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Governor Terry McAuliffe's Task Force on Combating Campus Sexual Violence  
Chair Attorney General Mark Herring

Law Enforcement Subcommittee

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**Recommendation Topic:**

Memoranda of Understanding between Institutions of Higher Education and Local Law Enforcement, and with the Virginia State Police

**Recommendation:**

Amend Virginia Code Section 23-234 (B) to require that all public and private institutions of higher education that have campus police forces established pursuant to Chapter 17 of Title 23 become a party to a memorandum of understanding (MOU), instead of a mutual aid agreement as currently required, with either an adjacent, local law enforcement agency or with the Virginia State Police; and that an MOU with an adjacent, local law enforcement agency will address sexual assault, including law enforcement prevention efforts, sharing of reports, responsibility for and timing of investigations, and training.

Best practices for the development and content of the MOUs between institutions of higher education and local law enforcement agencies would include the following:

1. Development/Review of MOUs

The development of a new MOU, or review of an existing MOU, should be an inclusive process, with input from the law enforcement community and others on campus and in the locality with a role in preventing and responding to reports of sexual assault on campus or involving students in the locality.

2. Purpose

Each MOU should have a clear statement of its purpose.

3. Prevention

The MOU should acknowledge that campus police and local law enforcement have a role in helping to prevent campus sexual assault and provide a description of their coordinated prevention efforts.

4. Sharing Reports of Sexual Assault

Safety is enhanced when campus police and local law enforcement share information about reports of sexual assault on campus and in the locality. MOUs should provide for the timely sharing of reports of sexual assault in the possession of campus police and in the possession of local law enforcement to meet this goal of enhanced safety.

5. Investigation

The MOU should specify which law enforcement agency will have the primary investigative responsibility when a report of a sexual assault occurring on campus, or involving a student off-campus, is made. In some instances, there may be provisions for concurrent jurisdiction.

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Because these investigations involve allegations of crimes, including felonies, law enforcement agencies are in the best position to conduct the investigation. The nature of the mutual aid that the law enforcement agencies will provide to each other should be included.

The following should be addressed in the MOU:

- Providing information to the victim about options and support;
- Responsibility for transporting the victim for medical services if the victim so chooses, including a sexual assault forensic evidence exam;
- Responsibility for collection and preservation of evidence;
- Timing and responsibility for interviewing the victim, witnesses, and possibly the accused;
- Procedures involving the Sexual Assault Response Team; and
- Coordination with the Title IX investigation, including the timing of the law enforcement and Title IX investigations, which may provide for the Title IX investigation to pause while the lead law enforcement agency initiates its investigation.

6. Training

It is critical that law enforcement officers have specialized training in responding to reports of sexual assault. Federal law requires annual training for campus law enforcement officers about sexual assault and domestic violence. There is no such requirement for local law enforcement officers. The MOU should discuss the training that campus law enforcement officers receive about trauma-informed investigations and could provide for cross-training with local law enforcement officers.

7. Duration of the MOU and Signatories to the MOU

The MOU should be reviewed and renewed at least every two years. Because current law requires that the institution of higher education is a party to mutual aid agreements, the MOU should be signed by a representative of the institution of higher education and the chief of the campus police department, as well as by the chief of the local law enforcement agency, or by the Superintendent of the Department of State Police.

**Need:**

An MOU is a tool to support communication and collaboration that sets forth the roles and responsibilities of the parties with respect to the prevention and investigation of crimes occurring on campus and involving students in the locality. The MOU is designed to enhance public safety and to assist law enforcement agencies, victim advocates, campus officials, and Commonwealth's Attorneys to work together effectively to support sexual assault victims, to conduct timely and fair investigations, and to successfully prosecute perpetrators, if victims so choose.

No single MOU will meet the needs of each institution of higher education. This recommendation is designed to assist in the review of existing MOUs and the development of new MOUs, drawing on work done by the White House Task Force to Protect Students from Sexual Assault, and based on a review of existing MOUs and mutual aid agreements in Virginia.

Virginia law provides that all public or private institutions of higher education that have a campus police force established in accordance with the provisions of Chapter 17 of Title 23 of the Code of

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Virginia shall have mutual aid agreements with the adjacent, local law enforcement agency (with no requirement that sexual assault is addressed), or with the Virginia State Police in the case of, among other crimes, felony sexual assault. Va.Code Ann. Section 23-234 (B). Currently, many institutions of higher education have mutual aid agreements with local law enforcement agencies. However, most of these agreements are pro forma and do not address sexual assault and are not specific about prevention efforts, sharing of reports, responsibilities during an investigation, or training.

The Virginia State Police has an MOU in place with all but seventeen of Virginia's institutions of higher education. That MOU provides for reasonable investigatory support as needed and, upon request, has the Virginia State Police assume responsibility as the lead investigative agency in cases involving felony sexual assault.

**Anticipated Challenges to Implementation of Recommendation:**

This recommendation imposes an additional requirement on institutions of higher education to have an MOU with local law enforcement that specifically addresses sexual assault or with the Virginia State Police. This will require staff time to develop the MOU.

**Implementation:**

Assistance in reviewing and developing these MOUs could be provided by the proposed Advisory Committee, which is detailed in another recommendation of the Law Enforcement Subcommittee. This proposed Advisory Committee also could be a repository of the adopted to MOUs, to ensure compliance with the proposed law, and to provide a resource for institutions of higher education.

House Bill 1785 amends Virginia Code Section 23-234 (B) to add a requirement that mutual aid agreements include a provision for the reporting of felony sexual assault investigations to the Commonwealth's Attorney. This language will need to be amended to conform to the recommendation for memoranda of understanding.

**Fiscal Impact:**

There is no fiscal impact. Staff from the each institution of higher education, the campus police department and the local police department will be needed to review an existing MOU or to develop a new MOU based upon this recommendation.