



Association for Student Judicial Affairs

LAW AND POLICY REPORT

ASJA LAW AND POLICY REPORT

Friday May 11, 2007

No. 254

ASJA Law and Policy Report (LPR) is written by Gary Pavela (www.garypavela.com) and published weekly (except national holidays; during the ASJA National Conference and Gehring Academy; from mid-December to mid-January; and the month of August). Copyright: ASJA and Gary Pavela: All rights reserved. Further transmission within ASJA member institutions is permitted, if the author and ASJA are credited as the source. Index, archives, and additional source materials will be available to ASJA members at www.asjaonline.org. The information and comments provided here are designed to encourage discussion and analysis. They represent the views of the authors (not ASJA) and do not constitute legal advice. For legal advice the services of an attorney in your jurisdiction should be sought.

TOPICS IN THIS ISSUE

07.22 Memorandum to the faculty: Teaching troubled students after the Virginia Tech shootings

07.22 SAFETY AND SECURITY

Memorandum to the faculty: Teaching troubled students after the Virginia Tech shootings

College administrators should expect multiple inquiries from faculty members about how to respond to troubled students in the classroom. It's particularly important to provide emergency contact information; reliable data about the statistical risks of violence on campus; the tenuous connection between violence and mental illness; the limits of "profiling" possible shooters; and suggestions for talking with students about conduct

that seems threatening or disruptive.

What follows is a suggested “Memorandum to the Faculty,” designed to be refined and augmented for use on your campus. The cited information—presented in a question and answer format— includes abbreviated excerpts from our recent issues.

What should I do if I have concerns about a student?

You will find pertinent data and general advice in this memorandum. What’s most important to remember is that trained colleagues are standing by to help. The campus police will respond to threats of violence or any other violations of law or student conduct regulations. Administrators responsible for student conduct are authorized to impose an immediate suspension (pending a hearing) if a student engages in threatening or disruptive behavior. And mental health professionals can initiate a mandatory evaluation process or even invoke procedures to dismiss students who pose a “direct threat” to self or others.

Students must be treated fairly and responsibly—just as administrators and faculty members would expect if they were the subject of comparable inquiry— but the campus is not powerless or reluctant to act decisively when threats arise. Our overall process in this regard is managed by the campus Incident Response Team [or other appropriate title]. You may reach the team by contacting [name and telephone number]. *In emergencies call the campus police first* [emergency number].

How frequent are homicides and other violent crimes on campus?

According to data from the U.S. Department of Education, the Census Bureau, and the FBI, “the murder rate on college campuses was 0.28 per 100,000 people, compared with 5.5 per 100,000 nationally” (*U.S. News and World Report* April 30, p. 49). The magnitude of the Virginia Tech shootings (32 people killed) is highlighted by the fact that the total number of murders on American college campuses (approximately 4,200 institutions enrolling 16 million students) “fluctuated between 9 and 24” [a year] between 1997 and 2004” (Virginia Youth Violence Project, School of Education, University of Virginia, 2007).

In terms of other types of violent crime (robbery, aggravated assault, and simple assault against students), a 2005 U.S. Department of Justice study by Katrina Baum and Patsy Klaus (Statisticians for the Bureau of Justice Statistics) reported that::

For the period 1995 to 2002, college students ages 18 to 24 experienced violence at average annual rates lower

than those for nonstudents in the same age group (61 per 1,000 students versus 75 per 1,000 nonstudents). Except for rape/sexual assault, average annual rates were lower for students than for nonstudents for each type of violent crime measured . . . Rates of rape/sexual assault for the two groups did not differ statistically. Between 1995 and 2002 rates of both overall and serious violence declined for college students and nonstudents. The violent crime rate for college students declined 54% (41 versus 88 per 1,000) and for nonstudents declined 45% (102 versus 56 per 1,000).

Among the “characteristics of violent victimizations of college students” Baum and Klaus reported that “93% of crimes occurred off campus, of which 72% occurred at night.”

(“Violent Victimization of College Students, 1995-2002”)

How dangerous is college teaching?

A 2001 Bureau of Justice Statistics [BJS] report (the latest in the series available) on “Violence in the Workplace” (data for 1993 through 1999 from the National Crime Victimization Survey) shows that employees of colleges and universities have a violent crime victimization rate of 1.6 per 1,000, compared to 16.2 for physicians; 20 for retail sales workers; 54.2 for junior high teachers; 68.2 for mental health professionals; and 260.8 for police officers. The BJS report states that “[a]mong the occupational groups examined . . . college teachers were victimized the least.”

School shootings are often suicides. How widespread is suicide among college students?

Multiple studies have found that college students commit suicide at half the rate of their non-student peers. One of the most cited surveys “found an overall student suicide rate of 7.5 per 100,000, compared to the national average of 15 per 100,000 in a sample matched for age, race and gender” (Silverman, et al., 1997, “The Big Ten Student Suicide Study: a 10-year study of suicides on Midwestern university campuses,” *Suicide and Life Threatening Behavior* 27[3]:285-303).

Generally, the national suicide rate for teenagers and young adults has been declining—after an extraordinary increase since the 1950s. More baseline studies pertaining to college students are needed, but experts

believe the suicide rate in that group has been declining as well.

Are more students coming to college with mental disorders?

Probably yes. Caution is required because increases in counseling center visits and use of psychotropic medications may mean contemporary students are more willing to seek help for mental illness. In any event, college health center directors have been calling particular attention to larger numbers of students reporting the characteristics of clinical depression. A 2004 American College Health Association study found that forty-five percent of the students surveyed “felt so depressed” that it was “difficult to function.” Nearly 1 in 10 students reported that such feelings occurred “9 or more times” in the past school year. Likewise, about 10% of college students report they “seriously considered suicide” and about 1.4% reported they had *attempted* suicide (Morton Silverman, Clinical Associate Professor of Psychiatry at the University of Chicago; 2006 presentation at the University of Vermont Conference on Legal Issues in Higher Education).

Shouldn't we routinely remove depressed students, especially if they report suicidal ideation?

No. Routine dismissal wouldn't make sense. A 2006 article by Paul S. Appelbaum, Professor and Director of the Division of Psychiatry, Law, and Ethics at the Columbia University College of Physicians and Surgeons (and a past President of the American Psychiatric Association) highlights some the practical issues involved:

No matter how uncommon completed suicides are among college students, surveys suggest that suicidal ideation and attempts are remarkably prevalent. Two large scale studies generated nearly identical findings. Roughly 10 percent of college student respondents indicated that they had thought about suicide in the past year, and 1.5 percent admitted to having made a suicide attempt. Combining data from the available studies suggests that *the odds that a student with suicidal ideation will actually commit suicide are 1,000 to 1*. Thus policies that impose restrictions on students who manifest suicidal ideation will sweep in 999 students who would not commit suicide for every student who will end his or her life—with no guarantee that the intervention will actually reduce the risk of suicide in this vulnerable group. And even if such restrictions were limited

to students who actually attempt suicide, the odds are around 200 to 1 against the school's having acted to prevent a suicidal outcome" (emphasis supplied).

(*Psychiatric Services*: "'Depressed? Get Out!' July 2006, Vol. 57, No. 7, 914-916).

Aside from unjustified removal of thousands of individuals—including some of our best and most creative students—routine dismissals for reported depression or suicidal ideation would also discourage students from seeking professional help. Good policy, good practice, and adherence to state and federal laws protecting people with disabilities require professional *individualized assessment* and a fair procedure before students or employees can be removed on the ground that they have a mental disability that poses a “direct threat” to themselves or others.

Is there an association between mental illness and violence?

Research shows some association between severe mental illness and violence, especially when mental illness is accompanied by substance abuse. The 1994 American Psychiatric Association “Fact Sheet on Violence and Mental Illness” contains the following observation:

People often fear what they do not understand, and for many of us, mental illnesses fall into that category. This fear . . . [often] stems from the common misconception that the term ‘mental illness’ is a diagnosis, and that all mental illnesses thus have similar symptoms, making all people who suffer with them equally suspect and dangerous . . . *Recent research has shown that the vast majority of people who are violent do not suffer from mental illnesses.* However, there is a certain small subgroup of people with severe and persistent mental illnesses who are at risk of becoming violent. . . (emphasis supplied).

The U.S. Department of Health and Human Services document “Understanding Mental Illness” (April 20, 2007) contains the observation that “[c]ompared with the risk associated with the combination of male gender, young age, and lower socioeconomic status, the risk of violence presented by mental disorder is modest.” Such a “modest” correlation won’t be sufficient to draw conclusions about the future behavior of any particular student. Again, *individualized assessment* will be imperative, focusing on a specific diagnosis, demonstrable behavior, compliance in taking prescribed medications, patterns of substance abuse, and any recent traumatic events or stresses, among other factors.

How can I identify potentially violent students?

This is not a task to be undertaken alone. Expertise is available on campus to help. See the contact information below and in our first answer.

It's important to resist the temptation to try to "profile" potentially violent students based on media reports of past shootings. The 2003 National Research Council [NRC] report *Deadly Lessons: Understanding Lethal School Violence* (a project undertaken by the councils of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine) contains the following guidance:

One widely discussed preventive idea is to develop methods to identify likely offenders in instances of lethal school violence or school rampages . . . The difficulty is that . . . [t]he offenders are not that unusual; they look like their classmates at school. This has been an important finding of all those who have sought to investigate these shootings. Most important are the findings of the United States Secret Service, which concluded:

There is no accurate or useful profile of "the school shooter" (Emphasis supplied) . . .

- * Attacker ages ranged from 11–21.
- * They came from a variety of racial and ethnic backgrounds . . .
- * They came from a range of family situations, from intact families with numerous ties to the community to foster homes with histories of neglect.
- * The academic performance ranged from excellent to failing.
- * They had a range of friendship patterns from socially isolated to popular.
- * Their behavioral histories varied, from having no observed behavioral problems to multiple behaviors warranting reprimand and/or discipline.
- * Few attackers showed any marked change in academic performance, friendship status, interest in school, or disciplinary problems prior to their attack . . .

A more promising approach is "threat assessment," based on analysis of observable behavior compiled from multiple sources and reviewed by a trained threat assessment team. The report "Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates" (developed by the U.S. Secret Service and Department of Education in 2002) contains the following overview:

Students and adults who know the student who is the subject of the threat assessment inquiry should be asked about communications or other behaviors that may indicate the student of concern's ideas or intent. The focus of these interviews should be factual:

- What was said? To whom?
- What was written? To whom?
- What was done?
- When and where did this occur?
- Who else observed this behavior?
- Did the student say why he or she acted as they did?

Bystanders, observers, and other people who were there when the student engaged in threatening behaviors or made threatening statements should be queried about whether any of these behaviors or statements concerned or worried them. These individuals should be asked about changes in the student's attitudes and behaviors. Likewise, they should be asked if they have become increasingly concerned about the student's behavior or state of mind.

However, individuals interviewed generally should not be asked to characterize the student or interpret meanings of communications that the student may have made. Statements such as "I think he's really dangerous" or "he said it with a smile, so I knew that he must be joking" may not be accurate characterizations of the student's intent, and therefore are unlikely to be useful to the threat assessment team . . .

Proper threat assessment is a team effort requiring expertise from experienced professionals, including law enforcement officers. Threat assessment on our campus is done by [name of the team or committee], headed by [identify name and telephone number]. Faculty members should contact the threat assessment team whenever they believe a student may pose a risk of violence to self or others. *If in doubt seek a threat assessment.* Contact the campus police immediately in an

emergency [emergency telephone number].

Should I talk with a student about my concerns?

Exercise judgment on a case by case basis, preferably after consultation with colleagues, including the threat assessment team.

An effort at conversation is generally advisable. Students are often oblivious to the impressions they make. Careful listening and courteous dialogue —perhaps with participation by a department chair or student conduct administrator— will often resolve the problem. At a minimum, the discussion may prove valuable in any subsequent threat assessment process.

Please do not give assurances of confidentiality. A student who appears to pose a threat to self or others needs to be referred for help and supervision. College teachers should not abrogate their traditional role as guides and mentors, but they must not assume the responsibilities of therapists or police officers.

One danger in the aftermath of the Virginia Tech shootings would be a climate of fear and distance between teachers and students, especially students who seem odd, eccentric, or detached. Research on violence prevention suggests schools and colleges need *more* cross-generational contact, not less. The NRC report stated that:

In the course of our interviews with adolescents, we are reminded once again of how ‘adolescent society,’ as James S. Coleman famously dubbed it 40 years ago, continues to be insulated from the adults who surround it . . . The insularity of adolescent society serves to magnify slights and reinforce social hierarchies; correspondingly, it is only through exchange with trusted adults that teens can reach the longer-term view that can come with maturity. . . [W]e could not put it better than the words of a beloved long-time teacher [at one of the schools studied]: ‘The only real way of preventing [school violence] is to get into their heads and their hearts . . .’

Getting into the “heads and hearts” of students goes beyond individual conversations. It entails fostering a *community of engagement*, defined not by codes of silence or barriers of indifference, but by an active sense of mutual responsibility. This critical endeavor depends upon the faculty. Now more than ever faculty members must demonstrate skills in reaching outward, not retreating inward.

