MEMORANDUM

TO: The Board of Visitors:

George Keith Martin, Rector
William H. Goodwin Jr., Vice Rector
Frank B. Atkinson
L.D. Britt, M.D.
Frank M. Conner III
Allison Cryor DiNardo
Helen E. Dragas
Kevin J. Fay
Barbara J. Fried
Frank E. Genovese
John A. Griffin

Victoria D. Harker
Bobbie G. Kilberg
Stephen P. Long, M.D.
John G. Macfarlane
Edward D. Miller, M.D.
John L. Nau III
Margaret N. Gould
Leonard W. Sandridge Jr.

FROM: Susan G. Harris

SUBJECT: Minutes of the Special Meeting of the Full Board of Visitors on December 19, 2014

The Board of Visitors of the University of Virginia met, in Open Session, at 1:30 p.m., on Friday, December 19, 2014, in the Great Hall of Garrett Hall; Mr. George Keith Martin, Rector, presided.


Also present were Teresa A. Sullivan, Patrick D. Hogan, Richard P. Shannon, M.D., John D. Simon, Susan G. Harris, Roscoe C. Roberts, Patricia M. Lampkin, David W. Martel, Nancy A. Rivers, and Debra D. Rinker.

Presenters were Mary P. Brown, Apalla U. Chopra, Susan M. Davis, Michael A. Gibson, Danielle Gray, Leslie Gomez, Richard P. Kast, and Gina M. Smith.

Rector George Keith Martin called the special meeting of the Board to order. He asked for everyone to observe a moment of silence in honor of a student, Hunter Smith, who had passed away.
Rector Martin began the meeting by expressing a collective sorrow for the students, the student affairs professionals, the fraternities, and the countless others on Grounds who have been wrongly maligned and traumatized by the Rolling Stone article and the reaction to it. He said most students now have completed their exams and are returning to their families and loved ones for a time of rest and renewal. It is a season of peace and joy, and for counting blessings. Few student bodies in America or anywhere in the world have had to endure a semester like the one University of Virginia students have endured this fall. The same is true of the dedicated faculty and administration; and though parents, alumni, and friends of the University have had to endure at a distance, they have felt the pain no less keenly.

Mr. Martin said the University community has lost four students—Hannah Graham, Connor Cormier, Peter D’Agostino and Hunter Smith—each of them an extraordinary young person who was full of hope and dreams and promise. He acknowledged that at times it has seemed as if the University itself has lost its way. He likened it to a neighborhood thrown into chaos by drive-by violence. He said our tightly knit community has experienced the full fury of drive-by journalism in the 21st century; of callous indifference to the truth and callous indifference to the consequences. He said the whole story is still not clear, but it is not too soon to assess some of the damage:
- Innocent people have been hurt; some of them devastated;
- A great University’s reputation has been unfairly tarnished worldwide;
- A community characterized distinctively by honor and leadership and selfless service to others has been cast into self-doubt; and
- Great and important causes have suffered mightily as a result:
  - the cause of sexual assault prevention and prosecution, which requires the engagement and goodwill of the whole community; and
  - the cause of due process, which is the only sure refuge against the storms of passion and the only protection against the rush to judgment.

He said it is tempting to respond to these injustices with anger, but a great University does not respond in anger. Its very mission is to teach the power of truth and reason over prejudice and passion. And we need to practice what we preach. We are here, after all, to teach our students, to set before them a positive and constructive example. Sometimes we are here to learn from our students and to be inspired by them.

He asked what positive inspiration can this Board of Visitors, and the larger University community, take from the controversial events of recent days; in what ways can and are we turning the anger and frustration that we all feel into positive action and improvements that will benefit today’s students and those who will follow them?
Mr. Martin said the University has been inspired to make good on
the promise that there will be no tolerance of sexual violence in this
community. This will require the engagement of everyone. He
explained that a group comprised of administrators, faculty members,
students, Board members, and others has begun work building on an
initiative that began many months before the Rolling Stone article —
to find concrete and practical solutions to this nationwide dilemma.

He said we do not know how common sexual assault is on the
campuses of this country, including our own, but we know that it
exists. We know it is a reflection of deeply embedded social and
cultural factors; we know that too many incidents go unreported,
either to law enforcement authorities or to University personnel;
we know that in the search for a remedy to this entrenched problem due
process can sometimes be a casualty; and we know that inconsistent
laws and enforcement practices have made it nearly impossible for
America’s universities to address these matters intelligently without
violating someone’s rights, or risking liability, or both.

He said we also know that we have much more work to do to get it
right on the University’s Grounds. He thanked Ms. DiNardo and Mr.
Conner for representing the Board in this work. He said the Board
also appreciates the work of the Governor and his sexual assault task
force, the Attorney General, and the members of the General Assembly,
all of whom share a commitment to safety and justice for students and
all members of the University community.

Mr. Martin said the second way that the community will make
something positive of this ordeal is by bringing the full truth into
the light of day, so that everyone can learn from our experience —
from our mistakes as well as our successes — and thereby improve. He
quoted from Thomas Jefferson’s words in the Virginia Statute for
Religious Freedom: “Truth is great, and will prevail if left to
herself, and is the proper and sufficient antagonist to error, and can
have nothing to fear from the conflict.”

Mr. Martin said he spoke for the Board and for the University
community in saying we have nothing to fear from the truth, and we are
second to none in wanting it brought into full public view. He said
there are obstacles to this, but the University of Virginia will not
be one of them. He cited some obstacles to finding the truth:
- The massive failure of journalistic ethics reflected in the
Rolling Stone article has been an obstacle to truth;
- A federal statute that appears to protect student privacy even
after literally thousands of words attributed to students have
been published by multiple media outlets is an obstacle to
truth;
- The widespread lack of clarity and understanding about what
colleges and universities are required to do under the federal
law known as Title IX is an obstacle to truth;
- The rush to judgment by some who first faulted the University,
as soon as the article was published, for doing too little,
and others who faulted the University, as soon as the article
was retracted, for doing too much—those excited and strident voices have been obstacles to truth.

He said the record will show that the Board acted in good faith, responding to new and shocking allegations of uncertain merit in the best way they could, but that record undoubtedly will also show that they could have done better and should have done better.

He said it may seem odd that the Board of Visitors will begin this effort to lay bare the truth by going into closed session in a few moments, but it actually made sense because the Board needed to have guidance from its legal counsel, including the independent counsel that the Attorney General of Virginia engaged to advise the University regarding the University’s legal obligations under federal privacy laws.

Mr. Martin said to date we have understood that the facts of this case, including the University’s response to the limited information it received at various points before publication of the article, may not be publicly disclosed without violating the rights of one or more students who have chosen not to waive these protections. This obligation, and, to a lesser extent, law enforcement considerations, have prevented the University from calling attention to the false portrayal of its actions in the Rolling Stone article, and it has prevented University officials from answering the thoughtful and reasonable questions from various quarters about what University personnel knew, when they knew it, and what they did about it.

He said the Board intends to closely and critically examine this legal issue today, with the aid of counsel, and determine the precise demarcation between legal obligations and the zone of discretion. He vowed not to act in a way that compounds the fallout from this tragic episode by subjecting the University and its personnel to legal liability. At the same time he acknowledged an urgent need to share what the University knows as fully and quickly as lawfully possible, and the Board is committed to doing exactly that.

Mr. Martin said there is an ongoing investigation at the University’s request by both the Charlottesville Police Department and the review by the independent counsel designated by Attorney General Herring. The University is cooperating fully and assisting with both efforts.

At the proper time, when those authorities have completed their work — and subject only to restrictions imposed by state and federal law as interpreted by the Attorney General and his designees — the University will support making the results available to the public in their entirety. Mr. Martin said that would be his recommendation to the Board, and he knows from conversations that most if not all of the Board members agree on this point.

A second positive outcome cited by Mr. Martin is the commitment to learn from the experience and improve. A final positive result of this controversy can be a broader respect and appreciation for each
other's burdens: showing a little more patience, a little less judgment, and a little more kindness.

Rector Martin said, like all the Board members, he has been inundated with hundreds, by now probably thousands, of emails and other communications. And while he has endeavored to read them all, he feels guilty that it has not been humanly possible to respond to each of them individually. He said these messages, heartfelt and passionate, reveal the full range of human emotions from unbridled fury to deep sadness; from loud distress that things are hopelessly amiss in Charlottesville to a quiet confidence that this solid University will weather this controversy, too.

He said if you step back from these messages, which are so divergent in so many ways, the common denominator is a community of people who care deeply about this place and its mission.

The correspondents have seen the University make headlines this fall, not for exciting new discoveries and talented new leaders who go from the University to make their mark; not for top rankings for quality and value or for the amazing generosity of the people who give their time and treasure to help others. Those are all true stories, but instead the headlines have told of vigils and investigations, of long searches and sad discoveries, of manhunts and arrests, and most recently, a tale of inhumanity and indifference that shocked our consciences to the point of disbelief — disbelief that now appears warranted to a significant extent.

Mr. Martin said his message to the University community, here on Grounds and beyond, is simply this: Stay strong, positive, and united. Let's work together to learn and improve, and let Rolling Stone's catastrophic failure of professionalism and all that happened since teach us all to be a little less quick to judge each other, and a little more reluctant to assume the worst about each other when it is contrary to all we know and believe about our community.

He said there are lessons to be learned, but the University of Virginia is indeed a good and noble place, blessed by God (or, as Mr. Jefferson would say, by "divine Providence") not only for the advancement of learning and the nurturing of young leaders, but for the preservation of timeless values. He asked that we live out these values in a spirit of mutual caring, patience, kindness, and forbearance, or, put simply, treat others as we would wish to be treated ourselves. He said if we just do that, the rest will take care of itself, and this still-young University, this powerful force for what is good and decent and true, will mend its wounds, renew its promise, and prosper for another 200 years.

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First Executive Session

After adopting the following motion, the voting members present and those participating by telephone, plus Meg Gould and Leonard
Sandridge and those mentioned below, participated in Executive Session at 1:50 p.m.:

That the Board of Visitors go into closed session to discuss with independent counsel the scope of their engagement where, if made public initially, the financial interest of the University would be adversely affected; and for the provision of legal advice regarding privacy issues and federal and accrediting agency reviews, as permitted by Code of Virginia sections 2.2-3711 (A) 6 and 7.

The following persons were necessary to aid the Board in its consideration of the topics discussed in closed session: Apalla Chopra, Mary Patrice Brown, Danielle Gray, Pat Lampkin, Susan Davis, John Simon, Pat Hogan, Roscoe Roberts, Nancy Rivers, Teresa Sullivan, Gina Smith, Leslie Gomez, Pace Lochte, Susan Harris, and Debbie Rinker.

At 3:29 p.m., the Board left closed session and, on motion, adopted the following resolution certifying that the deliberations in closed session had been conducted in accordance with the exemptions permitted by the Virginia Freedom of Information Act:

That we vote on and record our certification that, to the best of each Member’s knowledge, only public business matters lawfully exempted from open meeting requirements and which were identified in the motion authorizing the closed session, were heard, discussed or considered in closed session.

President Sullivan was asked to provide a report on the progress of the University’s Climate and Culture Project. She began by reminding the Board that the University’s concern with sexual assault did not start when the Rolling Stone article was published; it has been an issue for the President since she came to the University in 2010. The month after she first arrived, the University had its first “Day of Dialogue” on relationship violence. This took place shortly after Yeardley Love was murdered. She also highlighted the February 2013 public conversation about gender violence and the University-hosted National Sexual Misconduct Conference in February 2014. President Sullivan mentioned bystander training, the physical improvements that have been planned involving lighting, cameras, and crosswalks, and the new policy that designates all University employees as “mandatory reporters”, which went into effect in September. There are many other efforts that are documented in the timeline, which can be found in the President’s presentation: http://www.virginia.edu/bov/meetings/14Dec-full%20board%20meeting/index.html.

President Sullivan gave an overview of the framework for the Climate and Culture Project. She said two Visitors have been appointed to the President’s Ad Hoc Group, Mr. Conner and Ms. Cryor DiNardo. Several investigations are currently in progress, and the Group is engaged in on-going listening with stakeholders about the issues. The President’s Ad Hoc Group identified three major subsets
of the issues: 1. the culture of the University, 2. prevention of sexual violence, and 3. how the University community responds if a violent action occurs. President Sullivan said we are fortunate at the University because a number of faculty and staff have been involved in national research and are considered experts on some of these issues. In addition, experts outside the University community are engaged. Under the general area of culture, student social life which includes Greek life, diversity, housing, and alcohol or other drug use will be examined. She also said it includes the extent to which student self-governance could be strengthened and supported. She has asked that all contracts with student organizations be reviewed.

Prevention involves education and training, a safer environment, and talking with student and advocacy groups. In the response subset, survivor support, training for faculty and staff to support sexual assault survivors, and adjudication of cases are areas of review.

President Sullivan said she has assumed overall responsibility for the project and for reporting to the Board. The Ad Hoc Group on Climate and Culture will advise the President and Board, define the charges for the working groups, and recommend short-, medium-, and long-term actions. She said a number of people in the Student Affairs area are involved in this work as well as the Provost Office, which is handling the response to the accreditation inquiry. The General Counsel's office is the liaison with the independent investigation, the Chief Operating Officer has a number of units under him that are involved, as well as the Communications office. She reported on the status of the short-, medium-, and long-term actions, and expressed an ongoing commitment to consult with subject matter experts as appropriate.

Ms. Sullivan said in early 2013 when they began to plan the national conference, she was aware that the University was entering a contentious arena in which there were many compliance issues. She said it was very easy to get bogged down in the compliance issues and the many laws in this area. She emphasized that we want the University to be a safe place for all students, not because we have to comply with the law but because it's the way they will learn best and it's what we want to do for them. She said this is why the University implemented the mandatory reporter policy, to replace the current shame and stigma that is sometimes associated with sexual assault with a culture of reporting. One positive outcome of the Rolling Stone story is it may have accelerated the growth of a culture of reporting. Signs of this include universal revulsion of predatory sexuality; increased reporting of sexual misconduct to the Dean of Students office by mandatory reporters; and an increase in the number of people standing up and saying they too were victims of sexual violence.

President Sullivan said the University ministers group told her they were experiencing the same increase in survivors in their congregations speaking up. She said the truth is that sexual misconduct is widespread in our society; we want to get to the point
that saying it is no more blame-worthy for a person than saying that you were mugged or robbed.

She said the University culture and climate are generally healthy; this is a good place to give and receive medical care, to do outstanding research, to teach and to learn. This is a culture that shares important values including honor, achievement, personal responsibility, and self-governance. These are positive values that help us mobilize our efforts to make some changes that we do need to make. She said we can change our culture by talking more openly about healthy sexuality and healthy relationships. Research shows that 80% of college students want a relationship, not a “hook-up”. Of the remaining 20%, many of them hope that a hook-up is a possible way to get to a relationship. She said we can do better in addressing this issue forthrightly, as uncomfortable as it may be. Many of our students have brought unhealthy habits with them from high school, but we can introduce them to evidence and research that might change their minds about those habits. We can focus on telling students what not to do and we can enforce restrictions, but we can also introduce change by prudent changes in the environment such as safety provisions, and by emphasizing positive change in student social life which can also lead to improved safety.

President Sullivan said she believes that the University can be a leader in this effort. We are not alone among Universities experiencing instances of sexual misconduct or rape. Universities are not alone among institutions that have such instances – the military and workplaces are examples, but the University of Virginia is in the spotlight. As a result we have the opportunity to lead, and we have the intelligence, the will, and the resolve to lead. She said she had charged the Chief Operating Officer with a number of tasks with respect to improving the environment; these investments will not be cheap but they should be made. Mr. Hogan then briefed the Board on the proposed new investments and gave estimated costs for implementing them. These can be found at: http://www.virginia.edu/bov/meetings/14Dec-full%20board%20meeting/BOV%20slides%2012%2018%2014%20withcosts%20v4.pdf

Rector Martin introduced Ms. Apalla Chopra from O’Melveny & Myers LLP, the consultant group that the Attorney General’s office appointed. She briefed the Board on the implications of Title IX, the Clery Act, and the Family Educational Rights and Privacy Act, also known as FERPA. Her presentation can be found at: http://www.virginia.edu/bov/meetings/14Dec-full%20board%20meeting/Overview%20of%20Title%20IX%20and%20Clery%20Act.pdf

Police Chief Michael Gibson gave a quick overview of the federal Clery Act. He told the Board that the Clery Act reports are a tool available to anyone attending an institution of higher education to assess their safety. He said all of the items related to the Clery Act can be found on the University Police website at: www.virginia.edu/uvapolice. He said the Department of Education has a template that is completed across institutions and there is no flexibility in reporting, which provides for consistency among universities. The University of Virginia’s report can be found on the Department of Education website.
Second Executive Session

After adopting the following motion, the voting members present and those participating by telephone, plus Meg Gould, Leonard Sandridge, and those mentioned below, participated in the first part of Executive Session at 5:05 p.m.:

That the Board of Visitors go into closed session to review personally identifiable information contained in the scholastic records of students attending the University of Virginia, and to discuss with legal counsel probable litigation and other legal matters requiring the provision of legal advice, as permitted by Code of Virginia sections 2.2-3711 (A)2 and 7.

The following persons were designated as necessary to aid the Board in its consideration of the topics to be discussed in the first part of the closed session: Roscoe Roberts, Richard Kast, Gina Smith, Apalla Chopra, Leslie Gomez, Ben Rexrode, Susan Harris, and Debra Rinker. The second part of the closed session included only the voting members of the Board, Meg Gould, Leonard Sandridge, and Roscoe Roberts.

At 8:00 p.m., the Board left closed session and, on motion, adopted the following resolution certifying that the deliberations in closed session had been conducted in accordance with the exemptions permitted by the Virginia Freedom of Information Act:

That we vote on and record our certification that, to the best of each Member’s knowledge, only public business matters lawfully exempted from open meeting requirements and which were identified in the motion authorizing the closed session, were heard, discussed or considered in closed session.

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On motion, the meeting was adjourned at 8:02 p.m.

Respectfully submitted,

Susan G. Harris
Secretary

SGH:ddr
These minutes have been posted to the University of Virginia Board of Visitors website:  http://www.virginia.edu/bov/publicminutes.html

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