

STETSON LAW REVIEW

VOLUME XXXII

FALL 2002

NUMBER 1

CAMPUS VIOLENCE SYMPOSIUM

INTRODUCTION

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How colleges and universities confront campus crime changed forever with the April 5, 1986 murder of Jeanne Ann Clery in her Lehigh University residence hall room. Jeanne's parents, Howard and Connie, soon discovered a history of campus violence and security problems that students and parents had not been told, not only at Lehigh, but at schools across the United States.¹

The Clery family joined other families who had experienced campus violence to spearhead a successful effort, first in Pennsylvania, then in nine other states, to enact laws that require public and private institutions of higher education to report campus-crime statistics.² In 1987, the Clerys also founded a nonprofit victim-assistance-and-advocacy organization, Security on Campus, Inc., using money from a settlement with Lehigh University.³

Eventually, the Clerys' crusade reached the federal level, and President George H.W. Bush signed the Crime Awareness and

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Mr. Carter was an active participant in developing and enacting the 1998 campus security amendments. He also served on the "negotiated rulemaking" committee responsible for developing campus-crime-reporting regulations. <<http://www.campusafety.org/reporters/coveringcrime.html>> (accessed Sept. 16, 2002).

1. Howard Clery & Connie Clery, *What Jeanne Didn't Know* <<http://www.campusafety.org/aboutsoc/didntknow.html>> (accessed Mar. 28, 2002).

2. *Id.*

3. *Id.*; Bella English, *From a Daughter's Death, A Life's Work*, Boston Globe D1 (Oct. 20, 1999).

Campus Security Act of 1990 into law on November 8, 1990.⁴ For the first time, students and their parents had easy access to campus-crime information when deciding where to go to school and, more importantly, to use when deciding what safety precautions to take once enrolled.⁵

Several studies have shown that prospective students and their parents use this information when selecting a school. For example, a study conducted by the educational consulting firm Stamats Communications, Inc., listed safety as the most important college characteristic of students bound for public institutions, and the third-most-important factor for students bound for private institutions.⁶ Additional scholarly research has found that “criminal activity does dissuade [potential] new students” from attending a particular school.⁷ These results obviously mean that campus safety should be a high priority for schools that want to remain competitive.

The 1990 federal law is now named the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act⁸ in memory of the student whose death inspired it.⁹ This legislation’s impact on higher education has been substantial and is the subject of two articles in this issue of the *Stetson Law Review*. First, *The Clery Act: How Effective Is It? Perceptions from the Field — The Current State of the Research and Recommendations for Improvement*, by Professors Dennis E. Gregory and Steven M. Janosik, extensively reviews public discourse on the Clery Act and related campus-crime legislation, recommendations for improved campus safety, and information from three studies conducted by the authors on the Clery Act’s effectiveness.¹⁰

4. Security on Campus, Inc., *Clery Act History* <<http://www.campussafety.org/congress/cleryhistory.html>> (accessed Mar. 28, 2002).

5. Colleges and universities nationwide were forced to provide their students and staff with “campus crime statistics and security policies.” *Id.*

6. Robert A. Sevier & Steven D. Kappler, *What Students Say: Results of Two National Surveys on How Students Choose a College 2* (Stamats Commun., Inc. 1996).

7. Craig A. Depken, II, *College Demand and the Campus Security Act of 1990*, 26 A. Econ. J. 326, 326 (1998).

8. 20 U.S.C. § 1092(f) (2000).

9. Security on Campus, Inc., *supra* n. 4.

10. Dennis E. Gregory & Steven H. Janosik, *The Clery Act: How Effective Is It? Perceptions from the Field — The Current State of the Research and Recommendations for Improvement*, 32 *Stetson L. Rev.* 7, 7–48 (2002).

Second, *Making Campuses Safer for Students: The Clery Act as a Symbolic Legal Reform*, by professors and noted campus crime researchers Bonnie S. Fisher, Jennifer L. Hartman, Francis T. Cullen, and Michael G. Turner, addresses the Act from a research perspective and deals extensively with the difficulties the Act has faced in generating thorough and accurate crime statistics.¹¹

This issue also features two articles on areas of emerging civil liability that institutions of higher education are facing when violence occurs on campus. First, *Breaking the Code of Silence: Bystanders to Campus Violence and the Law of College and University Safety*, by higher-education-law expert Joel Epstein, explores the obligations of members of a campus community when they “hear or see violence in the making.”¹²

Second, *The Emerging Crisis of College Student Suicide: Law and Policy Responses to Serious Forms of Self-Inflicted Injury*, by higher-education-law experts Professor Peter Lake and Nancy Tribbensee, addresses shifts in law indicating that institutions of higher education are likely to face greater civil liability when they fail to take steps to prevent student suicide, including notifying parents or other family members of known danger signs.¹³

Finally, this issue features an article by Wendy B. Davis, the Dean of Students of the Appalachian School of Law, titled *The Appalachian School of Law: Tried but Still True*.¹⁴ The article addresses the terrible shooting that occurred at the law school in January of 2002.¹⁵ Dean Davis discusses how the school responded to the tragedy and offers suggestions on how other schools should respond if they ever find themselves in a similar situation.¹⁶

11. Bonnie S. Fisher, Jennifer L. Hartman, Francis T. Cullen & Michael G. Turner, *Making Campuses Safer for Students: The Clery Act as a Symbolic Legal Reform*, 32 Stetson L. Rev. 61, 61–89 (2002).

12. Joel Epstein, *Breaking the Code of Silence: Bystanders to Campus Violence and the Law of College and University Safety*, 32 Stetson L. Rev. 91, 91 (2002).

13. Peter Lake & Nancy Tribbensee, *The Emerging Crisis of College Student Suicide: Law and Police Responses to Serious Forms of Self-Inflicted Injury*, 32 Stetson L. Rev. 125, 129–153 (2002).

14. Wendy B. Davis, *The Appalachian School of Law: Tried but Still True*, 32 Stetson L. Rev. 159 (2002).

15. *Id.* at 159.

16. *Id.* at 160–166.

As discussed in the articles in this issue, throughout the last decade the public, the media, legislators, and the courts have taken an increasing interest in how colleges and universities deal with campus crime.¹⁷ This interest is likely to continue, and schools will have to address this interest with thoughtful, effective responses to campus violence and other crimes.

The most appropriate starting point for this response is the Clery Act, which requires maintaining and disclosing not only annual crime statistics, but also giving timely warnings and maintaining and disclosing crime logs at schools with police or security departments.¹⁸ This information provides students with the information they need to protect themselves. It also provides schools with data to plan a response to crimes as serious as sexual assault and as pervasive as theft (which is not required to be reported in the annual statistics but would be included in the crime log).¹⁹

Unfortunately, as detailed in both of the articles in this issue devoted to the Clery Act, its implementation has been plagued by a number of problems, including school's reluctance to report information that might damage their image and a lack of proper guidance from the U.S. Department of Education (DOE), which is charged with implementing the law.²⁰ In response to these problems, Connie and Howard Clery have suggested that Congress establish a Clery Act implementation office within the DOE to ensure that schools are properly notified of their responsibilities and are thoroughly investigated when complaints are raised.²¹ Gregory and Janosik examine this proposal in detail.²²

Many serious crimes happen in our nation's campus communities. Statistics released by the DOE reveal 395 murders, 3,982 forcible sex offenses, 12,894 robberies, 18,761 aggravated as-

17. Epstein, *supra* n. 12, at 97-99; Fisher et al., *supra* n. 11, at 61-82; Gregory & Janosik, *supra* n. 10, at 7-50; Lake & Tribbensee, *supra* n. 13, at 129-157.

18. 20 U.S.C. § 1092(f)(1)(F).

19. *Id.*

20. Gregory & Janosik, *supra* n. 10, at 18-20, 54-55; Fisher et al., *supra* n. 11, at 84-87.

21. Connie & Howard Clery, *Letter to U.S. Senator Arlen Specter* <<http://www.cam pussafety.org/congress/100500.html>> (Oct. 5, 2000).

22. Gregory & Janosik, *supra* n. 10, at 56.

saults, and 167,128 liquor law violations reported on and around college and university campuses in 2000.²³

Although a DOE analysis found the on-campus crime rate to be less than that for society as a whole,²⁴ it is actually very difficult to make a direct comparison. A campus population is in constant fluctuation, and many campus victimizations may well be included in the off-campus data with which the campus data is being compared.²⁵ Additionally, a significant amount of college students engage in high-risk or “binge” drinking of alcohol that can contribute significantly to the risk of campus violence occurring.²⁶

Fisher and her colleagues point out that these statistics dramatically understate the true extent of crime, especially sexual assault, because many students never report their victimization to law enforcement or other campus authorities.²⁷ The Fisher article notes that a single campus community with a female population of 10,000 is likely to experience over 350 rapes in an academic year.²⁸ Problems also remain with schools that either deliberately or inadvertently underreport their crime statistics, or report them improperly.²⁹

According to the Gregory and Janosik research, about one-quarter of students are aware of the Clery Act and have read the annual security report, which contains the crime statistics.³⁰ Although this is significantly more than the number of students who had access to campus crime statistics a decade ago,³¹ and represents a vast improvement, more needs to be done to ensure

23. U.S. Dept. Educ., Off. Postsecondary Educ., *Criminal Offenses* <<http://www.ed.gov/offices/OPE/PPI/crime/criminaloffenses>> (last updated Mar. 7, 2002); U.S. Dept. Educ., Off. Postsecondary Educ., *Liquor Law Violations, Arrests* <<http://www.ed.gov/offices/OPE/PPI/crime/arrestreferrals/liqarrest.html>> (last updated Mar. 7, 2002); U.S. Dept. Educ., Off. Postsecondary Educ., *Liquor Law Violations, Referrals* <<http://www.ed.gov/offices/OPE/PPI/crime/arrestreferrals/liqviolations.html>> (last updated Mar. 7, 2002).

24. U.S. Dept. Educ., Off. Postsecondary Educ., *The Incidence of Crime on the Campuses of U.S. Postsecondary Education Institutions* 13 (Jan. 28, 2001).

25. Gregory & Janosik, *supra* n. 10, at 11.

26. Wechsler H. et al., *College Binge Drinking in the 1990s: A Continuing Problem — Results of the Harvard School of Public Health 1999 College Alcohol Study*, 48 J. Am. College Health 199, 199–211 (2000).

27. Fisher et al., *supra* n. 11, at 79–86.

28. *Id.* at 82.

29. *Id.* at 86–87.

30. Gregory & Janosik, *supra* n. 10, at 43.

31. Pub. L. No. 101-542, § 202, 104 Stat. 2384, 2384–2385 (1990).

that students see the reports. Burying the report in a packet of information provided during registration, in a large student handbook, or deep in a school's Web site is not likely to be productive. Schools need more aggressive dissemination practices to ensure that a wider audience reads the campus security information.

On a much more positive note, sixty percent of students read the Clery Act information disseminated in other forms, such as "timely warning" flyers, or student newspaper coverage of crime statistics or crime log reports, and forty-one percent of those students changed how they protected themselves based on that information.³² Before the Clery Act, the students now availing themselves of these resources would have been left in the dark about dangers on campus at many schools. These students are now allies with their schools in an effort to combat campus crime. A large amount, forty-three percent, of campus law-enforcement administrators surveyed by Gregory and Janosik believe that the Clery Act has also "served as a stimulus for improving law enforcement policies and procedures."³³

Unfortunately, many schools have been reluctant to embrace the Act, viewing it as a burden rather than an opportunity.³⁴ However, if the higher-education community embraces the Clery Act as a fundamental campus-crime prevention tool, the Act can be a powerful asset in that effort.

For those concerned about how colleges and universities deal with campus violence and other crimes, an understanding of the federal Clery Act, other related laws including student privacy and state campus-crime-reporting laws, and liability associated with campus crime is critical. This understanding can help the institutions themselves establish proper and effective policies. Further, it can help the victims of campus violence achieve justice. It can also help campus communities better understand their role in preventing campus crime. Finally, it can help journalists access the crime-report information about which they need to inform their communities. The articles in this issue of the *Stetson Law Review* will contribute tremendously to that understanding.

32. Gregory & Janosik, *supra* n. 10, at 43–44.

33. *Id.* at 45.

34. *Id.* at 21–22.