

Stetson College of Law
**33rd Annual National Conference on Law and Higher
Education**



**Improving Risk Management and Campus Crime
Reporting: Enterprise Risk Management,
Campus Safety, and Clery Act Compliance,**

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THE CLERY ACT HISTORY



Nineteen year old university freshman Jeanne Ann Clery was raped and murdered while asleep in her residence hall room on April 5, 1986.

IN BRIEF

- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- All public and private postsecondary institutions that participate in Title IV student financial assistance programs must comply.
- Enforced by the U.S. Department of Education (ED)

THE REQUIREMENTS

Every institution must:

1. Collect, classify and count crime reports and crime statistics
2. Issue campus alerts
 - Timely warning and
 - Emergency notification
3. Publish an annual security report
4. Submit crime statistics to ED

THE REQUIREMENTS (cont.)

- If your institution maintains a campus police or security department, you must keep a daily crime log.

- If your institution has any on-campus student housing facilities, you must:
 - Disclose missing student notification procedures
 - Disclose fire safety information
 - Keep a fire log
 - Publish an annual fire safety report
 - Submit fire statistics to ED

TIMELY WARNING

- Purpose is to alert the campus community to certain crimes in a manner that is timely and will aid in the prevention of similar crimes
 - “Timely” is not defined.
 - Means that a warning should be issued as soon as the pertinent information is available.
- The warning must be issued for Clery Act crimes that are considered by the institution to represent a serious or continuing threat to students and employees.

EMERGENCY RESPONSE AND EVACUATION PROCEDURES

- The institution is required to have and disclose emergency response and evacuation procedures.
 - Test it.
 - Evaluate it .
 - Publicize it.

EMERGENCY OR DANGEROUS SITUATION NOTIFICATION

- The institution is required to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus.

DIFFERENCES BETWEEN EMERGENCY NOTIFICATION AND TIMELY WARNING

Emergency Notification

- Scope is any significant emergency or dangerous situation (including, but not limited to, Clery crimes).
- Triggered by an event currently occurring on or imminently threatening the campus.
- Applies to situations that occur on campus.
- Initiate procedures immediately upon confirmation.

Timely Warning

- Narrow focus on Clery crimes.
- Is triggered by crimes that have already occurred but represent an ongoing threat.
- Is triggered by crimes that have already occurred but represent an ongoing threat.
- Applies to crimes that occur anywhere on your “Clery Geography.”
- Warning issues as soon as the pertinent information is available.

DAILY CRIME LOG

- The purpose of the daily crime log is to record criminal incidents and alleged criminal incidents that are reported to the campus police or security department.
- Crime log entries include all crimes reported to the campus police or security department for the required geographic locations, not just Clery Act crimes.
- Includes crimes that occurred within the patrol jurisdiction of the campus police or security department .

MISSING STUDENTS

- Requires that institutions have procedures in place that it will follow if any student residing in on-campus student housing is determined to be missing for 24 hours.
- When a student who lives in on-campus housing is determined to have been missing for 24 hours, you have only 24 hours after receiving the report to initiate specific notification procedures.

CONSEQUENCES OF NONCOMPLIANCE

May include:

- Fines of up to \$27,500 per violation or
- Limitation, suspension, or termination of the eligibility of the institution to participate in a Title IV, HEA program.

Washington University: Fined \$82,500 for Clery Act Violation

- Letter from the Department of Education to Washington University's President: August 19, 2011
 - <http://chronicle.com/items/biz/pdf/wsu-letter.pdf>

FINE ACTIONS

	University Name	Date	Amount
1	Ashford University	4/28/2000	\$25,000
2	Eastern Michigan University	12/14/2007	\$357,000
3	Miami University of Ohio	9/13/2005	\$27,500
4	Paul Smith's College of Arts & Sciences	4/9/2010	\$260,000
5	Salem International University	5/19/2004	\$250,000
6	Schreiner University	6/25/2009	\$55,000
7	Tarleton State University	10/6/2009	\$137,500
8	Virginia Tech	3/29/2011	\$55,000

1. CLERY GEOGRAPHY

- Clery geography is important because statistics for Clery crimes that don't occur within your Clery geography are not included in your Clery statistical disclosures even if your students or employees are involved.

CLERY GEOGRAPHY INCLUDES:

- On-campus Geography
- Public Property
- Noncampus Buildings or Property
- Separate Campus

ON-CAMPUS GEOGRAPHY

- For the first part of the on-campus geography definition, your campus includes buildings and properties that meet all of the following criteria:
 - Your institution owns or controls them;
 - They are reasonably contiguous to one another; and
 - They directly support or relate to the institution's educational purposes.

ON-CAMPUS GEOGRAPHY

- The second part of the definition for on-campus geography requires that you include buildings and properties that meet all of the following criteria:
 - Your institution owns but does not control them;
 - They are within your campus, or reasonably contiguous to it;
 - They are frequently used by your students; and
 - They are used to support the institution's educational purposes.

PUBLIC PROPERTY

- All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

NONCAMPUS BUILDINGS OR PROPERTY

- Include any location (except a separate campus) that:
 - Is owned or controlled by the institution;
 - Supports or is used for the institution's educational purposes;
 - Is frequently used by students; and
 - Is not considered part of the core campus.

EXAMPLES

- You lease a municipal athletic field for team's home soccer games
- You rent space in a local high school two nights a week for creative writing classes

NONCAMPUS BUILDINGS OR PROPERTY

- Also include any building or property that is owned or controlled by a student organization if the organization is “officially recognized” by your institution.
- Example
 - House owned by a sorority that is officially recognized by you.
 - If a fraternity or sorority house is located within the confines of the campus on land that is owned by the institution, the building is considered to be “on campus” even if it is owned or controlled by the fraternity or sorority.

SEPARATE CAMPUS

- Consider an additional location a separate campus if it meets all of the following criteria:
 - Your institution owns or controls the site;
 - It is not reasonably geographically contiguous with the main campus;
 - It has an organized program of study; and
 - There is at least one person on site acting in an administrative capacity.

2. CLERY CRIMES

The Clery Act requires your institution to disclose three general categories of crime statistics:

- Criminal Offenses
- Hate Crimes, and
- Arrests and Referrals for Disciplinary Action

ATTEMPTED CRIMES

- Do not differentiate between attempted and completed crimes.
- The only exception to this rule applies to attempts or assaults to murder when the victim does not die. These incidents would be classified as aggravated assaults rather than murders.

CRIMINAL OFFENSES

- Include:
 - Criminal homicide
 - Sex offenses (including forcible and non-forcible),
 - Robbery,
 - Aggravated assault,
 - Burglary,
 - Motor vehicle theft, and
 - Arson
 - Hate crimes

CRIME DEFINITIONS

- Per the Clery Act, you must classify crimes based on the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting Handbook (UCR).

CRIMINAL HOMICIDE OFFENSES

- Separated into two categories:
 - Murder and Non-negligent Manslaughter, and
 - Negligent Manslaughter

SEX OFFENSES—FORCIBLE

- There are four types of forcible sex offenses:
 - Forcible rape
 - Forcible sodomy
 - Sexual assault with an object
 - Forcible fondling

HATE CRIMES

- A hate crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias.
- Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin.

HATE CRIMES

Include any offense in the following that is motivated by bias:

- Murder and Non-negligent manslaughter
- Forcible sex offenses
- Non-forcible sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property

HATE CRIMES

- Before an incident can be classified as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias.

ARRESTS AND REFERRALS FOR DISCIPLINARY ACTION

Include arrests and the number of persons referred for disciplinary action for the following law violations:

- Weapons violations,
- Drug Abuse violations, and
- Liquor Law violations

3. Collecting Crime Statistics

- Who?
- What?
- When?

WHO?

- The Clery Act requires all institutions to collect crime reports from a variety of individuals and organizations that Clery considers to be “campus security authorities.”
- “Campus security authority” (CSA) is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution.
- Consider the function of that individual or office, not the title.

A CSA IS...

- A campus police department or a campus security department of an institution.
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department.

A CSA is...

- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

A CSA is...

- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.
- An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.

EXAMPLES OF CSAS

- A dean of students who oversees student housing, a student center or student extracurricular activities.
- A director of athletics, a team coach or a faculty advisor to a student group.
- A student resident advisor or assistant or a student who monitors access to dormitories.
- A coordinator of Greek affairs.

- A CSA is NOT a faculty member who does not have any responsibility for student and campus activity beyond the classroom.

WHAT?

- The function of a campus security authority is to report to the official or office designated by the institution to collect crime report information, such as the campus police or security department, those allegations of Clery Act crimes that he or she concludes were made in good faith.
- A campus security authority is not responsible
 - for determining authoritatively whether a crime took place
 - for trying to convince a victim to contact law enforcement if the victim chooses not to do so

DOCUMENTATION

- If unsure whether an incident is a Clery crime, or even if it's criminal in nature, you should report it.
- Provide as much information about a criminal incident as possible to aid law enforcement and to categorize the crime.
- Crime reports should include personally identifying information if available.

WHEN?

- Under Clery, a crime is “reported” when it is brought to the attention of a campus security authority by a victim, witness, other third party or even the offender.
 - It doesn’t matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution.
- If a campus security authority receives the crime information and believes it was provided in good faith, he or she should document it as a crime report.

RESOURCE

- The Handbook for Campus Safety and Security Reporting (February 2011)
- <http://www2.ed.gov/admins/lead/safety/handbook-2.pdf>

Civil Litigation Against Universities Relating to Criminal Misconduct

1. Felber v. University of California Berkley, No. C 11-1012 RS (N.D.Cal.)
 - a. Religious and National Origin Discrimination
 - b. This suit arises out of a student on student physical assault stemming from religious activities carried out on campus. Plaintiff is a Jewish activist and was allegedly assaulted by a Palestinian activist during a religious demonstration. Plaintiff claims violations of Constitutional rights (right to free speech, free exercise, and freedom of assembly), violation of §1983 (deprivation of right to free exercise of religion), negligence, premises liability, Cal. Civ. Code §51, violation of Title VI, and breach of fiduciary duty.
 - c. Motion to Dismiss Granted Without Prejudice 12/22/2011
 - d. Complaint: http://www.investigativeproject.org/documents/case_docs/1709.pdf
 - e. Motion to Dismiss: <http://www.cand.uscourts.gov/casesofinterest>

Civil Litigation Against Universities Relating to Criminal Misconduct

2. Robert Davis and Michael Lang v. Jim Boeheim and Syracuse University
(Supreme Court of the State of New York)
 - a. Defamation Lawsuit Resulting From Molestation Allegations
 - b. Michael Lang and Robert Davis filed suit against Jim Boeheim and Syracuse University as a result of statements basketball coach Jim Boeheim made to national news organizations. Davis and Lang accused Boeheim of molesting them while they were ball boys with the Syracuse University basketball team. As a result of these allegations, Coach Boeheim denied them and said they were lies and that the accusers were motivated by money. Syracuse University is an included defendant because the complaint alleges that Boeheim was acting in the scope of his employment when he made the statements and therefore the University should be vicariously liable.
 - c. Complaint: <http://www.scribd.com/doc/75600126/Davis-Lang-Lawsuit-Against-Syracuse-University-Jim-Boeheim>
 - d. News Story:
http://www.syracuse.com/news/index.ssf/2011/12/live_bernies_fine_accusers_bobb.html

Civil Litigation Against Universities Relating to Criminal Misconduct

3. Joseph Jean-Charles v. Douglas Perlitz, Fr. Paul E. Carrier SJ, Hope E. Carter, Haiti Fund, Fairfield University, and the Society of Jesus of New England, Complaint, U.S. District Court of Connecticut, Case 3:11-cv-00614-JCH (4/18/11)
 - a. Child Molestation
 - b. The lawsuit alleges that Fairfield University and affiliated religious and charitable organizations failed to stop Douglas Perlitz from sexually abusing at least twenty-one Haitian boys that lived at the Project Pierre Toussaint home for homeless children. Additionally, the lawsuits allege that administrators at Fairfield University attempted to thwart any meaningful investigations into the allegations and even flew a member of the administration to Haiti to retrieve a laptop so that it would not be investigated by United States federal authorities. The laptop was later located in Colorado and deemed to have child pornography on the computer. In 2009 Douglas Perlitz was sentenced to twenty years in prison for his crimes. There are a total of twenty lawsuits filed on behalf of twenty-one students who lived and studied at
 - c. Depository of Legal Documents Related to the Case: <http://bishopaccountability.org/complaints/Haiti/>
 - d. News Story: <http://abcnews.go.com/US/wireStory/lawsuits-filed-sex-abuse-haitian-boys-15297075#.TxCZVYHVbfl>

Civil Litigation Against Universities Relating to Criminal Misconduct

4. Yvette Felarca v. Robert J. Birgeneau, C11-05719 (N.D.Cal)
 - a. Arises out of alleged police brutality in response to student protests surrounding Occupy Wall Street.
 - b. The complaint filed lists twenty-four plaintiffs and fifteen defendants named in their individual capacity. The defendants include various administrators at the University of California Berkeley. This suit arises out of police/ protester clashes that took place at the University of California Berkeley on November 9, 2011. The suit alleges that the plaintiffs sought to assemble peacefully to protest various aspects of the University. Plaintiffs allege that the defendants, Chancellor Birgeneau and other UC Berkeley administrators “conducted a planned, coordinated, and violent attack.” See Complaint ¶ 2.
 - c. Complaint:
https://docs.google.com/viewer?a=v&pid=explorer&chrome=true&srcid=0B9X00xOVIw45YWY4ZTY2OGItZTI5Zi00ZWVjLThjYjctMTdlZTZjMWI3MWw&hl=en_US&pli=1
 - d. News Story: <http://www.bamn.com/2011/11/29/bamn-sues-uc-berkeley-police-brutality-occupy-cal-protest/>

Civil Litigation Against Universities Relating to Criminal Misconduct

5. Five Howard Women v. Howard University and George Bright-Abu
 - a. Sexual Assault/ Harassment & Potential Title IX Claims
 - b. Filed: December 1, 2011
 - c. Five women have sued Howard University for failing to respond appropriately to reports of sexual assault and sexual harassment. The plaintiffs allege that the library work-study supervisor, George Bright-Abu, sexually assaulted and harassed them and that Howard University failed to conduct any meaningful investigation.
 - d. Complaint Could Not Be Located For This Lawsuit
 - e. News Story:
<http://www.wjla.com/articles/2011/12/5-students-sue-howard-univ-for-failure-to-protect-them-against-sexual-assault-by-employee-69809.html>

Civil Litigation Against Universities Relating to Criminal Misconduct

6. Gloria Romaniello, Administrator of the Estate of Annie Le v. Yale University, Yale School of Medicine
 - a. Wrongful Death resulting from Rape/ Murder
 - b. The lawsuit alleges various counts of negligence arising out of the employment, supervision, and retention of Raymond Clark III, the perpetrator of the attacks on Annie Lee.
 - c. Complaint:
<http://www.scribd.com/doc/64107817/Le-Summons-and-Complaint-Signed-9-6-11>
 - d. News Story:
<http://www.nhregister.com/articles/2011/09/06/news/doc4e660cc064615006654927.txt>
<http://www.yaledailynews.com/news/2011/sep/07/le-suit-alleges-yale-fault/>

Civil Litigation Against Universities Relating to Criminal Misconduct

7. Clifford v. Regents of University of California

- a. Hazing/ Religious Discrimination/ Sexual Assault/ Title IX
- b. The lawsuit arises out of alleged instances of hazing and sexual assault. Ryan Clifford claims that as a gentile joining AEPi (predominantly Jewish fraternity) he was subjected to particularly harsh forms of hazing. Clifford alleges that he reported the hazing events to university officials, but that the University “failed to meaningfully respond, adequately investigate, or take action against the fraternity.” See Complaint ¶ 48.
- c. Complaint:
<http://www.courthousenews.com/2011/11/08/HazingUC.pdf>
- d. News Story: <http://www.davisenterprise.com/local-news/crime-fire-courts/grad-sues-ucd-for-failing-to-respond-to-hazing/>

Civil Litigation Against Universities Relating to Criminal Misconduct

8. Marie Andre v. Sigma Alpha Epsilon (Took Place at Cornell, but the University is not a Defendant)
 - a. Wrongful Death Suit Arising from Hazing
 - b. The lawsuit arises from the death of George Desdunes, which was caused by acute alcohol poisoning. George Desdunes was blindfolded, bound at the wrists and ankles, and forced to drink inordinate amounts of alcohol. Once Desdunes passed out, pledges carried him, still bound, to a couch at SAE where he subsequently died.
 - c. Complaint:
<http://www.stargazette.com/assets/pdf/CB176205628.PDF>
 - d. News Story:
<http://abcnews.go.com/US/cornell-hazing-victims-family-files-25-million-lawsuit/story?id=13948311>

Civil Litigation Against Universities Relating to Criminal Misconduct

9. Dr. Jacqueline U. Johnson, as personal representative of the estate of Dr. Adriel D. Johnson, Sr. v. Dr. Vistasp M. Karbhari, Dr. Amy Bishop, and James Anderson, Circuit Court of Madison County, Alabama (Jan. 14, 2011).
 - a. Rampage Shooting
 - b. The lawsuit arises out of the tragic shootings that took place at the University of Alabama Huntsville on February 12, 2010. The lawsuit alleges that the University provost, Dr. Karbhari, failed to follow proscribed safety procedures, negligence for failure to protect, and negligence for failure to execute assumed duties.
 - c. Johnson Complaint: <http://files.waff.com/johnson.pdf>
 - d. News Story: <http://www.nytimes.com/2011/01/19/us/19bishop.html>
http://blog.al.com/breaking/2011/03/provost_wants_university_of_al.html
<http://www.nytimes.com/2011/01/19/us/19bishop.html>

Civil Litigation Against Universities Relating to Criminal Misconduct

10. Sammie Lee Davis, as personal representative of the Estate of Dr. Maria Ragland Davis v. Dr. Vistasp M. Karbhari, Dr. Amy Bishop, and James Anderson, Circuit Court of Madison County, Alabama (Jan. 14, 2011).
 - a. Arises from the same incident in Case #9.
 - b. Davis Complaint: <http://files.waff.com/davis.pdf>
 - c. A third case has been filed by two surviving victims. However, that lawsuit does not make claims against University administrators.

Civil Litigation Against Universities Relating to Criminal Misconduct

11. Laura Dickinson v. East Michigan University (Settled before suit was ever filed)
 - a. Rape/Murder & Clery Act Violations
 - b. The lawsuit arises from the rape/murder of East Michigan University student, Laura Dickinson. On December 15, 2006, Laura Dickinson was raped and murdered in her dorm room. The perpetrator was arrested and sentenced to life in jail. A settlement for 2.5 million dollars took place between the University and the Dickinson family as a result of alleged attempts to cover up the murder. Additionally, the school was subjected to a fine of \$357,000 as a result of Clery Act violations.
 - c. Settlement agreement:
http://www.emich.edu/univcomm/releases_archived/121207/dickinson_agreement.html
 - d. Clery Act Violation Story
http://www.emich.edu/univcomm/releases_archived/121307dickinson_agreement.html
 - e. News Story:
<http://www.abcnews.go.com/US/story?id=3296170&page=1>

Civil Litigation Against Universities Relating to Criminal Misconduct

12. Pamela Champion v. Fabulous Coach Lines
 - a. Hazing/Negligence & Potential Sexual Orientation Discrimination
 - b. The lawsuit arises out of the death of Robert Champion Jr. As part of hazing rituals at Florida A&M University, percussionists would hit fellow band members with drumsticks and other instruments.
 - c. At this time, the family has not sued the University, but this is presumably because of specific procedures required to sue a public entity in Florida. The family has chosen to sue the bus line so that they may begin discovery for when they are able to file suit against the University.
 - d. News Story: <http://www.usatoday.com/news/nation/story/2012-01-10/famudeath-lawsuit/52478394/1>
 - e. Complaint Could Not Be Located

Civil Litigation Against Universities Relating to Criminal Misconduct

13. Love v. Morehouse College, 652 S.E.2d 624 (Ga.App. 2007)
 - a. Assault/Sexual Orientation Discrimination
 - b. The lawsuit arises from the death of Gregory Love who was beaten in the dormitory showers with a baseball bat. Love filed suit against Morehouse for ordinary and gross negligence, premises liability, NIED, and IIED. The case was dismissed on a 12(B)(6) motion, but the appellate court reversed. Since this hearing, there have been no additional hearings. Thus, the case might have settled.
 - c. News Story: <http://www.chronicle.com/article/Should-Colleges-Be-Sued-for/33813>
 - d. Appellate court Opinion: 352 S.E.2d 624 (Ga.App. 2007).

Civil Litigation Against Universities Relating to Criminal Misconduct

14. Bloomer v. Becker College, 2010 WL 3221969 (D. Mass 2010)
 - a. Sexual Harassment (quid pro quo & hostile environment) Title IX
 - b. This suit arises from the alleged sexual harassment of Beth Bloomer by Becker College Equestrian Team Coach Edmund Paro. Allegedly Bloomer reported various instances of sexual harassment to different individuals with the college to no avail. A motion to dismiss has been held. There, the Court granted the motion as to assault and battery, but denied the motion as to two Title IX claims, two Mass. Gen. laws ch. 151C (the equivalent of Title IX under Massachusetts law), false imprisonment, and negligent retention and supervision.
 - c. News Story:

http://www.bostonherald.com/news/regional/view.bg?articleid=1190636&srvc=next_article

Civil Litigation Against Universities Relating to Criminal Misconduct

15. Estate of Levi Butler v. Maharishi University of Management, 589 F.Supp.2d 1150 (S.D. Iowa 2008).
 - a. Rampage Murder – Premises Liability, Fraudulent Misrepresentation, Negligence
 - b. The lawsuit arises from the death of Levi Butler at Maharishi University of Management (MUM) on March 1, 2004. The perpetrator had attacked an individual earlier in the day with a pen, but MUM administrators sent him with a professor to practice transcendental mediation. The perpetrator left during mediation and went to the dining hall where he stabbed Levi Butler to death in an unprovoked attack.
 - c. Settlement Story: <http://www.lancasteronline.com/article/local/232346/Settlement-expected-in-killing-at-Maharishi-school.html>
 - d. Summary Judgment Opinion: 589 F.Supp.2d 1150 (S.D. Iowa 2008)
 - e. <http://www.guardian.co.uk/world/2004/may/02/usa.theobserver>

Civil Litigation Against Universities Relating to Criminal Misconduct

16. Board of Trustees of the University of the District of Columbia v. DiSalvo, 974 A.2d 868 (D.C. 2009)
 - a. Assault
 - b. The lawsuit arises from the stabbing of Graciette DiSalvo by two unknown assailants that occurred at the University's parking garage. At a jury trial, plaintiffs won \$400,000. Defendants moved for judgment as a matter of law (JMOL), but were denied. Defendants appealed and the appellate court reversed and remanded for entry of judgment as a matter of law in favor of defendant University.
 - c. News Story: <http://www.higherdmorning.com/student-sues-school-after-brutal-attack>
 - d. Opinion Remanding Entry of JMOL: 974 A.2d 868 (D.C. 2009)

Civil Litigation Against Universities Relating to Criminal Misconduct

17. Cornelius v. Morris Brown College, 681 S.E.2d 730 (Ga.App.2009)
 - a. Assault, Death Resulting – Wrongful Death
 - b. The lawsuit arises from Hartwill Cornelius's death in a fight that took place at Morris Brown College. Cornelius was with his friends on a campus building when one of his friends crossed the street to retrieve a compact disc. A fight ensued across the street and Cornelius ran over to offer assistance to his friend. He was struck on the head with a beer bottle and died. In consolidated appeal, the appellate court reversed the denial of defendant's motion for summary judgment.
 - c. News Story: www.higheredmorning.com/parents-sue-after-student-is-killed-in-fight
 - d. Opinion Reversing Denial of Defendant's Motion for Summary Judgment: 681 S.E.2d 730 (Ga.App.2009)

Civil Litigation Against Universities Relating to Criminal Misconduct

18. McGrath v. Dominican College of Blauvelt, New York, 672 F.Supp.2d 477 (S.D.N.Y. 2009)
 - a. Rape/Suicide – Title IX, §1983, IIED, and Fraud
 - b. The lawsuit arises from the rape and subsequent suicide of Megan Wright. The lawsuit alleges that Wright was raped and immediately reported the incident, but that Dominican College officials failed to respond appropriately, conduct any meaningful investigation, and attempted to cover the incident up. Defendants filed a motion to dismiss, which the court denied. Since this motion, research reveals no further action in the case. It might have been settled following the denial of the motion to dismiss. The New York Attorney General's office began an investigation against the school, but was ultimately settled for \$20,000
 - c. News Story: www.abcnews.go.com/Nightline/college-campus-assaults-constant-threat/story?id=11410988
 - d. Opinion Denying the Motion to Dismiss: 672 F.Supp.2d 477

Civil Litigation Against Universities Relating to Criminal Misconduct

19. Amanda Andaverde v. University of Idaho, State Bd. Of Education, and Sigma Alpha Epsilon (Filed September 22, 2010)

- a. Alcohol Related Injury
- b. The lawsuit arises from Amanda Andaverde's fall from a third story window at the SAE fraternity house. The lawsuit alleges that defendants failed to make the fraternity safe and that she was provided alcohol at numerous events that evening.
- c. News Story: <http://www.krem.com/news/local/129487228.html>
<http://www.klewtv.com/news/local/58594822.html>

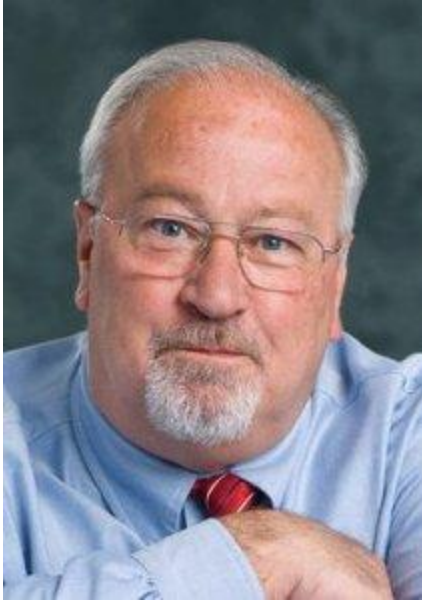
Civil Litigation Against Universities Relating to Criminal Misconduct

20. Smith v. Wabash College, Delta Tau Delta (Filed September 22, 2010)
 - a. Hazing/Alcohol Poisoning
 - b. The lawsuit arises from the death of Wabash College freshman Johnny Smith. The Complaint alleges that the College fosters an environment that encourages hazing and that the College and the fraternity did nothing to stop such behavior.
 - c. News Story: <http://www.fox59.com/news/xxin-wabash-lawsuit-092210.0.6814436.story>
 - d. Complaint: <http://media.trb.com/media/acrobat/2010-09/165310240-23063551.pdf>

Civil Litigation Against Universities Relating to Criminal Misconduct

21. Fiocco v. The College of New Jersey, New Jersey Superior court (March 3, 2008)
 - a. Murder/Mysterious Death/Alcohol Involved
 - b. The lawsuit arises from the death of John Fiocco in his dorm building at The College of New Jersey. Fiocco was last seen sleeping in a friend's dorm room, but his body was found sometime later at a nearby landfill in Pennsylvania. The lawsuit alleges that Fiocco was murdered and that TCNJ's negligence in regards to safety and security procedures enabled his death. Recently a judge has denied TCNJ's motion to dismiss. There is a tentative trial date set for February 2012.
 - c. News Story:
[http://www.nj.com/mercer/index.ssf/2011/11/judge rules fiocco suit against.html](http://www.nj.com/mercer/index.ssf/2011/11/judge_rules_fiocco_suit_against.html)

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Mr. Smith is a partner in the Boston office of LeClairRyan and leader of the national firm's Education Law team. He focuses his practice on defending claims against colleges and universities, and providing counsel to nonprofits and charitable institutions. He advises nonprofits and charitable organizations on complex issues such as institutional governance, regulatory compliance and ethics.

Mr. Smith has successfully defended trials in state and federal courts involving claims of employment discrimination, disability discrimination, student affairs, academic freedom, breach of contract issues and tort matters. He has also conducted internal investigations and defended clients during regulatory agency and other investigations.

A frequent presenter, Mr. Smith regularly appears at national and regional education and law conferences, and on national webcasts. He also regularly contributes to articles on issues relating to higher education, risk management and trial strategy.



S. DANIEL CARTER

S. Daniel Carter formerly served as the director of Public Policy for Security On Campus Inc. (SOC), the only national non-profit organization devoted exclusively to assisting the victims of violence on college campuses and to improving campus security. Co-founded by Connie and Howard Clery in 1987, the organization has been the driving force behind the federal Clery Act and more than 30 other state and federal laws addressing campus crime reporting and victims' rights.

Carter has been working on improving victims' rights and campus safety for almost 20 years, beginning his work while a student at the University of Tennessee in Knoxville from which he graduated in 1994 with a bachelor's degree in political science. He helped develop every amendment to the Clery Act since 1992, including the Campus Sexual Assault Victims Bill of Rights, and has twice, in 1999 and 2009, served on U.S. Department of Education "Negotiated Rulemaking" panels responsible for developing campus security reporting guidelines. He also has extensive experience as a crime victim's rights advocate.

JEAN DEMCHAK
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Jean Demchak has served as the Global Education Leader for Marsh Inc. for 29 years. In this role, she specializes in emerging trends and critical issues facing colleges and universities. She has co-authored a whitepaper on development of a total cost of risk model for the University Risk Management Insurance Association (URMIA) Organization. Demchak speaks internationally on various topics and the liability implications for higher education, which include Student Mental Health and Substance Abuse, International Programs, and large losses that drive litigation in higher education. She also has published several articles dealing with global education issues. In addition, Demchak currently serves as a board member of the URMIA Organization and has held several committee and task force chairmanships in this organization. Demchak also serves on United Educators Broker Advisory Committee. She received her associate's degree from Tomlinson College, her B.A. from University of Tennessee, and her master's degree from University of Connecticut.