

Campus Security/Public Safety

Use of Force

by Dr. Matthew J. Stiehm
Stiehm Solutions Consulting LLC

stiehm_solutions@yahoo.com

General Historical Statement

Colleges and universities serve a large population of people: students, faculty, staff, and visitors. “University and college campuses are often seen as places of learning, scholarship, and training grounds for future leaders where campus crimes are usually attributed to pranks” (Vermillion, 2006, p. 30). Between 1995 and 2002, there were approximately 479,000 victims of crimes of violence on college campuses (Carr, 2005). Considering all of these acts of violence, what is the perception of college faculty and staff as it relates to their personal safety and the security on campus? Violence is a part of society, and is found in just about every aspect of life. The National Association of Student Personnel Administration Task Force Group on Safety and Security as cited by Roark states:

A safe campus environment is one in which students, faculty, and staff are free to conduct their daily affairs, both inside and outside the classroom, without fear of physical, emotional or psychological harm. Personal safety is a basic human need that must be preserved if the mission of the university it to be pursued. (1993, p. 4)

Violence is present on college campuses, and festers, because it is a subset of the regular population. College students are generally youthful, inexperienced, and do irresponsible things, which might contribute to crime (Roark, 1993). Colleges and universities are a unique part of society, because these institutions of higher education support freethinking, experimentation, and expression. A general feeling of openness by college students, on and off campus, students can contribute to victimization (Roark, 1993).

“Since the first documented school shooting, 30 massacres have occurred” (Olson, 2007, para. 3). “It’s important to remember that statistically campuses remain safe environments” (Owen, 2007, p. 22), however, campuses a prime target for crime and for individuals wishing to do harm (Blake, 2006).

Crime on college campuses is on the rise. A campus security related study that was conducted in the 1990’s, some 2,400 college campuses were surveyed, and 30 of these had a homicide. “[T]he very occurrence of homicidal behavior on college campuses sends a frightening signal that society’s ills have spilled onto [higher education] campuses” (Nichols, 1995, para. 8). Of those same 2,400 college campuses, there were a total of 7,500 other violent crimes committed during the same academic year (Nichols, 1995).

Today’s society is getting more violent and we need to prepare for it (Stiehm, 2007). Each college and university has crime, whether it is a violent serious crime like the Virginia Tech mass murder or simple petty theft.

According to Rush (2007) colleges and universities operate on a 24-7 time clock. Colleges and universities security departments’ focus shifted after the Virginia Tech incident from issues involving alcohol consumption to mental health issues.

Since the Virginia Tech shooting, school officials from around the United States have stated that campus security has been the number one question by prospective students and their parents. Parents want to know about policies and procedures to protect their children. Certainly after watching the Virginia Tech incident parents are more concerned with sending their child off to college. “But emotions tend to cloud the facts, and the truth is, the risk on campus of murder in general and mass murder in particular is so low that you almost need a course in college math to calibrate the odds” (Fox, 2007., para. 4).

Fox (2007) talked about recent events in security at colleges from 2001 to 2005. Results showed only 76 homicides reported in the United States to the Federal Bureau of Investigation. “Leaving aside cases involving faculty, staff or other non-students as victims, the count of undergrads and grad students murdered at school numbered in 43. That’s fewer than 10 per year” (Fox, 2007, para. 5). Comparing this rate with any large metropolitan area, it is found to be a significantly smaller number. Fox (2007) believed the real problem and danger are in the number of students who commit suicide or die as a result of alcohol-related events.

College Security/Law Enforcement Defined

Most campus security is not licensed or sworn law enforcement personnel. The authority given to campus security personnel comes from a variety of sources. How or more where do they get there authority. How do we ensure that there is a properly application of the use of force? What are the provisions protecting campus safety/public safety (non-sworn officers)?

United States Department of Justice

In a report created by the U.S. Department of Justice titled National Summit on Campus Public Safety (2007), the report notes, “...characteristics of security and police services on the nation’s college and university campuses vary considerably. This variance inhibits community policing, collaboration, police development, training and other activities” (pg. 21).

The report also makes the following distinctions between law enforcement and security services on campuses

- (1) Campus police department: A full-service agency that functions as part of the university. Officers have full police powers.
- (2) Security department or operation: A service agency functions as part of the university. Security personnel do not have full police powers and rely on municipal, county, or state police for support in criminal matters.
- (3) Contract security: A private firm contracted to provide security services to the university. The firm relies on municipal, county, or state police for support in criminal matters.
- (4) Local or state police: A municipal, county, or state police agency that provides police operations or services to the university by contract or agreement. (p. 22).

Non-sworn campus public safety/security organizations are dependent and rely on relationship with the board of directors (trustees), as well as and the college president. These individuals also have the potential to affect the outcome of police/security functions (DoJ Report, 2007). Campus security departments and contract security organizations rely strongly on a working relationship with campus administrative officials.

Similar Research

A similar research project was conducted in 1972 by Seymour Gelber, known as *The Role of Campus Security in the College Setting*. Gelber focused on a variety of questions. However, one specific question pointed to problems, which are still pertinent today. Gelber's (1972) question: "What are the different sources and kinds of legal authority under which campus security officers function" (p. 10). Gelber further maintained, that "until recent years the authority of campus security officers had been shrouded in uncertainty" (Gelber, 1972, p. 34).

Use of Force:

First and foremost, use of force must be defined, so it can be applied to non-sworn and campus law enforcement (security). To understand the application of the use of force, first force must be defined, by Champion "force, reasonable [is defined] Any amount or degree of force necessary for persons to protect themselves from aggressive suspects, so using this as a foundation the discussion can go forward on how it applies to those working in a non-sworn capacity on a university campus.

Generally, law enforcement officers are governed under constitutional law, state law, and department policy on the application of force and the use of force. The foundations are grounded in the ability of as licensed law enforcement officers to affect a lawful arrest.

Case Law Origins for Force

The United States Supreme Court established guidelines for officers when using force. The two landmark decisions are *Graham v. Connor*, 490 U.S. 386 (1989) and *Tennessee v. Garner*, 471 U.S. 1 (1985). In the first case, Graham, a diabetic was in a car with his daughter. Graham and his daughter were attempting to get some orange juice for Graham who was having a diabetic reaction. Graham entered a store, but due to long lines, left without purchasing anything. Graham told his daughter to hurry to another store. An officer observed Graham's quick entry and exit from the store, and stopped them to conduct an investigation. During the course of the investigation, Graham became upset and was handcuffed. While handcuffed, Graham sustained injuries. In turn, Graham filed suit against the department and the officer for excessive force. The Supreme Court found that officers are liable when any level of force is deemed excessive. However, the definition for what is excessive is determined after each situation, and is lacking an objective guideline. "The reasonableness of the situation and force used is determined on the spot, considering all the circumstances" (Champion, 1997, pp. 196-197). So what does this mean for officers? It sets up a standard that officers cannot be judged for their use of force, without looking at the context of the situation in which the force was used. This standard is based and argued under the 4th Amendment to the Constitution, (i.e., specifically search and seizure), since the application of force is a seizure.

The second case, *Tennessee v. Garner*, deals with the use of deadly force. This case involves a 15-year-old suspect who was in a house committing a burglary. As officers arrived on the scene, the suspect fled, on foot, out running the officers. One officer shot the suspect in the back of the head as he was fleeing. In this case, the United States Supreme Court ruled that the use of deadly force is not allowed to stop a suspect from fleeing the scene if they do not present a threat to the public. The only time deadly force may be used, is if the suspect poses "... a threat to the lives of officers or... the lives of others" (Champion, 1997, p. 286). Prior to *Tennessee v.*

Garner, officers were allowed to use deadly force to stop a fleeing felon. With an understanding of these two cases, it becomes apparent that force options need to be updated to allow officers the ability to control a suspect with less-than-lethal force.

Sworn Campus Law Enforcement

Sworn law enforcement officers are covered and protected by *Graham v. Connor*, 490 U.S. 386 (1989) when they (sworn officers) make a decision to use force. Sworn law enforcement, under *Graham v. Connor* must make sure that the force being used is reasonable when effecting an arrest or following through with lawful acts (Wallentine, 2007). The holdings in *Graham v. Connor* state the following (Wallentine, 2007);

In the *Graham* ..., the Court instructed lower courts to always ask three questions to measure the lawfulness of a particular use of force. First, what was the severity of the crime that the officer believed the suspect to have committed or be committing? Second, did the suspect present an immediate threat to the safety of officers or the public? Third, was the suspect actively resisting arrest or attempting to escape?

Non-Sworn Campus Law Enforcement

In Minnesota, non-sworn campus law enforcement account for all but three campuses (University of Minnesota, Twin Cities, Duluth, and Morris campuses). The remaining state colleges and universities, as well as private colleges, and for-profit educational institutions all rely on similar language within the state statute for their campus security/non-sworn law enforcement authority. In fact, campus security officers generally have no more authority than anyone else on campus. However it is known that non-sworn campus law enforcement officers are usually required to have foundational training in unarmed tactics, and have some modicum of training in dealing with “aggressive” or “angry” individuals. Many are trained in some sort of first aid or cardiopulmonary resuscitation (CPR)

However, most campus administrators and public safety officials forget about is a little known private person arrest provision (commonly referred to as citizen’s arrest). Under these provisions private persons have the authority to use limited amounts of force to affect a “felony” arrest. This may occur when the offender is known, or “reasonable” knowledge exists of who the offender might be. Additionally, to cover misdemeanor also exists, in which the law allows most shopkeepers (i.e., colleges/universities) authorities to detain individuals in shoplifting cases and other types of fiduciary criminal offenses.

Minnesota State Statute- 629.30

Subdivision 1. Definition.

Arrest means taking a person into custody that the person may be held to answer for a public offense. **"Arrest" includes actually restraining a person or taking into custody a person who submits.**

Subd. 2. Who may arrest.

An arrest may be made:

- (1) by a peace officer under a warrant;
- (2) by a peace officer without a warrant;
- (3) by an officer in the United States Customs and Border Protection or the United States Citizenship and Immigration Services without a warrant;
- (4) **by a private person.**

A private person shall aid a peace officer in executing a warrant when requested to do so by the officer

Specific provisions of importance in California Law

837. A private person may arrest another:

- (1) For a public offense committed or attempted in his/her presence.
- (2) When the person arrested has committed a felony, although not in his presence.
- (3) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested to have committed it.

839. Any person making an arrest may orally summon as many persons as he/she deems necessary to aid him/her therein.

841. The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or the person to be arrested is pursued immediately after its commission, or after an escape. The person making the arrest must, on request of the person he is arresting, inform the latter of the offense for which he is being arrested.

844. **To make an arrest, a private person, if the offense is a felony,** and in all cases a peace officer, **may break open the door or window of the house** in which the person to be arrested is, or in which they have reasonable grounds for believing the person to be, after having demanded admittance and explained the purpose for which admittance is desired.

846. **Any person making an arrest may take from the person arrested all offensive weapons which he may have about his person,** and must deliver them to the magistrate before whom he is taken.

847. (a) A **private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him or her to a peace officer.** (b) There shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer or federal criminal investigator or law enforcement officer described in subdivision (a) or (d) of Section 830.8, acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest under any of the following circumstances: (1) The arrest was lawful, or the peace officer, at the time of the arrest, had reasonable cause to believe the arrest was lawful. (2) The arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested. (3) The arrest was made pursuant to the requirements of Section 142, 837, 838, or 839. (Wikipedia, Citizen Arrest)

Under Minnesota State Statute, and California Penal Code, there are provisions in place, which can be construed to allow private persons (security officers/public safety officers) to make functional arrests and use legitimate amounts of force. The problem is that the force used by a private person has not been clearly defined as it has by law enforcement officers which have been set forth by the Graham standard.

Conclusion

So it can clearly be argued that non-sworn campus security officers, and public safety personnel are allowed to use some level of force. The problem becomes what is the appropriate level of force that “they” are allowed to use. It is posited that the civil courts will start to review use of force by private citizens and non-sworn individuals which will shape how force is used in the future. The only thing that can be done is to prepare for violence, and use of force on campuses that are protected by non-sworn public safety/security officials.

References

- Blake, C. (2006). FBI, campus safety partnership is expanding. *Campus Law Enforcement Journal*, 36 (4), 32-34. Retrieved from [http:// www.iaclea.org](http://www.iaclea.org)
- California Penal Code (2012)
- Carr, J. (2005). *Campus Violence White Paper*. Retrieved from <http://www.youthviolence.edschool.virginia.edu/White%20paper.pdf>
- Carter, S. (2002) Campus violence symposium. *Stetson Law Review*, 32, 20-26.
- Champion, D. (1997). *The Roxbury dictionary of criminal justice key terms and major course cases*. Los Angeles, CA: Roxbury.
- Department of Justice (2007) <http://www.cops.usdoj.gov/files/ric/Publications/NationalSummitonCampusPublicSafety.pdf>
- Fox, A., & Hellman, A. (1985) Location and other correlates of campus crime. *Journal of Criminal Justice*, 13, 429-444.
- Fox, J. (2007, August 28) Q: Are college campuses safe? A: Yes. *USA Today*, 11A. Retrieved
- Gliber, S. (1972) The role of campus security in a college setting. Doctoral Dissertation
- Minnesota State Statutes (2012)
- Nichols, W. (1995). Violence on campus. *FBI Law Enforcement Bulletin*, 64 (6). Retrieved March 14, 2008, from Ebsco Host Megafire database.
- Olson, D. (2007). Warning signs and higher education. *Campus Law Enforcement Journal*, (37) 5, 11-15. Retrieved from <http://www.iaclea.org>
- Owen, S. (2007). Campus safety: The new reality. *Private Colleges and Universities*, 21-23
- Rikleen, L. (2007). Virginia Tech: The challenge of assuring safety. *Chronicle of Higher Education*, 53 (36), 65. Retrieved from Academic Search Complete database.

- Roark, M. (1993). Conceptualizing campus violence: Definitions, underlying factors, and effects. In L. C. Whitaker & J. W. Pollard (Eds.), *Campus violence: Kinds, causes, and cures* (pp. 1-27). New York, NY: Haworth Press.
- Vermillion, M. (2006). *Perceptions of Campus Crime*. (Doctoral dissertation, Oklahoma State University). Available from Proquest Dissertations and Theses database. (Publication No. AAT 3222749).
- Wallentine, K. (2007). How to ensure that use of force is reasonable and necessary to avoid claims of excessive force. Retrieved 01-04-12 from <http://www.policeone.com/legal/articles/1271618-How-to-ensure-use-of-force-is-reasonable-and-necessary-and-avoid-claims-of-excessive-force/>
- Wikipedia (2012) Citizens Arrest retrieved 10-21-12 from http://en.wikipedia.org/wiki/Citizen's_arrest#United_States

© Copyright 2013 by the author. It may be downloaded for non-commercial and educational purposes.