

UNIVERSITY POLICE | ENCON POLICE



PARK POLICE | FOREST RANGERS

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March 5, 2012

Jacquelyn Pitta  
Bruce Taterka  
U.S. Department of Education  
Financial Square  
32 Old Slip, 25th Floor  
New York, NY 10005

Dear Ms. Pitta and Mr. Taterka:

I am writing this letter to alert you to what this union believes are the negligent actions and a violation of the The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) by the State University of New York College at Brockport (SUNY Brockport). Please consider this letter the filing of an official complaint and allegation of a violation of the timely reporting requirements of the Clery Act. Specifically, SUNY Brockport failed to fully investigate and timely notify the Brockport campus community about a very serious weapons arrest that occurred on or about November 6, 2011 involving an intoxicated and potentially distraught subject who possessed a loaded high-capacity rifle and 500 rounds of ammunition on campus. The college needlessly endangered its students and staff by failing to take the following steps:

1. SUNY Brockport failed to advise its own police officers of the arrest of a subject and the potential violent behavior of that subject.
2. SUNY Brockport failed to advise area police agencies of the subject's arrest so that Officers from those agencies would be aware of his behavior and actions.
3. SUNY Brockport failed to take steps for a follow up investigation of the subject arrested, to determine whether he was a continued threat to the college community.
4. SUNY Brockport failed to notify staff members and students, so that they could be aware of the subject's weapons arrest and the fact that he could be considered dangerous.

The facts are as follows:

In the early morning hours of November 6, 2011, SUNY Brockport Police Officer Gary Miller arrested a subject for Driving While Intoxicated and felony Aggravated Unlicensed Operation. The subsequent search revealed a .22 caliber rifle with a fully loaded 25 round magazine and more than 500 additional rounds of ammunition hidden in the trunk of the subject's car. During the arrest processing, it was determined that the defendant was evicted from SUNY Brockport's dormitories by Residence Life staff just hours earlier, and he also was arrested by University Police the prior week for cocaine possession.

We do not know why the subject was returning to campus or what if anything he intended to do with his rifle and ammunition. Despite these unknowns, the circumstances, including the fact that he was located outside of

the very dorm he was evicted from, cause us a grave concern that he was possibly returning to campus to commit some sort of violent and vengeful act.

It should be noted that the initial investigation and arrest by Officer Miller were exemplary; however we are alleging that SUNY Brockport violated the Clery Act because it failed to timely notify the campus community of this arrest and take steps to prevent the subject from returning to campus to commit a violent crime. By failing to officially inform its own police officers and campus staff, or conduct any sort of follow up investigation, SUNY Brockport did not perform the basic steps and due diligence required to ensure the campus community would remain safe. In essence, the college stuck their head in the sand on something that it should have been proactive on. The subject did in fact return to campus again a week later, and once again a SUNY Brockport officer was diligent in his duties and arrested him for Criminal Trespass. Fortunately, he did not commit any violent acts at that time.

On November 18, 2011, this union wrote the college a detailed letter (attached herein) regarding the incident and we demanded to know whether the college took important steps to protect the campus community. Despite the fact that the letter was both faxed and mailed to the Chief of Police and the College President, to date we have not received a reply. This failure to reply is consistent with the College's head-in-the-sand approach to this and other incidents. Some of the questions we demanded answers to in the letter were as follows:

- Did SUNY Brockport perform a complete review of this incident, specifically with the defendant himself to further investigate his actions, as well as amongst residence staff, other faculty, and the University Police?
- Did SUNY Brockport advise area law enforcement, as well as the law enforcement of the subject's home town, of this incident? The subject was evicted from the dormitories and hours later was stopped in his car just outside the very dormitory he was removed from. The fact that he had a loaded rifle and 500 rounds of ammunition in his car should have been a clear warning to SUNY Brockport that this was not a simple, everyday arrest. Further steps should have been taken to ensure the safety of the campus community.
- Did College Officials meet or otherwise communicate with the Monroe County District Attorney's office to communicate how seriously the College takes this case?
- We also inquired whether this incident gave cause for the College to review its prior decision that it would not issue rifles to the University Police. The May 11, 2007 SUNY Chancellor's Task Force on Critical Incident Management, issued just 25 days after the 2007 Virginia Tech shootings, clearly recommended that each SUNY campus obtain rifles. We believe the college's refusal to make rifles available for its police officers is negligent, and these events cause us to demand that it purchases rifles for its officers immediately.

We may never know if this defendant intended to take violent steps when he returned to campus with a rifle and more than 500 rounds of ammunition, but SUNY Brockport failed to timely report this arrest to the campus community, in violation of the Clery Act, and failed to conduct any level of follow-up investigation. We have witnessed too many violent incidents, at educational institutions and elsewhere, to stand by and allow an institution to be careless and fail to act. We have also seen all too often that when colleges and universities turn a blind eye to serious criminal misdeeds, the consequences are often devastating to both the victims and the institutions themselves. Please ensure the SUNY Brockport campus community is properly safeguarded and that the college's negligence is fully investigated. Thank you for your anticipated actions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel M. De Federicis". The signature is fluid and cursive, with a large, sweeping "D" and "F".

Daniel M. De Federicis, Executive Director