



“Marching Toward Inclusive Excellence: An Equity Audit and Investigation of the Virginia Military Institute”

Final Report of the Barnes & Thornburg LLP
Special Investigation Team

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Throughout the investigation, the Special Investigation Team met regularly with representatives of the State Council of Higher Education for Virginia and reported on the progress of the investigation. The Team discussed the investigation's process, but did not disclose findings or recommendations. No person or entity other than the Team and its members reviewed the findings and recommendations in this report prior to its release.

1. OBJECTIVES OF THE INVESTIGATION

Objectives

1. To identify any civil rights violations or immediate threats of racial violence;
2. to identify possible equity gaps in VMI's culture, policies, practices, and traditions;
3. to examine VMI across multiple dimensions as compared to other Virginia Institutions of Higher Education and to the extent possible, other military academies; and
4. to provide a comprehensive recommendation and an assessment plan for any necessary reforms, including recommending changes to VMI's institutional policies, proposing legislation, or making budgetary recommendations.

2. SUMMARY OF FINDINGS

“This investigation found that institutional racism and sexism are present, tolerated, and left unaddressed at VMI.”

“The VMI cadets, employees, and alumni that came forward as part of the investigation are generally committed to VMI and its success.... The vast majority were thoughtful, respectful, and cognizant of the challenges facing VMI. Most were willing to adopt some form of change at VMI, provided the core elements (the Rat Line, the Honor Court) were maintained. Few believed that the Confederate history of VMI was a ‘core’ element that must be maintained.”

VMI has traditionally been run by white men, for white men. It cannot expect to keep its traditions unchanged and expect to be a welcoming school for anyone other than white men.

Summary of findings

- No explicitly racist or sexist policies; racist and sexist culture disparately impacts minorities and women
- VMI lags significantly behind its peers in every measurable DEI metric
- Culture reflected in VMI's conduct in this investigation – suspicion, defiance, silence
- No recommendation that VMI's core traditions be abolished; they should be examined and adjusted so that they do not impose disparate effects on minorities
- Changes underway, led by MG Wins, are part of an important and positive step forward
- No appetite for change until last fall when forced
- VMI must be held accountable to its promises and plans

Three categories of findings

1. Racial and gender disparities in how cadets are treated persist at VMI.
2. VMI's culture creates and reinforces barriers to addressing those problems.
3. As a state-funded institution, VMI must be held accountable to the taxpayers and the General Assembly and prove that it is implementing its diversity, equity, and inclusion proposals.

3. METHODOLOGY

Methodology

- Survey – 2,496 respondents
- Interviews – 385
 - 73 cadet, 69 staff, 243 alumni
- Focus groups
 - 3 cadet, 3 faculty
- “Hotline” telephone number/email address
- VMI document productions
- Publicly available information

Methodology (cont.)

- Team approach, organization
 - 39 professionals
 - 5000+ hours
 - Cadet, Faculty/Admin, Alumni, Data/Analytics, and Core teams
- Fact-gathering
- Analysis
- Reporting
- Recommendations – 42, across 8 categories

Limitations

- VMI messaging
- Declined interviews
- VMI attorneys in interviews
- Disputes over access, delays
- Document delays, non-answers, refusals
- Alumni Agencies non-cooperation

4. REVIEW OF SPECIFIC FINDINGS

1. Racial and gender disparities persist

- The picture of race at VMI that has emerged from this investigation is complex.
 - Some never observed or experienced racial intolerance at VMI.
 - Others (especially African Americans) reported racial discrimination or intolerance at VMI and that it was fueled or aggravated by VMI's culture.
- The former group does not comprehend that VMI's own history, traditions, and resistance to change foster a racist culture at VMI.
- This culture impedes VMI's ability to recruit and retain cadets and faculty from underrepresented populations.

Perceptions of the racial climate at VMI

- 50% of African American cadets strongly or somewhat agree that there is a culture of racial intolerance at VMI compared to 10% of Caucasian cadets.
- 42% of African American cadets responded that African Americans are discriminated against “a lot” at VMI, compared to 4% of Caucasian cadets.
- 50% of African American cadets strongly or somewhat agree that it is harder for people of color to succeed at VMI, compared to 5% of Caucasian cadets.
- More than one Caucasian survey respondent insisted that the real racial issue at VMI is racism against whites.
- Other minority respondents did not report experiencing racism at the same level as African American respondents.

Racist language

- Racial slurs and jokes are not uncommon on post
- VMI's approach is insufficient
- Comments contribute to an atmosphere of hostility
- Those who use slurs and who are reported to the administration are at times excused by administrators
- VMI provides responsive education and training to individuals, but no proactive training
- VMI should commit to educating all cadets deterring the use of racial slurs and jokes on post

VMI compared to other schools

- VMI lags behind other Virginia institutions.
- A comparison of VMI's demographics with publicly available data from other comparable colleges and communities demonstrates that VMI is consistently less diverse.
- VMI trails its peer institutions when it comes to implementing, supporting, and publicizing DEI initiatives.

Athletes and non-athletes

- The investigation found that a significant rift exists between athlete and non-athlete cadets and it is felt by both sides.
- Divide breeds racial resentment based on incorrect perception that “athlete” means “African American”
- In reality only 18% of athletes are African American
- Reliance on this misperception that VMI “does not have a race problem, it has an athlete problem” avoids addressing the underlying race issues

Honor Code

- Fair proceedings – documented procedures, produce defensible results
- 91 cases that resulted in a conviction in the last 10 years:
 - Cadets of color represent 23% of the corps of cadets
 - Cadets of color are 41% of dismissed cadets since 2011
- True regardless of whether the cadet is an athlete
- No recommendation to eliminate the fundamental elements
- Instead, need root cause analysis, revisions to training and procedures, improvement in documentation and monitoring

“Single Sanction”

- Not a true “single sanction” system
- Certain students are allowed an opportunity to go through an education process rather than face a trial and expulsion
- “Education exception” grants wide, undefined discretion
- The Honor Court’s discretion to impose this “education” path should be studied to analyze whether it is applied equitably

Honor Court and athletes

- Disproportionate effect on athletes
- Feeling that athletes miss Honor Court training on the Rat Line and thus do not understand the implications
- Others even proposed that athletes just cheat more
- Athletes, non-athletes, and professors felt or witnessed that VMI staff used Honor Court referrals to target athletes

Other severe conduct not emphasized

- Frustration that VMI leadership fails to make clear that other severe conduct is unacceptable
- Includes racial and sexual misconduct
- While these offenses are often punished, sometimes with expulsion, frustration remains that VMI leadership and traditions often treat these offenses as less severe and that their adjudication results in less public shame and stigma than some Honor Code offenses.

Culture of silence

- Culture at VMI described as one of silence, fear, and intimidation - especially reporting that reflects negatively on the Institute
- Reports that, in some sexual assault cases, members of the administration have actively dissuaded victims from making reports
- Perception that leadership places a high priority on suppressing information and avoiding difficult situations, rather than addressing underlying problems
- VMI sought to undermine the findings in this report before its release

Confederate traditions and iconography

- Outdated, idealized, disproportionate reverence for the Civil War and the Confederacy
- Little representation on post of traditions or iconography relating to civil rights or other aspects of U.S. and military history that might be meaningful to minority groups
- Those who advocate for celebrating Confederate traditions often do not appreciate or accept the impact on African Americans
- Cadets recounted double standards

Minority alumni engagement is low

- VMI Alumni Agencies fall short of peer alumni groups
 - No affinity groups
 - No funding of scholarships for minority students
 - No organization of activities specifically for minority alumni
- No meaningful action on DEI initiatives until 2020
 - D&I Subcommittee: diversity discussions, survey, Citadel partnership
- Declined to provide any documentation on DEI efforts

Gender inequities

- Common opinion: gender issues worse than racial ones
- Issues identified:
 - Gender inequity
 - Men dismissive of women
 - Double-standards for women
 - Disturbing comments and abuse on social media, especially Jodel
- Resentment toward women for perceived preferential treatment
- Female respondents had varying views:
 - Fear, discrimination, anxiety, “don’t come here”
 - Pride in the Institute and in male cadets
 - “That’s just the way it is”

Sexual assault

- Reports of sexual assault, harassment (female cadets)
 - Assaulted at VMI – 14%
 - Harassed at VMI – 27%
 - Heard from other of their assault or harassment – 64%
- Common view: Consistent fear of assault or harassment
 - Door locks, shades
- Training
 - “A joke”
 - Incomplete – bystander, harassment

Title IX

- Rigorous, well-run process, once VMI initiates an investigation
- Many cases appear to never make it that far
 - Fear of retaliation
 - Fear of alcohol discipline
 - Lack of knowledge on process for reporting
 - CEA – confidentiality, apprehension
 - Peer cadets don't know what to do
 - Active dissuasion by VMI administration
 - “Consider his career”
 - “If you can't handle that, you don't belong at VMI”

Title IX, cont.

- Reporting without fear is critical
 - Title IX recognizes this
 - Virginia law recognizes this... but carves out VMI:

§ 23.1-808. Sexual violence....

*[Each Virginia] institution of higher education **except the Virginia Military Institute** shall include as part of its policy, code, rules, or set of standards governing sexual violence a provision for immunity from disciplinary action based on personal consumption of drugs or alcohol where such disclosure is made in conjunction with a good faith report of an act of sexual violence.*

Title IX, cont.

- Female cadets' view of the system:
 - Not appropriate – 32%
 - Appropriate – 47%
- Support services lacking
 - Mental health
 - Accommodations

LGBTQ and Religion

- LGBTQ
 - LGBTQ cadets discriminated against – 29%
 - Slurs
 - No clubs or groups
 - No measures specifically directed toward LGBTQ tolerance.
- Religion
 - Little evidence of religious intolerance
 - Lack of religious diversity

Civil Rights Violations

- Title VI
 - Significant issues with racial harassment, intolerance, and climate
 - No clear Title VI violation
- Title IX
 - Several instances and patterns that implicate Title IX and require immediate attention

2. VMI's culture creates and reinforces barriers

- “Us versus them” mentality
- Culture includes VMI's resistance to change, denialism, secrecy, refusal of oversight, and suspicion of outsiders that creates a barrier to forward progress.
- The cultural is reflected in VMI's reaction to the investigation.
- Members of the VMI community would have come forward, but were either too scared of retaliation from VMI or too intimidated.
- The cooperation and candor of the current cadets and faculty who did come forward stood in stark contrast to the reaction from VMI's leadership.

3. VMI must be held accountable

- VMI did not take steps to improve the culture around race at the Institute, until forced. Even then, VMI's messaging was contradictory.
- VMI's planned steps to promote diversity and inclusion are important and significant and VMI has laid out a detailed, thoughtful plan.
- However, VMI's past reaction to suggestions of change do not inspire confidence that it will follow through on this plan.
- VMI must be held accountable by a system of reporting on progress on its plan and setting goals.

5. RECOMMENDATIONS

Eight categories of recommendations

1. Maintain accountability
2. Improve diversity in leadership and the corps
3. Monitor and adjust institutions and traditions
4. Temper associations between VMI and the Civil War and Confederacy
5. Actively address racist, sexist, and other unacceptable language and behavior
6. Encourage reporting and transparency
7. Recognize and celebrate other cultures
8. Address tensions between athletes and non-athletes

1. Maintain Accountability

Recommendations on these slides are summarized from the full recommendations in the report

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| 1(a) | VMI should create a comprehensive, unified, public strategic plan around DEI improvements with measurable goals. |
| 1(b) | Beginning in January 2022, and for a period of at least three years, VMI should submit quarterly reports to the Board of Visitors, to SCHEV, and to the General Assembly. |
| 1(c) | The General Assembly and the executive branch should appoint an independent committee or other entity to evaluate these reports. |
| 1(d) | In constituting the Committee, the General Assembly and executive branch should prioritize diverse members. |
| 1(e) | The Board of Visitors and administration of VMI should be required to take regular annual DEI training. |

2. Improve diversity in leadership and the corps

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| 2(a) | VMI should include in its plan a strategy with measurable goals to recruit, maintain, and promote minority and female administrators, faculty, and staff. |
| 2(b) | VMI should establish and support a Faculty Senate and Faculty DEI Committee (or similar bodies) with a direct reporting line to MG Wins and the Board of Visitors. |
| 2(c) | VMI should monitor public statistical information on DEI metrics and initiatives from other military colleges and Virginia institutions of higher learning. |
| 2(d) | VMI should review the feasibility of establishing and funding scholarships and support for minority non-athlete cadet recruitment and retention. |

3. Monitor and adjust institutions and traditions

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| 3(a) | VMI should perform a root cause analysis as to why minority cadets are drummed out at a disproportionate rate. |
| 3(b) | VMI should analyze statistics on cases brought to the Honor Court and monitor and address any disproportionate impact on minority cadets. |
| 3(c) | VMI should clarify what constitutes an Honor Code violation and what penalty will be applied. |
| 3(d) | VMI should examine data related to punishments to ensure that they are applied equitably. |
| 3(e) | VMI should critically study the Honor Court’s “education” policy and assess whether and how this practice is consistent with VMI’s “single sanction” policy. |

3. Monitor and adjust institutions and traditions, cont.

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| 3(f) | VMI should consider non-unanimous verdicts, faculty on juries, and prohibiting juror strikes based on race or gender and track information on juries. |
| 3(g) | VMI should permit cadets to have the assistance of legal counsel in an Honor Court proceeding. |
| 3(h) | VMI should provide training to all faculty defense advisors and cadets who run the Honor Court including on implicit bias. |
| 3(i) | VMI should ensure that all incoming cadets, including athletic recruits, are provided with standardized, complete materials on what to expect before they matriculate. |
| 3(j) | VMI's Alumni Agencies should supplement their DEI plans to evaluate and implement DEI efforts undertaken by the alumni associations at peer schools. |

4. Temper associations between VMI and the Civil War and Confederacy

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| 4(a) | VMI should continue to reduce and replace the emphasis on traditions and iconography associated with the Civil War/Confederacy. |
| 4(b) | VMI should solicit input from current cadets and organizations (including the Promaji Club) when considering these actions. |
| 4(c) | VMI should ensure equitable practices around allowing cadets to associate with and participate in community events. |
| 4(d) | VMI and the Alumni Agencies should adopt and adhere to a policy on acceptance of funds. |

5. Actively address racist, sexist, and other unacceptable language and behavior

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| 5(a) | VMI should design and implement sensitivity and bystander training for cadets. |
| 5(b) | VMI should implement a social media policy. |
| 5(c) | VMI should ensure a strong, vocal, unified, and public response to discriminatory, racist, or sexist acts. |
| 5(d) | VMI should augment its efforts to combat and prevent sexual violence. |
| 5(e) | The General Assembly should consider amending Va. Code § 23.1-808. |

5. Actively address racist, sexist, and other unacceptable language and behavior

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| 5(f) | VMI should consider amending General Order 16's amnesty provision. |
| 5(g) | VMI should consider amending or removing, the channel for reporting Title IX sexual misconduct through the Cadet Equity Association. |
| 5(h) | VMI should revise its door locking policy. |
| 5(i) | VMI should make LGBTQ issues a priority in its diversity efforts, and should make clear, and enforce, that homophobic conduct and language is unacceptable at VMI. |

6. Encourage reporting and transparency

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| 6(a) | VMI leadership design a campaign to encourage reporting of misconduct beyond simply making mechanisms and opportunities available. |
| 6(b) | Consistent with General Order 13, VMI should supplement its reporting procedures with a confidential, anonymous reporting system (to the extent permitted by law). |
| 6(c) | VMI should collect and publish detailed financial information from the Alumni Agencies on how funds are raised and spent. |

7. Recognize and celebrate other cultures

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| 7(a) | VMI should evaluate its policy on appropriate hair styles among members of the corps of cadets and consider adopting Army Regulation 670-1. |
| 7(b) | External committee for formal actions that VMI should take to honor diverse individuals or entities on post. |

8. Address tensions between athletes and non-athletes

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| 8(a) | VMI should formally evaluate its status as a Division I institution. |
| 8(b) | VMI should create a written, detailed, measurable plan to bridge the athlete/non-athlete divide. |
| 8(c) | VMI should develop and implement measures to make the athlete and non-athlete experience more uniform, and to build mutual understanding. |
| 8(d) | VMI should increase opportunities for athlete/non-athlete interaction, such as through roommate assignments and the dyke system. |
| 8(e) | VMI should establish uniform guidelines for the recruitment of athletes, requiring transparency and promotion of the VMI experience. |