



- 73% (24 of 33) of campus police departments have a written policy for death investigations.

Local Law Enforcement	YES	ONLY IN SOME CIRCUMSTANCES	NO
Notify when death occurs on campus (N=33)	61%	30%	9%
Request Assistance (N=33)	45%	55%	0%
Completely turn over investigation (n=32)	31%	16%	53%
Virginia State Police	YES	ONLY IN SOME CIRCUMSTANCES	NO
Notify when death occurs on campus (N=33)	33%	30%	36%
Request Assistance (N=33)	27%	42%	30%
Completely turn over investigation (N=33)	15%	24%	61%

Source: Virginia State Crime Commission, Campus Police Department Survey, 2011



# Campus Rape Investigations



- For purposes of this study, rape was defined as rape, sodomy or object penetration.
- Victims of alleged rape at colleges/universities with campus police departments have various options :
  - Criminal investigation (violation of law);
  - Internal judicial/student conduct investigation, which are independent from criminal investigation (violation of university code of conduct); and,
  - Title IX investigation (violation of civil law).



- 90% (30 of 33) of campus police departments have a written policy for rape investigations as required by Va. Code § 9.1-1301.
- Note: A criminal investigation is not automatic. It is contingent upon the offense being reported to the campus police department.

# Campus Rape Investigations- Criminal Investigations



## Notification and Involvement of Other Law Enforcement Agencies in Campus Rape Investigations

<b>Local Law Enforcement</b>	<b>YES</b>	<b>ONLY IN SOME CIRCUMSTANCES</b>	<b>NO</b>
Notify when rape occurs on campus (n=32)	34%	53%	13%
Request Assistance (n=32)	28%	63%	9%
Completely turn over investigation (n=31)	16%	29%	55%
<b>Virginia State Police</b>	<b>YES</b>	<b>ONLY IN SOME CIRCUMSTANCES</b>	<b>NO</b>
Notify when rape occurs on campus (n=31)	16%	19%	65%
Request Assistance (n=31)	6%	35%	58%
Completely turn over investigation (n=31)	3%	23%	74%

Source: Virginia State Crime Commission, Campus Police Department Survey, 2011



- Surveys were sent to the administrations of all 33 institutions which have campus police departments to determine the different avenues that campuses utilize to handle matters that could be considered criminal in a court of law.
  - These surveys were typically completed by the Dean of Students or Directors of Judicial Affairs/Student Conduct.
- 88% (29 of 33) of institutions responded to staff's judicial/student conduct mechanism survey

# Campus Rape Investigations- Judicial Investigations



- All (29 of 29) institutions reported having a judicial/student conduct mechanism for handling student misconduct that could be considered criminal in a court of law.
- Most judicial boards involve students with a combination of faculty, staff and administrators serving.

Type of Member	Total Number of Institutions	Percent of Institutions
<b>Students</b>	22 of 29	<b>76%</b>
<b>Faculty</b>	18 of 29	<b>62%</b>
<b>Staff</b>	14 of 29	<b>48%</b>
<b>Administration</b>	19 of 29	<b>66%</b>
<b>Other</b>	12 of 29	<b>28%</b>

Source: Virginia State Crime Commission, Judicial/Student Conduct Mechanism Survey, 2011.

# Campus Rape Investigations- Judicial Investigations



- 97% (28 of 29) institutions indicated their burden of proof level:

<b>Burden of Proof</b>	<b>Total Number of Institutions</b>	<b>Percent of Institutions*</b>
<b>Preponderance of evidence</b>	17 of 28	<b>61%</b>
<b>Reasonable evidence/sufficient information</b>	5 of 28	<b>18%</b>
<b>Clear and convincing evidence</b>	4 of 28	<b>14%</b>
<b>Beyond a reasonable doubt</b>	1 of 28	<b>4%</b>
<b>Other**</b>	1 of 28	<b>4%</b>

Source: Virginia State Crime Commission, Judicial Board/Student Conduct Mechanism Survey, 2011.

\* Figures may not total to 100% due to rounding.

\*\*Clear and convincing evidence except for sexual misconduct cases, where the burden is preponderance of the evidence.

# Campus Rape Investigations- Judicial Investigations



- Both the accused and victim have similar rights:

Accused/ Victim Permitted to:	Accused	Victim
Speak at hearing?	97%	86%
Cross-examine witnesses at hearing?	76%	66%
Be present for entire hearing?	93%	83%
Submit <i>written</i> testimony/evidence?	100%	100%
Read all written reports?	86%	76%
Receive all written reports prior to hearing?	59%	55%
Have character witnesses testify?	48%	38%
Have fact witnesses testify?	86%	90%
Have advisor/advocate <i>present</i> at hearing?	83%	83%
Have advisor/advocate <i>speak</i> at hearing?	21%	28%
Have legal counsel <i>present</i> at hearing?	66%	66%
Have legal counsel <i>speak</i> at hearing?	7%	10%
Have legal counsel question witnesses?	3%	7%
Have parents/guardians present at hearing?	55%	55%

Source: Virginia State Crime Commission, Judicial Board/Student Conduct Mechanism Survey, 2011.

N=29



- 97% (28 of 29) institutions indicated that they had some form of appeal process.
- Appeals are typically heard by:
  - Appeals Committees/Boards/Councils;
  - College/University President;
  - Dean or Vice President of Student Affairs; or,
  - Board of Trustees/Visitors.
- There is often more than one level of appeal.



# Campus Rape Investigations- Judicial Investigations



- 79% (23 of 29) institutions indicated that their hearings proceed regardless of any potential or existing criminal or civil litigations for the same incident.
- 86% (25 of 29) institutions indicated that hearings are not open to the public.
  - The other 4 indicated that the accused may request an open hearing.
- 79% (23 of 29) institutions indicated that hearing findings and sanctions are not open to the public.
  - The other 6 indicated that findings/sanctions are reported in aggregate.

# Campus Rape Investigations- Judicial Investigations



- 55% (16 of 29) of institutions indicated that they had additional mechanisms for handling matters that could be considered criminal in a court of law, such as:
  - Administrative hearings (n=5);
  - Formal resolution by Dean or Dean's staff (n=5);
  - Informal resolution (n=3);
  - Mediation (n=3);
  - Panhellenic councils (n=3);
  - Psychological evaluation panels (n=2); and/or,
  - Sexual assault boards (n=2).

# Campus Rape Investigations- Judicial Investigations



- Judicial records were requested for all violations occurring between 1/1/10 and 12/31/10 that could be considered criminal in a court of law, in accordance with FERPA guidelines (34 CFR Part 99.3).
- The requested information included:
  - Date of incident and hearing;
  - Charge;
  - Disposition;
  - Sanction; and,
  - Offender age, class, and gender.
- 82% (27 of 33) of colleges/universities provided such records.
  - There were a total of 6,264 valid judicial referral records within this timeframe.

# Campus Rape Investigations- Judicial Investigations



Ranking	Type of Offense	Number of Referrals	Percent of Referrals
1	Alcohol violations	4,372	70%
2	Drug violations	868	14%
3	Assaults	357	6%
4	Disorderly conduct	212	3%
5	Larceny	209	3%
6	Vandalism	154	2%
7	Weapon law violations	23	less than 1%
8	Trespassing	17	less than 1%
9	Burglary	14	less than 1%
10	Rape/sexual assault	13	less than 1%
11	Forgery	11	less than 1%
12	Obstruction of justice	6	less than 1%
13	Fraud	3	less than 1%
13	Gambling	3	less than 1%
14	Robbery	1	less than 1%
14	Pornography	1	less than 1%
<b>TOTAL</b>		6,264	100%

Source: Virginia State Crime Commission, Judicial Records Analysis, CY2010, n=27 institutions

# Campus Rape Investigations- Judicial Investigations



- 83% of those referred were found responsible.

Type of Outcome	Number of Referrals	Percent of Referrals
<b>Responsible</b>	5,206	<b>83%</b>
<b>Not Responsible</b>	894	<b>14%</b>
<b>Other (student withdrew, dismissed, etc.)</b>	164	<b>3%</b>

Source: Virginia State Crime Commission, Judicial Records Analysis, CY2010, n=27 institutions



- Title IX and sexual harassment/violence
  - Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § § 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.

# Campus Rape Investigations-

## Title IX Investigations



- In April 2011, the U.S. Department of Education, Office for Civil Rights, issued what is now referred to as the “Dear Colleague Letter” (DCL).
- The purpose of the letter was to inform institutions of their responsibilities under Title IX to protect students from sexual harassment, which includes acts of sexual violence.
- The DCL defines sexual violence as physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol. An individual may be unable to give consent due to an intellectual or other disability.
  - Rape, sexual assault, sexual battery, and sexual coercion are all considered acts of sexual harassment covered under Title IX.

# Campus Rape Investigations-

## Title IX Investigations



- The DCL requires institutions to investigate complaints of sexual violence through a grievance process or its judicial council.
  - Claims must be investigated regardless of, or in addition to, any criminal investigation.
  - Burden of proof in such cases must be based on a preponderance of the evidence standard.
  - May have an obligation to respond to student conduct that initially occurs off of campus property.



# Campus Rape Investigations-

## Title IX Investigations



- 79% (23 of 29) institutions indicated that they currently have a Title IX coordinator.
  - 1 is in process of identifying their coordinator.
- In regards to how complaints involving Title IX “acts of sexual violence” are handled:
  - 61% (14 of 23) handle such complaints through their existing judicial/student conduct mechanism;
  - 30% (7 of 23) have an entirely separate mechanism for such complaints; and,
  - 9% (2 of 23) indicate that students may use either or both; or, that such complaints are handled through existing judicial board but with more tailored rules and/or burden of proof.

# Threat Assessment Teams



- Threat Assessment Teams were established in 2008 under Va. Code § 23-9.2:10, which requires:
  - Each public college/university shall have in place policies and procedures for the prevention of violence on campus, including assessment and intervention with individuals whose behavior poses a threat to the safety of the campus community.
  - The board of visitors or other governing body shall determine a committee structure on campus of individuals charged with education and prevention of violence on campus, including representatives from:
    - Student Affairs, Law Enforcement, Human Resources, Counseling Services, Residence Life, and Other Constituencies as needed.
      - Develops statement of: mission, membership and leadership.

# Threat Assessment Teams



- 88% (29 of 33) of institutions currently have a threat assessment team:
  - 15/15 public 4-year and above;
  - 5/9 private 4-year and above; and
  - 9/9 public 2-year.
- Private institutions are not required under Virginia law to have a threat assessment team.
- Based on data from 25 institutions with teams, during the 2010-2011 academic year, there were approximately:
  - 658 “persons of concern” reported
    - Median= 10 persons of concern per institution; and,
  - 584 threat assessment cases opened.
    - Median= 6 threat assessment cases per institution.

# Summary



- The purview of HB 2490 is limited to Virginia's 33 campus police departments.
  - Only applies to investigations of medically unattended deaths and alleged rapes.
- If passed, HB 2490 would impact at least 43 local law enforcement agencies that surround campus police department jurisdictions.
- Only 2 other states have enacted somewhat similar laws.

# Summary



- Campus crime consists primarily of property offenses, specifically larceny.
- Sexual assault is a highly underreported crime and is difficult to prosecute, regardless of whether the assault occurs on a campus or in the general community.
- Campus police officers must meet the same requirements for basic training and in-service training as all law enforcement officers.

# Summary



- There are 3 potential avenues for rape investigations occurring at colleges/universities with campus police departments:
  - Criminal Investigation;
  - Judicial Investigation; and/or,
  - Title IX Investigation.
- The “Dear Colleague Letter” is still being interpreted and implemented by college/university administrations.
  - There is a divergence of opinion on what the letter requires.

# Acknowledgements



- Informal work group members
- U.S. Department of Education
- Virginia campus law enforcement agencies
- Virginia college/university administrators
- Virginia Association of Campus Law Enforcement Administrators
- Virginia Criminal Sentencing Commission
- Virginia Department of Criminal Justice Services
- Virginia Department of Forensic Science
- Virginia Department of Health
- Virginia State Council of Higher Education
- Virginia State Police

# Policy Considerations



- Option 1:
  - Should campus police departments be specifically listed for inclusion in local or regional Sexual Assault Response Teams (SART) pursuant to Va. Code § 15.2-1627.4?



# Policy Considerations



- Option 2:
  - Should campus police departments continue to be responsible for investigating deaths and alleged rapes occurring on college/university campuses?
    - Note: This does not imply that campus police departments do not or will not continue to ask for outside assistance or choose to turn over such investigations to local law enforcement, the Va. State Police, or federal authorities in certain cases.

# Policy Considerations



- Option 3:
  - Require campus police departments to notify local law enforcement and/or the Va. State Police of any:
    - Death\*;
    - Alleged rape; or,
    - Both.
  - \*Note: Would need to determine if all deaths or only certain types of deaths would trigger the requirement for notification.



- Option 4:
  - Require that campus police departments conduct a joint investigation for:
    - Deaths\*, with campus police departments taking the lead.
    - Deaths\*, with local law enforcement or Va. State Police taking the lead.
    - Alleged rapes, with campus police departments taking the lead.
    - Alleged rapes, with local law enforcement or Va. State Police taking the lead.
  - \*Note: Would need to determine if all deaths or only certain types of deaths would trigger the requirement for a joint investigation.

# Policy Considerations



- Option 5:
  - Require that local law enforcement and/or the Va. State Police be fully responsible for the investigation of any:
    - Death;
    - Alleged rape; or,
    - Both.

Note: Would need to determine whether local law enforcement or the State Police is the most appropriate entity to carry out the delineated options.

# Policy Considerations



- Option 6:
  - Should college/university employees be included in the list of people who are required to report instances of suspected child abuse pursuant to Va. Code § 63.2-1509?
    - Failure “to do so within 72 hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.”

# Policy Considerations



- Option 7:
  - Should it be mandatory for college/university employees to report to law enforcement any incidences of sexual assault, occurring on campus, that they are made aware of?
    - Should it be limited to sexual assaults involving minors?
    - Should it be a crime if a college/university employee fails to do so?
    - Should certain employees be exempt?



## **Discussion**

---