

Joseph M. Spivey, IV

February 5, 2025

Mr. John D. Adams, President
V.M.I. Board of Visitors
Virginia Military Institute
P.O. Box 932
Lexington, VA 24450

Re: Board of Visitors Meeting February 6-8, 2025

Mr. Adams, Members of the Board,

In this letter I outline my concerns regarding the administration's ability to effectively operate when viewed through its FOIA office.¹ First, of consequence but not irregularity, approximately 19% FOIA of requests (CY2024) are closed with the statement "*The requested records could not be found or do not exist.*"² Stating requested records cannot be found should never qualify as a basis to assert records "do not exist." Second, when this summary conclusion is deemed unsupported, VMI responds with an excessive cost estimate to conduct an exploration for records in an effort to deter the requestor from pursuing the inquiry. The underlining matter is, why doesn't VMI know what records it does or does not possess? To underscore the administration's dysfunction, I have four examples.

1) I requested documents between VMI and the VMI Parents Council (#24-96), an organization conducting its operations on Post, stating on its Facebook page it is "Sanctioned By" VMI and using VMI's trademarked logo.³ I made the request because I have never heard of nor seen any external organization identify itself as "sanctioned" by VMI. Neither the VMI Alumni Agencies, nor its subordinate organizations publicly proclaim they are "sanctioned by VMI." VMI's response is "*The requested records could not be found or do not exist.*" How is an organization able to boast it is "sanctioned by VMI," an agency of Commonwealth of Virginia, without a formal agreement to operate on state property? What does "sanctioned by VMI" factually and legally mean? Has the Attorney General authorized VMI to "sanction" the VMI Parents Council? What about other external organizations?

2) I requested copies of memoranda of agreement or understanding (MOA/MOU) VMI shares with other organizations (#24-76). I made the request based on two reasons. First, to understand the probability other organizations might be "sanctioned by VMI." Second, because during the June 26, 2024, Board of Visitors executive committee meeting the superintendent stated a memorandum of agreement would be completed with the Cadet Foundation in conjunction with (if not preceding) the signing of a permit for the cadets who write for The Cadet newspaper. VMI's initial response produced several MOU documents left unsigned by either VMI's representative, the other organization's delegate, or both parties. Notifying VMI of the situation I solicited fully signed MOA/MOUs for this subset of documents. In response VMI provided all but two signed copies stating those two documents "*could not be found.*" Do signed MOUs exist but VMI can't find them? Are the unsigned MOUs valid? Does VMI know? What is the other organizations' position regarding the document? Do they think it is valid?

3) I requested a copy of the agreement or contract between VMI and a specific organization that has continually used VMI facilities for 37 years including housing people in barracks (#25-95). I made the request because it was omitted from the documents VMI provided in its response to my MOA/MOU FOIA request. After almost 30 days VMI's response was "*The requested records could not be found or do not exist.*" How can VMI allow an organization use VMI facilities, including barracks, for over thirty-seven years without any form of agreement?

¹ [VMI Public Records RequestNextRequest - Modern FOIA & Public Records Request Software](#)

² Ibid

³ Official VMI Class of 2025+3 Parent Page | Facebook

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Does VMI routinely allow external organizations on Post without any type of agreement? What is VMI's and the Commonwealth's liability exposure when external organizations conduct their business on Post without any form of agreement?

As a corollary to these three requests, why do the cadets writing for The Cadet newspaper require a permit or the newspaper's support organization the Cadet Foundation require a memorandum of understanding, when external organizations are "sanctioned by VMI" and allowed to freely operate on Post without formal agreements?

4) I requested an electronic copy of all cadet club and extracurricular activities charters (#25-1). I made this request in an attempt to resolve inconsistencies contained in the administration's report for cadet clubs referenced in a The Cadet newspaper article and information extracted from vmi.edu. The first inconsistency is the financial disparity between the report's stated expenses for clubs \$487,000.00 against a calculated revenue of \$3,847,098.00 from cadet activity fees. The second inconsistency is the number of organizations shown on administration's report (37) versus the number of clubs or extracurricular activities (56) identified from the vmi.edu website or the Office of Cadet Activities Standard Operating Procedures (Green Book).

Two days after assenting to a VMI request for an extension of time to obtain the requested information VMI stated the request requires an estimated 52 hours of labor to search for, access, duplicate, supply, or redact, as necessary, the documents at a cost of \$1,678.18. Specifically, VMI assessed the activities director requires 26 hours and the activities assistant needs 24 hours to complete the work. I view this labor and cost estimate as contrary to General Order 67 and Green Book requirements. It states the "S3 for the Commandant and the Director of Activities shall supervise the financial affairs and activities of the cadet organizations on a day-to-day basis to ensure their compliance with these policies and procedures."⁴ In other words, VMI has dedicated staff, whose job responsibilities are, to "supervise" cadet organizations. These people should know how many organizations exist and negate any requirement to search for club charters. This is a reasonable position. Responding to VMI I requested the total number of records, to serve as a metric, to calculate the cost per club charter.

To my astonishment VMI replied "*There is no way to know the number of records responsive to your request.*" If VMI doesn't know how many charters (records) exist, how can it determine how long the activities director and the activities assistant need to look for the documents? In an effort at diplomacy, I reduced the scope of my request to the 56 publicly identified clubs or extracurricular activities found on vmi.edu or in the Green Book. This reduced scope eliminated the need to search for any anonymous, unknown, or mysterious club charters.

VMI's response: "*Your revised request does not change the estimate already provided.*" How can the administration not know how many cadet clubs, extracurricular activities, organizations exist when it has General Order 67, the Green Book, the Cadet Extracurricular Activities Board, which imposes absolute control over the cadet club program, and staff specifically assigned cadet club supervisory responsibilities? Isn't it reasonable to conclude the individual whose job title is "Director of Activities"⁵ will know how many clubs are at VMI and possess all documents relating to each club? Why is a search required and fees charged when the clubs are identified on VMI's website publicly acknowledging each club's existence?

Viewed dispassionately, VMI is admitting the individual assigned as the director of activities can't perform the job's most basic requirements, i.e., know how many clubs there are, maintain copies of the clubs' charters, and know who to contact for documents. Instead, VMI states it must assign people, paradoxically the activities director and activities assistant, to search for the documents.

General Order 67 and the Green Book do not equivocate. General Order 67 requires clubs to have a charter - the outline of the club's purpose. The director of activities should possess each charter. The General Order requires

⁴ VMI Green Book, Ch. 1 Section 4 para. 22.a., page 11.

⁵ <https://www.vmi.edu/about/governance/administration/commandant-of-cadets/staff/>

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each activity to identify cadet officers. These individuals are a resource for club charters and all of them should be known to the director of activities. The General Order requires each activity to possess a director, advisor, or coach. These individuals are a resource for club charters and should be known to the director of activities. The General Order requires each activity to deliver a 4-year budget, “budget requested by line item”⁶. The Green Book requires clubs to provide annual budget updates. The Deputy Superintendent for Finance and Support office should therefore be a resource for club charters since only VMI is permitted to “adequately” fund cadet clubs.

General Order 67 and the Green Book specifically identify senior administration officials, the Commandant, Dean, Institute chaplain, CLE Director, and several senior subordinates e.g., the S3 Plans Operations and Training and superintendent’s Chief of Staff, to oversee the cadet club program. These principals may not know about every cadet club under their purview, but they should. However, staff personnel in their offices must be aware of the clubs their principal is responsible for and they may be a resource for club charters. All these individuals should be known to the director of activities. A single email addressed to these officials, cadets, volunteers, and staff should immediately produce multiple copies of all the Corps’ club charters.

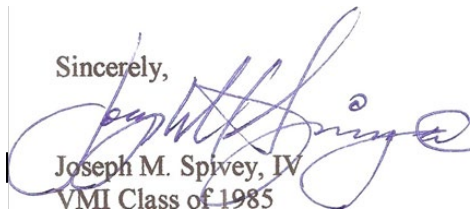
Initially, VMI stated it had no idea how many clubs or extracurricular activities operate on Post. This statement is contrary to General Order 67, the Green Book, and the assignment of commandant staff to execute these responsibilities. When offered the opportunity to simply provide charters that should be the most readily available to the director of activities, the administration insists the re-scoped request is as expensive as the broader initial request.

Despite the meticulous conditions by which cadets must form a club and the layers of administration personnel involved with overseeing cadet clubs, the FOIA office took 3 weeks, in a calculated effort, to devise a way to thwart this request for records. Why? Are charters missing? Are some clubs critical of the administration? Is unflattering budget information involved? Have some clubs operated outside the scope of their charters? Do some clubs lack DACs? Has VMI failed to provide training to DACs on how to support cadets, manage a cadet club, or handle club finances?

The administration’s responses in these four examples reveal lack of an integrated records management system, inadequate processes, and an appalling lack of cadet club oversight. Fundamentally, they reveal a lack of basic accountability. The administration employs at least one form of software tracking cadet “discipline, academic integrity, care and concern, or Title IX matters.”⁷ Why hasn’t VMI made investments in records management database the administration clearly requires? Advancements in machine learning and artificial intelligence mean today is the right time to make this investment. Such an investment will result in improved administration performance, effective records maintenance, timely, and accurate FOIA responses. Coupled with training for existing IT personnel, substantial reductions in administrative overhead (personnel costs) can be realized, lowering the need to raise tuition, or leverage the VMI Foundation’s resources.

In VMI’s current fiscal environment, an integrated records management database is not a nice thing to have, it is a must have to honestly and accurately respond to FOIA requests and control expenses. The Board of Visitors must immediately research, obtain, and implement this investment. Neither VMI nor the Commonwealth can afford unqualified personnel on the state’s payroll or ambiguity when responding to FOIAs.

Sincerely,



Joseph M. Spivey, IV
VMI Class of 1985

⁶ VMI Green Book, Annex 2, page 15.

⁷ <https://www.maxient.com/>