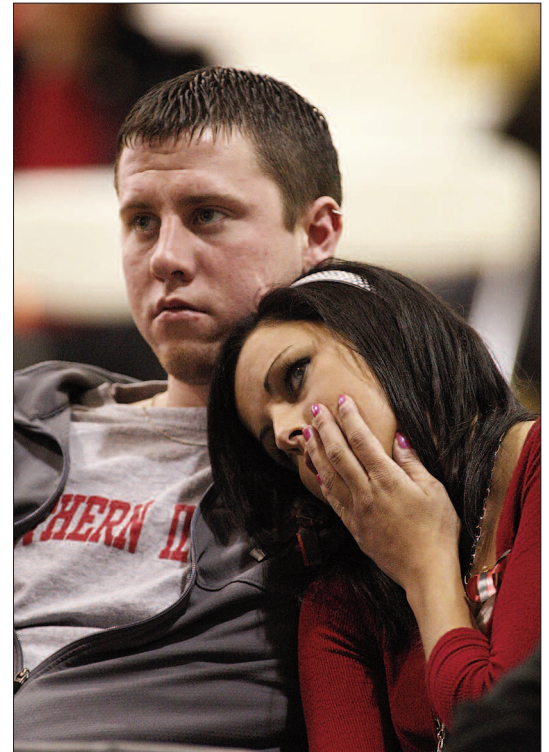


## Crime on Campus

*Are colleges doing enough to keep students safe?*

A federal law requires colleges and universities to report the number of major crimes that occur on their campuses each year, but critics say the data fail to give a complete picture of offenses committed by or against students, particularly sexual assaults. On the whole, college students are safer than their nonstudent counterparts. Still, the annual data don't include many off-campus crimes and others not reported by victims. What's more, the law, known as the Clery Act, exempts campus counselors from having to report the number of alleged sexual assaults and other possible crimes students tell them about. Critics argue that some administrators resist disclosing the extent of campus crimes to protect the image of their institutions. But some college officials are acknowledging the perils of campus crime and putting new emphasis on teaching students to head off potential danger. They are focusing in part on binge drinking, which has been shown to have a strong link to sexual assaults.



*Grieving students at Northern Illinois University watch a memorial service for five students slain inside a lecture hall on Feb. 14, 2008, by graduate student Stephen Kazmierczak. A series of mass shootings has struck campuses in the past two decades.*

### INSIDE THIS REPORT

THE ISSUES .....	99
BACKGROUND .....	106
CHRONOLOGY .....	107
CURRENT SITUATION .....	112
AT ISSUE .....	113
OUTLOOK .....	114
BIBLIOGRAPHY .....	118
THE NEXT STEP .....	119

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## THE ISSUES

- 99 • Has the Clery Act increased campus safety?  
• Should campus women's centers be required to report statistics on sexual violence?  
• Are laws and lawsuits forcing schools to become more protective of students?

## BACKGROUND

- 106 **Riots, High Jinks and Takeovers**  
Student turbulence has long been a part of American higher education.

- 109 **The Clery Murder**  
The 1986 death of Lehigh University freshman Jeanne Ann Clery sparked congressional action.

- 110 **Rampages**  
The Virginia Tech killings were the most deadly of a series of campus shootings.

- 111 **Sexual Assault**  
Most assaults are never reported to authorities.

## CURRENT SITUATION

- 112 **SaVE Act**  
The proposed Sexual Violence Elimination Act is the latest effort to expand the Clery Act.

- 112 **College on Trial**  
A student's suicide is blamed on inaction by her college in investigating her rape report.

- 114 **Massacre Repercussions**  
The families of two victims claim Virginia Tech was negligent in protecting students.

## OUTLOOK

- 114 **Focus on Males**  
Interest in educating men about rape prevention is growing.

## SIDEBARS AND GRAPHICS

- 100 **Fewer College Students Are Victimized**  
Violent crime rate is higher for non-students.

- 101 **Students Drink More Than Non-Students**  
Half of students ages 21-24 were recent binge drinkers.

- 102 **Binge Drinking Linked to Deaths, Sexual Assaults**  
"Impulse control seems to go out the window."

- 104 **Burglary Most Common Campus Crime**  
More than 5,000 aggravated and sexual assaults reported.

- 107 **Chronology**  
Key events since 1840.

- 108 **Sex Assaults Blamed on Alcohol, Male 'Disconnect'**  
"You can't just address one-half of the event and expect things to change."

- 113 **At Issue**  
Has the Clery Act made campuses safer?

## FOR FURTHER RESEARCH

- 117 **For More Information**  
Organizations to contact.

- 118 **Bibliography**  
Selected sources used.

- 119 **The Next Step**  
Additional articles.

- 119 **Citing CQ Researcher**  
Sample bibliography formats.

# Crime on Campus

BY PETER KATEL

## THE ISSUES

**H**elen Hickey de Haven was teaching at Appalachian College of Law in Grundy, Va., when a mentally ill student opened fire on campus, killing the school's dean, a professor and a student. De Haven witnessed the shooting and was left shaken.

In the wake of the 2002 rampage and several other subsequent campus shootings, de Haven has become deeply concerned about the broad issue of campus safety.

"It's beginning to be dangerous to be educated," says de Haven, who now teaches at John Marshall Law School in Atlanta and studies campus shootings. "People walk up and shoot you down. My real question is what has happened to America? Don't tell me this used to happen, because it didn't."

While shooting rampages and other major crimes remain relatively infrequent on the nation's approximately 10,000 college, university and vocational-school campuses, students are hardly immune to violence — though they experience it less than their nonstudent counterparts.\* Bureau of Justice Statistics for 1995-2002 show that college students ages 18 through 24 suffered 61 violent crimes per 1,000 individuals, compared with 75 violent crimes for non-students. Rapes and other sexual assaults occurred at a rate of 3.8 per 1,000 individuals for

\* The campuses represent more than 6,500 higher-education institutions, according to the National Center for Education Statistics, <http://nces.ed.gov/fastfacts/display.asp?id=84>.



Getty Images/Time Life Pictures/Marianne Barcellona

*The rape and murder of Lehigh University freshman Jeanne Ann Clery in her dormitory room in 1986 sparked the Clery Act, which requires schools to collect data on sexual assault. But critics say the data don't accurately portray the hazards facing students living on or near campuses. Congress has repeatedly expanded the law's scope, most recently after the 2007 shooting rampage at Virginia Tech University. This year, Sen. Robert Casey, D-Pa., hopes to amend the law to make it easier to investigate campus assaults and punish perpetrators.*

students, compared with 4.1 for non-students. <sup>1</sup> (See graph, p. 100.)

What's more, many experts argue that data on campus offenses don't reflect the full scope of the college-safety problem. Colleges must report annual crime data under a law known as the Clery Act, named for a Lehigh University student named Jeanne Ann Clery, who was raped and murdered in her dorm room in 1986. But critics say the data fall far short of a comprehensive picture of the hazards facing students who live on or near campuses.

The accuracy of sexual-assault data is the most suspect, they contend. In

2009, higher education institutions reported that 2,590 "forcible" sex offenses had taken place on campus. <sup>2</sup> Measured against a total enrollment of more than 18 million, those reported occurrences amount to a fraction of 1 percent of the student population. But Bonnie S. Fisher, a political scientist at the University of Cincinnati's School of Criminal Justice, believes the true figures are much higher. She and her colleagues concluded after conducting their own survey that the number of rapes might exceed 350 on a campus of 10,000 women. <sup>3</sup>

Analysts point to a number of reasons that overall data on campus crime may be less than reliable. For one thing, the Clery Act exempts professional and pastoral counselors from reporting even aggregate totals of crimes students tell them about. That means crime figures may not reflect some of the most prevalent acts for which female students seek counseling: rape and other sex offenses.

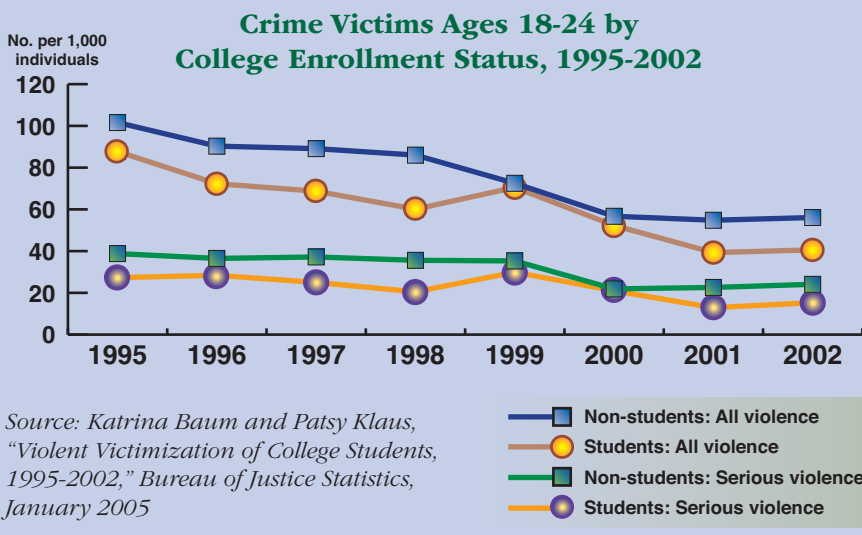
"Sexual assault on campus is the most underreported crime, not because universities are not engaged, but because of the nature of the crime," says Gary J. Margolis, former University of Vermont police chief, now a Richmond, Vt.-based campus safety consultant.

What's more, many sexual assaults — along with many other offenses committed by or against college students — occur off campus and may never be counted by administrators as campus-related crimes.

Another concern is what researchers say is a reluctance of women victimized by sexual assaults to report the crimes for fear that school ad-

## Fewer College Students Are Victimized

Victimization of college-age students declined from 1995 through 2002, the latest year for which data are available. Individuals ages 18 through 24 not enrolled in college were victims of violent crimes at the rate of 56 per 1,000 in 2002, nearly 40 percent higher than students. Similarly, non-enrolled individuals were victims of serious violent crimes such as rape and aggravated assault at a higher rate than college students.



ministrators won't respond appropriately. Last year, the Center for Public Integrity, a Washington-based nonprofit investigative-journalism organization, reported finding serious deficiencies in those responses. "Students found 'responsible' for alleged sexual assaults on campuses often face little or no punishment, while their victims' lives are frequently turned upside down," the center reported.<sup>4</sup>

The Clery Act's usefulness is also limited by the fact that many parents, students and potential enrollees pay little attention to it, experts say. In 2002, more than 10 years after the law was enacted and heavily publicized, Steven M. Janosik, a professor of educational administration at Virginia Tech University, reported that only about one-fourth of parents and students he surveyed had heard of the law, and only 6 to 8 percent said the safety statistics played a role in their college decisions.<sup>5</sup>

Despite what are viewed as weaknesses in the reporting of campus crime, however, the Clery Act has strong defenders among college-safety experts. "As a consumer-information law, it's probably a failure" because it doesn't produce an accurate picture of crime levels, says Brett A. Sokolow, a Malvern, Pa.-based lawyer and campus safety consultant. Nevertheless, he adds, "the Clery Act has dramatically changed attitudes about campus safety. Because those numbers get published on an annual basis, [colleges] worry about perception and media coverage, because light is being shed where there wasn't any."

Likewise, Jonathan Kassa, executive director of Security on Campus, a nonprofit group founded by Jeanne Clery's parents to push for passage of the Clery Act, argues that the law has filled a critical gap in the higher education system. Administrators, he says, are now answerable to the federal government

on safety matters, with penalties and associated publicity hanging over them.

"These are institutions that control areas in which you don't have elected officials," he says. "The Jeanne Clery Act is a way to hold institutions accountable."

Kassa points to a 2007 case in which the U.S. Department of Education, which administers the Clery Act, fined Eastern Michigan University \$357,500 for failing to disclose that a student found dead in her dorm room had been murdered. Only when another student was charged two months later with raping and killing the young woman did the school make known that a crime had occurred.

For college administrators, one of the most vexing safety problems is the nexus between sexual assault and binge drinking. Heavy drinking by either victims or perpetrators can be a catalyst for sex crimes, campus-safety experts say.<sup>6</sup>

"I am dead serious about preventing people on this campus from dying of alcohol-related incidents," Dartmouth University President Jim Yong Kim told students last September, "and I am dead serious about preventing sexual assault."<sup>7</sup> Kim has arranged with police in surrounding Hanover, N.H., to divert arrested underage drinkers to alcohol-education classes. Less than two weeks before Kim's pronouncement, the private consulting firm Insite Security, using Clery Act data, found Dartmouth to have the highest sexual assault rate in the Ivy League: 7.69 incidents per 1,000 students in 2008.<sup>8</sup>

Still, Dartmouth Acting Dean Sylvia Spears argued that Insite's findings could point to a positive: Students are feeling freer to report abuse and violence. The Clery statistics "may be indicative of better education about sexual violence and increased awareness of various services and offices on a campus that are available to a victim," she said.

Spears' statement mirrors Kassa's view that statistics showing an increase in college crime can actually point to

progress in making campuses safer. “It means those campuses are becoming more open to the problems they have and are addressing them,” he says.

Kassa’s organization was formed after Jeanne Clery’s parents found that Lehigh University hadn’t reported a series of previous crimes that had occurred on campus — information that they said could have persuaded their daughter to pick another college.

The Clery Act, passed in 1990, covers all degree- and non-degree-granting higher education institutions whose students are eligible for federal student aid. It not only requires colleges and universities to report annual crime data but also to rapidly notify students and faculty when violence is unfolding on campus.<sup>9</sup>

Congress has expanded the law’s scope repeatedly, most recently in response to a 2007 shooting rampage at Virginia Tech that left 32 students and faculty members dead. This year, Sen. Robert Casey, D-Pa., hopes to amend the Clery Act to make it easier to investigate campus sexual assaults and punish perpetrators.

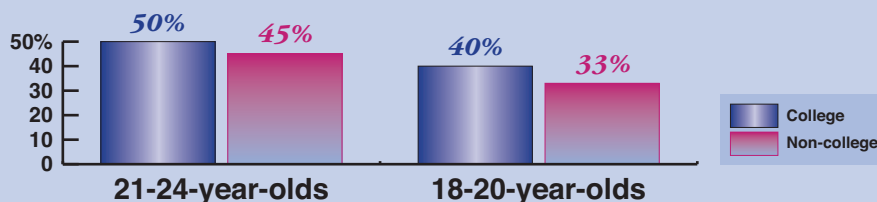
Repercussions of the Virginia Tech tragedy continue to resound. The fallout includes widespread anxiety over how schools are handling students who display signs of mental or emotional instability. That issue arose most recently after last month’s deadly shootings in Tucson in which 22-year-old Jared L. Loughner was charged with killing six people and gravely wounding Rep. Gabrielle Giffords, D-Ariz. Loughner was suspended last year from Pima Community College in Tucson after his strange behavior made students and teachers fearful of a violent attack.<sup>10</sup>

Brian Van Brunt, president of the American College Counseling Association, said the Loughner case has sparked new concern among college administrators that they may not be providing students with sufficient mental-health services. The association’s membership shot up 14 percent to 578 schools since

## Students Drink More Than Non-Students

*Half of college students 21 to 24 years old reported consuming at least five drinks on one occasion over the past 30 days in 2005, a higher rate than non-students the same age. College students and non-students below the drinking age engaged in similar drinking patterns. Researchers cite strong correlations between binge drinking and the incidence of sexual assault.*

### Percentage of College-Age Students Who Had Five or More Drinks on One Occasion in the Previous 30 Days, 2005



Source: Ralph W. Hingson, et al., “Magnitude of and Trends in Alcohol-Related Mortality and Morbidity Among U.S. College Students Ages 18-24, 1998-2005,” *Journal of Studies on Alcohol and Drugs*, July 2009

the Tucson shooting. And officials from 17 schools signed up for association training during the 10 days following the event.<sup>11</sup>

As safety experts and university administrators debate how to reduce campus crime, here are some of the questions they are considering:

### **Has the Clery Act increased campus safety?**

There is little doubt that the Clery Act helped make campus safety a major public-policy issue. An informal review of newspaper and wire service reports over the past five years about safety threats at colleges turns up 338 references to the law in 627 articles.

But experts say it is hard to prove that the law has had a direct influence on the incidence of crime against college students. One reason for the uncertainty: Colleges are required only to report crimes that have occurred on campus, property adjacent to campus and off-campus facilities that the institutions own.<sup>12</sup>

At the University of Colorado at Boulder, for instance, “The vast majority of students live off campus,” says Mary Friedrichs, director of the college’s Office of Victim Assistance. “Most things that happen occur in residences. But what happens to students in neighborhoods in Boulder is not necessarily Clery-reported.” At colleges where most students live in dorms, however, “their Clery numbers are going to look a lot higher,” Friedrichs says.

The Clery Act’s requirements don’t end at data collection and reporting. The law also requires schools to provide speedy notice to students and employees when emergencies are occurring on campus. The Education Department determined that Virginia Tech’s administration failed at that during the 2007 massacre.<sup>13</sup> The shooting prompted Congress to strengthen the notification provision, requiring “immediate” messages to members of a campus community. (See “Background,” p. 110.)

## Binge Drinking Linked to Student Deaths, Sexual Assaults

*“Impulse control seems to go out the window when alcohol is involved.”*

For all the pointers that college women get about keeping safe from sexual assault, the simplest advice might be: Don't drink too much.

“Impulse control seems to go out the window when alcohol is involved,” says Phillip A. Johnson, president of the International Association of Campus Law Enforcement Administrators and police director for the University of Notre Dame. “I say that not to place the blame on anyone, but it's a factor both on the part of the perpetrator and the survivor.”

A task force of the National Advisory Council on Alcohol Abuse and Alcoholism listed sexual assault among the consequences of excessive drinking on campus. A statistical analysis on which the task force relied estimated that in 2001, 97,000 students had been victimized by a fellow student who'd been drinking.<sup>1</sup> Moreover, the task force said the excessive-drinking trend — known as “binge drinking,” or having five or more drinks on any occasion in the past 30 days — has grown so widespread on campuses that nothing short of “changing the culture of drinking” among students would turn the tide.

“The consequences of drinking on campus are too damaging to ignore,” the task force said. It cited a research report linking excessive student drinking to 1,647 accidental deaths from car crashes and other causes in 2001, a total that rose to 1,825 in 2005. About 600,000 students suffered assaults in 2001 by other students who'd been drinking, a study cited by the task force concluded.<sup>2</sup>

But the national council's call to action seems largely to have fallen on deaf ears. The share of students who were binge drinking rose from about 42 percent in 1998 to about 45 percent in 2005, a proportion still being cited as valid in 2009.<sup>3</sup>

University of Virginia President Teresa Sullivan has warned students there that alcohol abuse can lead to tragedy. According to news reports, heavy drinking marked the prelude to a death last year that left the bucolic campus in Charlottesville shaken and grieving. George Huguely V, a former member of the school's lacrosse team, is awaiting trial on a first-degree murder charge in the death of his former girlfriend, Yeardley Love, who also played lacrosse.<sup>4</sup>

Huguely had a history of alcohol-fueled rages aimed at Love and others. In 2008, he pleaded guilty to resisting arrest and public intoxication after allegedly yelling racial and sexual epithets at a policewoman.<sup>5</sup>

When the 2010-2011 academic year began, U-Va.'s Sullivan seemed to be referring to Huguely's record when she urged students to respond to signs of trouble. “If you know someone who is the victim of violence, when do you have an obligation to speak up?” Sullivan asked. “If you know a friend has a serious alcohol problem, do you have a responsibility? And if so, what is that responsibility?”<sup>6</sup>

Responsibility to one's own well-being is an issue as well. College students made up the bulk of the fan base of the alcohol-and-caffeine drink Four Loko that the U.S. Food and Drug Administration banned late last year after a series of hospitalizations for alcohol poisoning raised an alarm in several states.<sup>7</sup>

Four Loko rode to fame among the young for giving them a buzz, even as it kept them awake to consume more. “It's equivalent to four beers, so it's pretty effective, and it also has energy-drink qualities and it keeps you alive at the party,” Syracuse University junior William Blake, a film major, told the *Syracuse Post-Standard* in December.<sup>8</sup>

The irony seems to have been unintentional. Four Loko scared state and federal law enforcement and medical authorities precisely because the ease of overindulging led to alcohol poisoning. Nine students from Central Washington University in Ellensburg were hospitalized in October with dangerous blood-alcohol levels after downing Four Loko. So too were 23 students from Ramapo College in Mahwah, N.J.<sup>9</sup>

Both colleges banned the drink. And in November, the U.S. Food and Drug Administration, acting on requests from the attorneys general of California and Washington state, effectively banned the alcohol-stimulant combination (an action that also affected at least three other products).

Worries about overintoxication amount to more than adult hand-wringing. In 2008 alone, a non-scientific survey of newspaper reports found that students died of alcohol poisoning at Wabash College, in Crawfordsville, Ind.; California Polytechnic State University, San Luis Obispo; Northwestern University, Evanston, Ill.; and the University of Delaware, Newark. In 2009, a student died of alcohol poisoning at State University of New York, Geneseo, which is considered the state's public honors college. All but one of the deaths — the one at Northwestern — followed fraternity hazing rituals.<sup>10</sup>

The main feature of the Clery Act, however, is its requirement that colleges and universities report data on a wide range of criminal offenses.<sup>14</sup> And some observers question whether that mandate has made campuses

safer. “As a consumer-protection statute, the Clery Act has faltered,” a *Chronicle of Higher Education* reporter concluded last year. “Its crime-reporting requirements were intended to inform families, to change students' behavior and to keep

them safe. But research on the use of the reports shows that very few students look — and even those who seek solid information are out of luck.”<sup>15</sup>

The points that reporter Sara Lipka raised have been circulating among



Former University of Virginia lacrosse player George Hugueley V is charged with murder in the death of his ex-girlfriend, Yeardeley Love. He had a history of alcohol-fueled rages.

Whatever effect the deaths may have had on students who weren't directly involved, they certainly caught the attention of at least one college president. Dartmouth University President Jim Yong Kim, speaking to a faculty meeting last October, seized on the incident at Northwestern, in which 19-year-old Matthew Sunshine was found dead in his dorm room after attending a party in his residence hall. He had needed to be helped to his room after drinking a reported 17 shots of vodka. Doctors found a blood-alcohol level of 0.396. The upper limit for drivers in all states is 0.08.<sup>11</sup>

Early this year, Northwestern reached a \$2 million settlement with Sunshine's family. Money aside, the university committed itself to a series of anti-alcohol abuse actions, including funding research on binge drinking. "Hopefully, it'll be a start . . . of some sort of change in attitude on college campuses," Matthew's father, Jeffrey, told the *Daily Northwestern* student newspaper, "so that what happened to our son never happens again."<sup>12</sup>

But close calls continue. "We've had students here with blood alcohol concentrations of 0.396," Kim told the Dartmouth faculty at the Hanover, N.H. school, where police had to take seven students to the hospital early last year for signs of alcohol poisoning. "My nightmare is that someone dies with a 0.396 blood alcohol level . . . because people were scared that calling for help would get the student or themselves in trouble — and then I have to call the parents the next morning, and the mother is a public-health physician and the father is a lawyer."<sup>13</sup>

Kim has been speaking to students as well, citing issues that go beyond Dartmouth's potential exposure to negligence lawsuits. In September, he warned students that a deal the school arranged with Hanover police to avoid arresting underage drinkers on a first offense — by sending them instead to an alcohol education class — may not last. "Hanover Police did us a big favor," Kim told members of the class of 2014. "How can I continue to ask them to do that if we have case after case of people going to the hospital?"<sup>14</sup>

— Peter Katel

<sup>1</sup> "A Call to Action: Changing the Culture of Drinking at U.S. Colleges," Task Force of the National Advisory Council on Alcohol Abuse and Alcoholism, National Institutes of Health, April 2002, pp. 1, 4, [www.collegedrinkingprevention.gov/media/TaskForceReport.pdf](http://www.collegedrinkingprevention.gov/media/TaskForceReport.pdf); Ralph W. Hingson, *et al.*, "Magnitude of and Trends in Alcohol-Related Mortality and Morbidity Among U.S. College Students Ages 18-24, 1998-2005," *Journal of Studies on Alcohol and Drugs*, Supplement No. 16, 2009, pp. 17, 18.

<sup>2</sup> *Ibid.*

<sup>3</sup> "As College Drinking Problems Rise, New Studies Identify Effective Prevention Strategies," National Institutes of Health, June 15, 2009, [www.nih.gov/news/health/jun2009/niaaa-15.htm](http://www.nih.gov/news/health/jun2009/niaaa-15.htm); full document: Hingson, *et al.*, *op. cit.*; "As college drinking problems rise, new studies identify effective prevention strategies," *esciencenews*, June 15, 2009, <http://esciencenews.com/articles/2009/06/15/as.college.drinking.problems.rise.new.studies.identify.effective.prevention.strategies>.

<sup>4</sup> David Nakamura, *et al.*, "The U-Va. lacrosse player accused of killing ex-girlfriend Yeardeley Love was a young man of privilege and rage," *The Washington Post*, May 23, 2010, p. A1.

<sup>5</sup> *Ibid.*

<sup>6</sup> Quoted in Steve Yanda, "U-Va. slaying prompts campus safety talks," *The Washington Post*, Sept. 25, 2010, p. B8.

<sup>7</sup> "FDA Issues Warning Letters to Caffeinated Alcohol Beverage Manufacturers. . . .," States News Service, Nov. 18, 2010; Kim Murphy, "Trouble brewing with Four Loko," *Orlando Sentinel*, Oct. 31, 2010, p. A2.

<sup>8</sup> Quoted in Paul Riede, "Four Loko is Now a No-No in New York," *Post-Standard* (Syracuse, N.Y.), Dec. 10, 2010, p. A3.

<sup>9</sup> *Ibid.*

<sup>10</sup> "Family sues Ind. college over teen's alcohol death," *The Associated Press*, Sept. 23, 2010; Nick Wilson, "Cal Poly changes its fraternity rush policy after Carson Starkey's death," *The Tribune* (San Luis Obispo, CA), Feb. 18, 2010; Brian Rosenthal, "Northwestern could face suit in student's death," *Daily Northwestern*, July 9, 2009 (no page number); Sean O'Sullivan, "UD confirms fraternity suspended after death," *News-Journal* (Wilmington, Del.), p. B1; Ben Dobbin, "Ex-frat members plead guilty in NY hazing death," *The Associated Press*, Oct. 27, 2009.

<sup>11</sup> Rosenthal, *ibid.*; Brian Rosenthal, "Northwestern reaches \$2 million settlement with Sunshine family," *Daily Northwestern*, Sept. 21, 2010, [www.dailynorthwestern.com/northwestern-reaches-2-million-settlement-with-sunshine-family-1.2336576](http://www.dailynorthwestern.com/northwestern-reaches-2-million-settlement-with-sunshine-family-1.2336576); "DUI/DWI laws," January 2011, Insurance Institute for Highway Safety, [www.iihs.org/laws/dui.aspx](http://www.iihs.org/laws/dui.aspx).

<sup>12</sup> Quoted in Rosenthal, Sept. 21, 2010, *op. cit.*

<sup>13</sup> Quoted in Sam Rauschenfels, "Kim explains alcohol, assault at faculty meeting," *The Dartmouth*, Oct. 26, 2010, <http://thedartmouth.com/2010/10/26/news/faculty>; Mark Hayward, "Dartmouth drinking returns to spotlight," *Union Leader* (Manchester, N.H.), Feb. 16, 2010, p. 10.

<sup>14</sup> Quoted in Bridgette Taylor, "Kim addresses alcohol and assault," *The Dartmouth*, Sept. 22, 2010, <http://thedartmouth.com/2010/09/22/news/kim>.

criminologists and university administrators for at least a decade. "The Clery Act only requires that institutions report offenses that are reported to it," says John J. Sloan III, chair of the Justice Science Department at the University of

Alabama and co-author with Fisher of a new book skeptical of much campus-safety rhetoric.<sup>16</sup> "We know from victim surveys that huge percentages of what goes on never gets reported to anybody. You're relying upon a flawed

mechanism to gather information that you then use to set policy."

Sloan argues that the entire issue of campus danger has been distorted by the notion that students are less safe now than they were in the past,

## Burglary Most Common Campus Crime

More than 24,000 burglaries were reported on college campuses in 2009. Burglary was nearly six times more prevalent than motor vehicle theft, which ranked second. Nearly 2,700 aggravated assaults were reported and nearly 2,600 forcible sex offenses.

### Reported Criminal Offenses on College Campuses, 2009

<b>Burglary</b>	<b>24,035</b>
<b>Motor vehicle theft</b>	<b>4,271</b>
<b>Aggravated assault</b>	<b>2,678</b>
<b>Forcible sex offenses</b>	<b>2,590</b>
<b>Robbery</b>	<b>1,865</b>
<b>Arson</b>	<b>648</b>
<b>Non-forcible sex offenses</b>	<b>72</b>
<b>Murder/non-negligent manslaughter</b>	<b>17</b>

Source: Office of Postsecondary Education, U.S. Department of Education

an idea he disputes. One result, he says, is an overemphasis on sexual offenses and other crimes that schools have had little success in combating because such crimes are chronically under-reported by victims. What too often don't get enough attention, he says, are relatively common and accurately reported property crimes. "We ignore things that we really could do something about, such as thefts and other low-level forms of offending," Sloan says.

But Kassa of Security on Campus argues that the Clery Act has filled a crucial gap in the higher education system by making administrations answerable to the federal government on safety matters. He acknowledges that differing data standards, including permission to exclude data based on reports to professional counselors, make comparing crime statistics among colleges difficult. But, he says, the law has focused college administrations' attention.

In the view of some experts, though, problems with the law outweigh its

benefits. Nancy Chi Cantalupo, assistant dean for clinical programs at Georgetown Law Center in Washington, argues that the Clery Act effectively provides an incentive for schools to keep their sexual assault numbers low. "If you take steps to encourage victims to report," she says, "you have more reports, and the school down the street that is not taking steps to end the violence and report statistics has fewer reports. And they look like a safer campus than the school that is trying to act responsibly."

Cantalupo also argues that the law leads administrators to emphasize making campus buildings safer while downplaying the need for student training.

"What schools should be doing is looking at the culture among their students as it relates to sexuality and sexual violence," she says. For example, Cantalupo advocates programs that train men and women to intervene in situations they think might endanger a fellow student.

Phillip A. Johnson, president of the International Association of Campus

Law Enforcement Administrators (IA-CLEA) and police director at the University of Notre Dame, believes the Clery Act has in fact made campuses safer, in part by heightening awareness to potential threats.

Still, he says, transforming that awareness into changed behavior might be more than the law can accomplish. "We do provide a lot of information to students," he says. "The question is, how do you reach them? Anyone who's been the parent of a teenager and an emerging adult knows that they may be inclined to engage in risky behaviors."

### ***Should campus women's centers be required to report statistics on sexual violence?***

In 2002 — 12 years after the Clery Act was enacted and eight years after regulations for carrying it out were issued — the most comprehensive survey to date of colleges' responses to sexual assault found that only 36.5 percent of institutions were reporting statistics in a manner fully consistent with the law's requirements.<sup>17</sup>

Of all the issues involved in compiling data from a variety of campus sources — from college police departments to dormitory advisers and rape-crisis centers — one of the most complex is confidentiality. Under 1998 amendments to the Clery Act, professional mental health counselors and religious counselors are encouraged but not required to disclose the number of reports of alleged sexual offenses they've received.<sup>18</sup>

Yet, by all accounts, counselors receive far more reports from victims than do police or college officials. And many college counselors work at women's centers, whose services typically include counseling and support for victims of sexual violence.

The Clery Act counseling exemption reflected the position of the American Psychological Association (APA). "Students should feel confident that what they say to a counselor is in confidence,"

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an association spokeswoman, Nina Levitt, said in 1999. Even reporting raw data could jeopardize that confidentiality, she said.<sup>19</sup> Psychologists have been concerned that campus authorities could demand that victims disclose specific information on a potential offender, for instance, in order to protect other students' safety.

The University of Colorado's Friedrichs says the confidentiality provision serves a valuable purpose. "We are a confidential office; we are not required to tell anybody anything unless we have a written release of information," she says. A change in that policy would "impact on the student and our ability to communicate."

A further complication, says S. Daniel Carter, public policy director of Security on Campus, is that some states extend a confidentiality exemption not only to professional counselors but also to victims' advocates who may not have professional credentials. Even so, he says, the number of schools that exclude crime data because of the exemption isn't known. "No one has done large-scale research" on that issue, he says.

The exemption has led to some confusion at one of the country's biggest university systems. In 2003, the U.S. Department of Education ruled that the University of California (UC) had misinterpreted the counselor exemption to exclude crime data that came from all campus officials who may have done some counseling — as opposed to full-time counselors. "Institutions are expected to determine which officials . . . do not have significant counseling responsibilities," the department ruled. UC had changed its policies by the time the department ruled, and the school wasn't penalized.<sup>20</sup>

Moreover, even supporters of the counseling exemption say that statistics on sexual assaults can be misleading because the events that students recount may have occurred in hometowns or in childhood. It's a point Friedrichs makes. Her victim-

assistance center's database, for instance, doesn't contain a separate classification for alleged sexual assaults that took place on campus, she says. If the center decided to report statistics, "we would have to start counting our numbers differently," she adds. There has been no discussion of doing so, however, she says.

Even if a center did decide to report sexual-assault figures, how a counselor asks about a student's experience can make a big difference in how an event is classified. Fisher, the University of Cincinnati political scientist, and her colleagues found that when college women were asked detailed questions about uninvited sexual encounters without use of the word "rape," responses made clear that more sexual attacks occurred than women were reporting. The researchers found a victimization rate of 27.7 assaults per 1,000 female students. And because some women were victimized more than once, the rate of incidents was 35.3 per 1,000 students.<sup>21</sup>

"In a given academic year . . . for a campus with 10,000 women, this would mean the number of rapes could exceed 350," they wrote.<sup>22</sup>

Ada Meloy, general counsel of the American Council on Education (ACE), which advocates on policy issues for colleges and universities, argues, however, that while "there are said to be many instances" of unreported sexual assaults, "if they're not reported, you do have to wonder how serious they were or whether they occurred, frankly."

Meloy also says that "most institutions have disciplinary procedures that are adequate to handle sexual-assault allegations," though she adds that "sexual assault is also a criminal matter and college procedures are not a substitute for that avenue of addressing situations that may occur."

Kassa of Security on Campus suggests one mechanism to get around the confidentiality problem: Have counselors voluntarily report aggregate num-

bers of alleged crimes to a third party, who then would transmit them to the people who do the statistical crime compilations required by the Clery Act. That would separate the counseling function from the data-gathering function altogether, he maintains. "You don't have to have your counselors make the statistical report."

The key point of the Clery Act's counselor confidentiality privilege is that it's not mandatory, Kassa says. "This is the beauty of the Clery Act — it gives [colleges] all the discretion in the world."

Georgetown's Cantalupo says she has no problem with reporting aggregate data on reported sexual assaults. She acknowledges that some counselors fear that women would refrain from speaking of their experiences if they thought that what they said would automatically be disclosed to campus authorities. But, she says, that reaction could be dissipated if counselors made clear that they would report nothing but numbers.

A problem could arise if college administrators treated a statistical disclosure as an overall waiver of the counselor exemption, Cantalupo says. But "any institution that is really interested in solving this problem will not do something like that," she says, "because they would realize that their victim-advocate office is their best possibility for fixing the problem" of sexual violence on campus.

Sokolow, the campus-safety consultant, argues that changing the Clery Act to require statistical disclosure from counseling centers would be a bad idea. But he says institutions should urge counseling centers to report numbers of alleged assaults voluntarily. "Schools ought to be saying, 'Share your statistics,'" he says.

### ***Are laws and lawsuits forcing schools to become more protective of students?***

Until the 1960s, American colleges still operated under a doctrine known

as *in loco parentis* — in the parents' place. That is, schools could to a great extent run their students' lives, ordering them to adhere to curfews, dress codes and other standards of behavior, as their parents were assumed to have done at home. That system didn't survive the transformation of social values and sexual conventions, fueled by political rebellion that the tumultuous 1960s brought to campuses nationwide.

But events over the past two decades are leading some experts to argue that the pendulum is swinging back. The publicizing of details — via lawsuits and media coverage — of how some universities have dealt with allegations of sexual assault is one factor pushing campuses to become stricter.

What some call an epidemic of binge drinking on campuses — coupled with a series of deaths associated with heavy alcohol use — also is spurring universities to crack down. A 2008 Harvard School of Public Health study concluded that school policies and cultures had a strong effect on the level of binge drinking on a given campus.<sup>23</sup>

Also influencing campus policies are mass shootings and the retrospective examination they prompt of how well school officials dealt with early signs of the perpetrators' mental state. The Virginia Tech massacre prompted a range of institutions to form "behavioral intervention teams" assigned to spot and evaluate students who show signs of mental or emotional distress. And other institutions took similar action even earlier. New York University, for instance, expanded and improved its mental health services after six students committed suicide during a 12-month period in 2003-2004.<sup>24</sup>

And despite the absence of a mental health program at Pima Community College that might have treated Loughner, the accused Tucson shooter, community colleges elsewhere have developed such programs.<sup>25</sup>

Practical reasons aside, educational institutions have a deeply rooted re-

sponsibility to watch over students' psychological health, some scholars say. "Experience teaches that it has not made the academy safer to keep students at arm's length or to deny that as educators we have the power to influence their values, their consciousness, their relationships and their behaviors," John Marshall's *de Haven* wrote in an analysis of the legal issues that arose after recent campus mass shootings.<sup>26</sup>

To be sure, influencing is not the same as controlling. *De Haven* in an interview says that *in loco parentis*, with its strict behavior codes, is "over." But, she adds, other legal doctrines offer the possibility of developing a philosophy of a "higher duty to protect" students. "There is a general duty to provide a safe learning environment, to take the well-being of students into account," she says. "You can't just let a student commit suicide."

*De Haven* says academic and social stresses create deep problems for some students, even if they handled high school pressures successfully. "We're certainly moving toward a much more caring and protective posture toward students," she says.

That trend is moving in the direction of the old college-as-parent philosophy, a reflection of overprotectiveness that has flourished among mothers and fathers in recent decades, argues the University of Alabama's Sloan. "Parents expect the institution to act in such a way as to protect their 'children' — note, 'children' — from harm," he says, focusing on the fact that 18-year-olds are considered adults except where the drinking age is concerned.

And safety isn't the only concern, Sloan says. "With the notion of students as consumers, you're creating an entire context in which an institution is expected to feed, clothe, protect and educate," he says. "The last time I checked, that's what my mom and dad were supposed to do. While I was at

college, the idea was to explore the limits and succeed and fail on your own terms, and not continue to be more or less protected."

Kassa of Security on Campus views the trend in a different light. "Civil lawsuits, though still rare, are increasing in number," he says. "Schools typically are going to tend to be safer just so they don't get sued."

The Clery Act, which exposes schools to the possibility of fines for not meeting its requirements, plays a part as well. "By the time you get a fine, something has broken down along the way," Kassa says. "What kills schools is the PR hit they take, which affects [alumni] donations."

Meloy of ACE, the policy and lobbying organization for colleges and universities, acknowledges that "extremely tragic events" on some campuses have forced institutions to focus more on safety than they had before.

However, Meloy adds, administrators keep a key fact in mind about the vast majority of their students: They've reached the age of majority. "Colleges and universities recognize that they are dealing with adults, even though they may be young adults," she says. "Administrations are not *in loco parentis*. Freedom of the individual is an important part of the college experience. Institutions simply cannot exercise the strict controls that used to be common, and students must be treated as adults." ■

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## BACKGROUND

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### Riots, High Jinks and Takeovers

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Student turbulence — often good-natured, sometimes violent — marked American higher education in

*Continued on p. 108*

# Chronology

## 1800s-1970

*Drinking, rowdy behavior and sexual escapades are tolerated as normal aspects of college life, but Vietnam-era turbulence sparks lasting concerns about campus security.*

### 1800-1875

Riots break out at Amherst, Brown, the University of South Carolina, DePauw and other institutions over poor living problems.

### 1840

A University of Virginia student shoots and kills a professor during a riot.

### 1961

In a major blow to a longstanding doctrine allowing colleges to exercise parental authority, Fifth U.S. Circuit Court of Appeals overturns expulsion without due process of four Alabama State College students who joined a civil rights protesters.

### 1968-1969

Vietnam protesters mobilize campuses nationwide, with student strikes at Harvard University and elsewhere attacking institutions' Reserve Officers' Training Corps (ROTC) programs.

### 1969

Official at Pomona College in California predicts coed dorms will become standard in campus life.

### 1970

Police kill two students during an impromptu anti-police demonstration at predominantly black Jackson State University in Mississippi. . . . 10 days later, National Guard troops kill four Kent State University students during protests of the U.S. incursion into Cambodia. . . . Car bomb at a building housing the Army Math Research Center on the University of Wisconsin at Madison campus kills a researcher with no ties to military work.

## 1980s-1990s

*College freshman's murder spurs campaign to require disclosure of college crime data.*

### 1986

After Lehigh University freshman Jeanne Ann Clery is raped and killed by a classmate, her parents discover past campus crimes had gone unreported and later sue the university.

### 1988

Lehigh and the Clerys settle the lawsuit for a reported \$2 million. . . . The Clerys form Security on Campus Inc. and begin advocating for laws requiring colleges and universities to collect and disclose campus crime statistics.

### 1990

Congress passes Student Right-to-Know and Campus Security Act."

### 1991

Graduate student at University of Iowa kills four people on campus, commits suicide.

### 1992

Clery Act amendments require colleges to develop sexual assault response procedures. . . . Bard College at Simon's Rock student kills four people on campus.

### 1997

General Accounting Office (GAO, now, Government Accountability Office) reports major problems with Department of Education enforcement of Clery Act and inconsistencies in data standards among colleges.

### 1998

Congress expands and renames law as "Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act," adding data-gathering requirements and a penalty for inaccurate reporting.

## 2000s *Concerns over college safety mount, especially binge drinking and rape.*

### 2000

Survey by University of Cincinnati criminologist Bonnie S. Fisher finds that on a campus of 10,000 women, as many as 350 sexual assaults could occur in a given year.

### 2006

Dominican College freshman Megan Wright commits suicide after reporting she was gang-raped. . . . Her mother later sues the school, claiming inadequate response.

### 2007

University of Colorado settles lawsuit with student Lisa Simpson for \$2.5 million after she claims the school didn't respond to her 2001 allegation of rape by university football players and recruits; anonymous co-plaintiff receives \$350,000 settlement. . . . Virginia Tech student goes on campus shooting rampage, killing 32 people, then himself.

### 2008

Virginia Tech reaches \$11 million settlement with most victims' families. . . . Congress toughens Clery Act requirement for speedy notifications of campus emergencies.

### 2010

Pima Community College suspends student Jared Loughner after he arouses fear in students and teachers; Loughner later is charged with killing six people, including a federal judge, and wounding 13, including U.S. Rep. Gabrielle Giffords, in a Tucson, Ariz., shooting rampage Jan. 8, 2011

### 2011

Sen. Robert Casey, D-Pa., plans to reintroduce bill to expand sexual-assault provisions of the Clery Act.

## Sex Assaults Blamed on Alcohol, Male ‘Disconnect’

*“You can’t just address one-half of the event and expect things to change.”*

Some five decades into the feminist revolution, women make up more than half the national undergraduate student body.<sup>1</sup> But young men’s understanding of some key female experiences may still have a way to go.

Gary Margolis, a Richmond, Vt.-based college-security consultant and former University of Vermont police chief, recalls training large groups of fraternity and sorority members in the realities of sexual assault. “I’d be surrounded by 500 men and women, and I’d say, ‘Raise your hand if you know who’s either been sexually assaulted or stalked,’” he says. “Ninety-five percent of the women would raise their hands.”

Then, Margolis says, “I asked the men, ‘How many of you know a woman who has been sexually assaulted or stalked?’” The response was underwhelming. Five percent of the males raised their hands.

“So I would say to the men, ‘Look around. Where is the disconnect?’”

And with that introduction, Margolis got his trainees talking about the realities of sexual assault on campus.

Those realities bear little resemblance to the old nightmare image of a woman attacked as she walks down a dark street. A less cinematic scenario has started to bubble up from the female grapevine. At Duke University, a web-based collection of women’s accounts offers tales that are anonymous and unverifiable, but underscore the picture that experts outline.

“He looked harmless as he stared back at me,” one author writes of meeting a guy at a club. “We made our way onto the dance floor and our bodies snaked together to the music. I’ve always gotten real close when I dance.” Later, he ends up at her place, and after a passionate beginning, he takes what he seemed to believe he was entitled to. “I let my body go limp and waited for the storm to subside. And just like that, it was over.”<sup>2</sup>

The author didn’t report the assault. “Why didn’t I tell someone?” she writes. “Was I at fault because I had been drinking? Why did I let him in? Am I sick because my rapist had tasted so sweet? I had loved the feel of his lips on mine, now all I feel is the poison coursing through my veins when I think of him.”<sup>3</sup>

Such a tale might inspire a training program to educate women on the pitfalls of socializing while drinking heavily. But lecturing women, especially incoming freshmen, tends to have limited effect, experts on campus safety say.

“In theory, it all sounds great,” says John J. Sloan III, a University of Alabama at Birmingham criminologist and co-author of a new book on campus crime.<sup>4</sup> “But you have to deal with the mindset of the student: ‘That’s not going to happen to me.’ And when you’re new on campus, you try to fit in. You’re exposing yourself to high-risk kinds of behaviors. You end up going to parties at frat houses where these kinds of things are often occurring.”

Hence the growing interest in tackling the male side of the equation. “You can’t just address one-half of the event and

*Continued from p. 106*

the 19th and early 20th centuries. In the 1800s, violence, especially in the South, sometimes cost lives. Then and later, drinking, rowdiness and what some called sexual licentiousness aroused condemnations and concern.<sup>27</sup>

In pre-Civil War Virginia, a professor at the College of William and Mary declared in a speech that the environment at colleges in general led young men into “dissipation and vice.”<sup>28</sup>

At the University of Virginia a student shot and killed a professor during a riot in 1840. From 1800 to 1875, violent outbreaks took place at Amherst, Brown, the University of South Carolina and DePauw University, among others. Spartan conditions in crowded dormitories helped spark the rebellions.

As higher education expanded in the early 20th century, drunken carous-

ing and sexual licentiousness (or what passed for that at the time) remained part of the social curriculum at many colleges, to the delight of some newspaper editors. “Petting Parties of Love-Hungry Girls Shock College Boys,” a Boston tabloid declared in 1921.<sup>29</sup>

Notwithstanding that attention-getting headline, public opinion took a benign view of heavy drinking and partying by young people — the majority of them male — who lived and studied together in close quarters. “Youthful indiscretions were tolerated and even encouraged as part of the process of upward social mobility that the college facilitated,” wrote historian John R. Thelin, citing an analysis by social historian David O. Levine. “The American public expected a new elite of college students to prove their status by misbehaving in ritualized ways.”<sup>30</sup>

But attitudes shifted as youthful rebelliousness took on a political — and revolutionary — character in the 1960s. In the latter part of the decade, colleges and universities served as the recruiting ground for the anti-Vietnam War movement.<sup>31</sup>

Student strikes and takeovers of college buildings at Columbia University in New York in 1968 and Harvard University in 1969, among many others, made headlines. Harvard students’ demands included termination of a Reserve Officers’ Training Corps (ROTC) program — a symbol of what they termed the university’s complicity in the war. The Columbia event didn’t involve the war directly, but students’ opposition to the university’s expansion plans in Harlem drew on the same political spirit that fueled the antiwar movement.<sup>32</sup>

expect things to change,” says Bonnie S. Fisher, a University of Cincinnati expert on campus sexual assault and Sloan’s co-author.

But most men don’t force sex on women, some experts say. So attention is turning to educating college men and women to keep an eye on potentially dangerous male-female interactions.

The latest buzz in campus safety work is “bystander prevention,” says Brett Sokolow, a Malvern, Pa., lawyer who also does risk-management consulting for colleges. “You can show after training that students who were inclined to stand by before training are inclined to intervene afterwards.”

Nevertheless, Sokolow says, even that promising approach is hampered by the prevalence of the image of a rapist as an unknown aggressor. “You could teach students to be excellent interveners in a sexual assault situation,” he says. “But they need to be taught what a high-risk situation looks like — not a guy jumping from behind a bush with a knife. Really it’s a



AP Photo/Evansville Courier & Press/Bob Gwaltney

Men in high heels at the University of Southern Indiana participate in the “Walk a Mile in Her Shoes” march against sexual assault last April 6 at the Evansville campus.

guy at a party with a beer.”

Margolis too says he still finds sexual-violence prevention to be geared to the old stereotype. “When we go to campuses, we’re both pleased and surprised to hear, ‘We teach rape-defense planning. We have an escort program.’ And we ask, ‘What are you doing to talk to men about these crimes? All you hear is crickets when we ask that question.’”

— Peter Katel

<sup>1</sup> Women make up 57 percent, and men 43 percent of the undergraduate student population, according to the most recent figures available. “College Gender Gap Appears to be Stabilizing . . .,” American Council on Education, Jan. 26, 2010, [www.acenet.edu/AM/Template.cfm?Section=Press\\_Releases2&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=35338](http://www.acenet.edu/AM/Template.cfm?Section=Press_Releases2&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=35338).

<sup>2</sup> Anonymous, “Like Any Other,” anonymous, undated, “Saturday Night: Untold Stories of Sexual Assault at Duke,” Vol. III, [www.duke.edu/web/saturdaynight/vol3-like.html](http://www.duke.edu/web/saturdaynight/vol3-like.html).

<sup>3</sup> *Ibid.*

<sup>4</sup> John J. Sloan III and Bonnie S. Fisher, *The Dark Side of the Ivory Tower: Campus Crime as a Social Problem* (2011).

In 1970, a nationwide student strike followed the U.S. invasion of Cambodia. At Ohio’s Kent State University, National Guardsmen who were called up in response to demonstrations opened fire on a group of students on May 4, killing four; two had not been demonstrators.<sup>33</sup> Ten days later, police fired at a group of students, some of whom had been throwing rocks at police, at predominantly black Jackson State University in Mississippi. Two students were killed.<sup>34</sup>

Later that year, a car bomb exploded at a building on the University of Wisconsin campus that housed the Pentagon-funded Army Math Research Center, which worked on military contracts. The powerful bomb did little damage to the center but killed a physics researcher with no connection to military work. (One of the four

men charged in the case is still wanted by the FBI.)<sup>35</sup>

The Wisconsin bombing, combined with the breakup of the main antiwar organization, Students for a Democratic Society, marked the beginning of the end of campus radicalism on a mass level, as violence-averse students drifted away.<sup>36</sup>

But if radical politics faded as a campus force, they helped to eradicate the norms for college students that had lasted into the 1960s. One of the first blows to the long-governing doctrine of *in loco parentis* — by which administrations exercised parental authority over students — was a 1961 decision by the 5th U.S. Circuit Court of Appeals, which overturned the expulsion of four black students from Alabama State College for having attended a civil rights demonstration. The

court said that a college couldn’t take arbitrary action against a student. “Due process requires notice and some opportunity for hearing before a student at a tax-supported college is expelled for misconduct,” the court held.<sup>37</sup>

On the social level, curfews for women students and similar restrictive measures that had marked college life for centuries disappeared during the late 1960s. By then, some colleges had begun allowing men and women to reside in the same residence halls. “It is a fair assumption that coed living really is the trend of the future,” a Pomona College official told *Time* in 1969.<sup>38</sup>

## The Clery Murder

Of all the events that have spurred debate over campus safety in

recent decades, one crime may have played the biggest role.

In 1986, Jeanne Ann Clery, a 19-year-old freshman asleep in her dorm room at Lehigh University in Bethlehem, Pa., was beaten, raped and then strangled with the unwound wire of a Slinky toy. The killer, Joseph Henry, was a fellow student who had entered her room to try to burglarize it. (Henry pleaded guilty and was sentenced to death, but an appeals court overturned the sentence. He is now serving life in prison.)<sup>39</sup>

Clery's parents' grief soon turned to anger. They learned that 38 violent crimes had occurred at Lehigh over the three years preceding their daughter's murder. But the university hadn't disclosed them. The Clerys sued the university on the grounds that it had had a duty to disclose the extent of campus crime, which they said would have persuaded their daughter to go to college elsewhere.<sup>40</sup>

Lehigh and the Clerys settled the suit for a reported \$2 million. Meanwhile, the Clerys had become concerned that colleges and universities across the country swept information on crime against students under the rug, largely to avoid image problems that might affect admissions and donations. The Clerys founded Security on Campus to campaign for a law to require colleges and universities to report crime statistics annually.<sup>41</sup>

In response, Congress passed the Student Right-to-Know and Campus Security Act in 1990. The law required all higher-education institutions to collect and publicly disclose statistics on rape, assault, car theft and other felonies; report arrests for liquor and drug offenses; and publish annual reports that included crime prevention and safety policies and procedures.

Making campus crime statistics a matter of public record remains a major objective of the law. But amendments have added other requirements.

In 1992, the law was expanded to require institutions to formulate mea-

sures on how to respond to sexual assault, including procedures for on-campus disciplinary proceedings. In addition, colleges were required to disclose the results of internal disciplinary proceedings in sexual assault cases to students who made the allegations and to the alleged perpetrators.

For all the hope invested in the new law, putting it into practice proved problematic. Congress' investigative agency, the General Accounting Office (GAO — now the Government Accountability Office) reported in 1997 that the U.S. Education Department — responsible for enforcing the statute — was nearly two years late in issuing a report to Congress on campus crime statistics that had been due in 1995. Different institutions used different criteria in selecting data for reports and got little guidance on standards. And the department issued no sanctions against 53 colleges determined to have violated the law's requirements. "The consistency and completeness of campus crime reporting envisioned under the act have been difficult to attain," GAO concluded.<sup>42</sup>

The Clerys and their congressional allies responded by pushing through provisions to toughen the law. Expanded and renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act of 1998, the law required institutions to specify where a given crime occurred — a residential building, for instance, or a public space. Crimes reported to have occurred adjacent to campuses had to be included. Institutions had to compile daily crime logs and provide them on request to the public. And an institution could be fined up to \$25,000 for failing to report accurate crime statistics.

In 2000, Congress added another requirement: Colleges must notify students and staff where they could obtain information about registered sex offenders on campus. And in 2008 — following the Virginia Tech massacre the previous year — Congress re-

quired institutions to "immediately notify" the campus community — text messages would be one method — that an emergency was under way.<sup>43</sup>

### Rampages

The Virginia Tech killing spree was the most deadly of a series of mass shootings that have grown more frequent over the past 20 years. At the Blacksburg campus, student Seung-Hui Cho killed 32 students and staff members before committing suicide. He wounded 17 others.<sup>44</sup>

Before that rampage, the most notorious campus mass shooting had occurred in 1966 at the University of Texas. Rifle-wielding Charles J. Whitman, a student and Marine Corps veteran, killed 13 people from the top of a campus tower before shooting himself. Whitman didn't seem to be directing his rage specifically at people associated with the university. The day before, he had killed his wife and mother.<sup>45</sup>

In more recent years, attackers have deliberately sought students and staff members as targets. An examination of these shootings by John Marshall's de Haven lists seven attacks from 1991 to 2008.<sup>46</sup>

The first of the '90s rampages occurred at the University of Iowa in 1991, when a graduate physics student killed three faculty members and a student, then himself. Later mass shootings took place at Bard College at Simon's Rock, Pa., where a student and a professor were killed; Appalachian School of Law in Grundy, Va. (a student, the dean and another faculty member killed); University of Arizona nursing school in Tucson, Ariz. (three professors killed, and the shooter committed suicide), and Case Western Reserve University business school, Cleveland (one student killed).

The Virginia Tech massacre was followed by a rampage at Northern Illinois University in DeKalb, in

which five students were killed in addition to the shooter, who committed suicide.<sup>47</sup>

A 2010 study by the U.S. Secret Service, Department of Education and FBI found a significant upward trend in on-campus attacks directed at either a sole individual or multiple targets. Fifty-four percent of the attacks were shootings. Twenty-five of the attacks occurred in the 1970s; 40 in the '80s; 79 in the '90s, and 83 from 2000 through 2008.

"It is unknown what may have caused the increase in incidents identified during the past 20 years," the study said. "However, consideration should be given to the increased enrollment levels at IHEs [institutions of higher education]." Increased media coverage of campus attacks may also play a part, the report said, implying that some attackers may seek publicity.<sup>48</sup>

Personal troubles that explode into violence can surface in faculty as well as students. Early last year, Amy Bishop, a neuroscience professor at the University of Alabama at Huntsville, was arrested for allegedly shooting six biology department colleagues at a faculty meeting, killing three. Bishop, who is jailed and awaiting trial, was said by colleagues to be enraged at being denied tenure.<sup>49</sup> After the shootings, some of Bishop's former colleagues

and acquaintances said they had seen signs of a violent temper.<sup>50</sup>

Other rampages were preceded by similar worries about the eventual attackers. "The recurrence of the rampage phenomenon over the past 17 years



*Celeste Peterson, the mother of Virginia Tech University shooting victim Erin Peterson, attends a memorial service for her daughter following the April 16, 2007, rampage by Seung-Hui Cho that left 33 students and faculty members dead, including Cho, who shot himself. Investigators later said school officials could have saved lives by immediately getting word out about an earlier double homicide on campus. School officials had thought it was an isolated incident and that the suspect had left the campus. In fact, Cho had been the killer.*

makes mass violence a foreseeable danger of the academic enterprise," wrote de Haven. "The more we know, or should know, about the conditions that contribute to violence, the more we can expect to be held accountable when any given situation ends in a rampage."<sup>51</sup>

## Sexual Assault

Researchers who have surveyed college women have found that the vast majority of sexual assaults are never reported to authorities, and in many cases not even to counselors or victims' advocates. The reluctance stems at least in part from the women's uncertainty over whether what they've experienced is a crime. Contributing to that uncertainty is the fact that the vast majority of cases — 84 percent to 98 percent — grow out of encounters between people who already knew each other.<sup>52</sup>

That point emerged from research by the University of Cincinnati's Fisher and colleagues. "The data suggest that nearly 5 percent of college women are victimized in any given calendar year," they reported in 2000, after researching the issue in the 1990s. "Over the course of a college career — which now lasts an average of 5 years — the percentage of completed or attempted rape victimization among women in higher educational institutions might climb to between one-fifth and one-quarter."<sup>53</sup>

Students and their parents typically become aware of the issue when a notorious case occurs.

The murder of Clery was one such event. Another was the 2006 murder of Eastern Michigan University student Laura Dickinson, who was found dead in her dorm room on the Ypsilanti school's campus. "The fact that EMU's administration did not issue an immediate timely warning, but rather

reported the incident not to be foul play is reprehensible,” Mary E. Gust, director of the U.S. Department of Education’s Administrative Actions and Appeals Division, wrote to the school in imposing the fine. (School President John Fallon was fired for his handling of the case. Safety director Cindy Hall and student affairs vice president James Vick were forced to resign.) Orange Amir Taylor III, who had been an EMU student when he committed the crime, was sentenced to life in prison.<sup>54</sup>

Another case shook the campus of the University of Colorado at Boulder. In 2003, student Lisa Simpson, then 21, filed a lawsuit claiming that she had been raped at her off-campus apartment in 2001 by young men being recruited for the university’s football team. After she filed suit, then agreed to let her name be made public, another student — who remained anonymous — joined her in the suit.

Both claimed violation of their rights to an equal education, guaranteed by Title IX of the Education Amendments of 1972.<sup>55</sup> The lawsuit asserted that the university had failed to respond to a report in 1997 by a woman who claimed rape at a party for football players and recruits. And after Simpson filed her suit, other women came forward, making a total of 10 females who claimed sexual assault by team members or prospective players.<sup>56</sup>

Prosecutors reviewed all the claims but declined to file criminal charges, partly because some of the women didn’t want to testify publicly.<sup>57</sup>

Simpson and her co-plaintiff persevered in their civil suit, appealing a federal district judge’s dismissal of the case. He ruled that they hadn’t shown evidence of deliberate indifference by the university’s administration. The 10th U.S. Circuit Court of Appeals reversed that decision, concluding that the women had shown that the school had failed to supervise players and recruits.

Following that decision, the university settled the case by paying \$2.5 million to Simpson and \$350,000 to the other plaintiff.<sup>58</sup> ■

## CURRENT SITUATION

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### Save Act

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Sen. Robert Casey is planning this year to introduce the latest proposal to expand the Clery Act, one that would focus on the crime that generates the most concern among campus safety specialists.

The proposed Sexual Violence Elimination Act — the Campus SaVE Act, as it’s known — would attempt to confront frequently reported obstacles to the investigation and punishment of alleged sexual assaults on college women (and, to a lesser extent, men). Security on Campus, the group founded by the Clery family, is pushing the bill.

“Colleges already report certain crime statistics,” Casey said on his website when he first introduced the bill last year, “but they have not sufficiently established policies for dealing with sexual assault and intimate-partner violence, in part because the federal government has not established clear standards. The Campus SaVE Act closes this gap by providing clear standards for what colleges must do to protect and support victims of sexual assault or intimate-partner violence.”<sup>59</sup>

Under the bill, institutions that receive reports from students or employees who say they’ve been sexually victimized would have to inform them in writing of their right to notify police and to get help from the school in doing so. They also would be given contact information for victim-services offices on and off campus.<sup>60</sup>

The bill also would toughen standards for institutions’ policies on sexual assault. Policies would have to state the penalties that could be imposed in schools’ disciplinary processes, the steps that victims should take and procedures for telling victims of their options to change class schedules, residential arrangements and other aspects of their campus lives.

And the Department of Education would have to receive guidance from the Justice Department in formulating “best practices” meant to guide schools in developing ways to prevent and respond to sexual violence. That provision was devised to fulfill a long-standing wish by Security on Campus to gain a place in campus security for the Justice Department, by virtue of its greater expertise in criminal-justice matters. The Clery Act assigns enforcement to the Department of Education because it has the power, ultimately, to cut off schools’ access to financial aid for students — the ultimate sanction under the law.

“Nobody wants to see students losing financial aid,” Kassa says. But the threat to aid is the only viable enforcement tool that lawmakers could identify, and only the Education Department — not the Justice Department — has authority over financial aid, he says.

### College on Trial

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A trial is scheduled this year in a case of claimed gang rape and official indifference that allegedly drove a young student to suicide.

Cynthia McGrath has filed a civil lawsuit against Dominican College of Orangeburg, N.Y., an institution with about 2,000 students, over the events that preceded the 2006 suicide of her 20-year-old daughter, Megan Wright. Before her death Wright had reported to the college and police being gang-raped following a party at her dorm.

*Continued on p. 114*

# At Issue:

## *Has the Clery Act made campuses safer?*



**S. DANIEL CARTER**  
**DIRECTOR OF PUBLIC POLICY**  
**SECURITY ON CAMPUS**

WRITTEN FOR *CQ RESEARCHER*, FEBRUARY 2011

**t**oday it is widely recognized that college and university campus communities are not immune from crime. Two decades ago things were very different when Howard K. Clery Jr. testified before Congress that the extent of campus crime was “one of the best kept secrets in the country.” Clery and his wife Connie were fighting in memory of their daughter Jeanne, who had been raped and murdered on campus in 1986, to empower students with information.

Before 1991, fewer than 400 of more than 6,000 higher-education institutions at the time publicly reported crime statistics, and those data were not easily available to prospective or current students. Federal law even made campus police records private.

That changed in 1991, when the Jeanne Clery Act, then known as the Campus Security Act, took effect. For the first time, colleges and universities had to collect and report campus crime data and summarize the level of security they provided.

The act's empowerment of students and their families transformed the national dialogue. Media now routinely report on the annual crime statistics, policy disclosures and day-to-day crime information shared under the act. Today, the Clery Act makes it possible to hold institutions more accountable by helping to facilitate ongoing improvements.

The U.S. Department of Justice reports that between 1994 and 2004 there was a 30 percent drop in property crime, a 9 percent drop in violent crime and a 5 percent increase in the base pay rate for campus police. Clery has helped institutions realize the priority of placing public safety before public relations.

Often overlooked by critics, the act also has fostered increased collaboration among campus safety stakeholders. To effectively comply, a wide array of professionals, including those involved in campus public safety, student affairs and housing, must work as part of a cohesive campus safety network.

As with any landmark legislation, streamlining the compliance process is a reasonable goal. Yet, it is an error to judge the whole of the Clery Act by focusing on separate parts. To do so dismisses the holistic value of the law to students. We must continue to identify areas of success, as well as those in need of improvement, through collaborative efforts that make campus communities as safe as possible.



**JOHN J. SLOAN**  
**CHAIR, DEPARTMENT OF JUSTICE**  
**SCIENCES, UNIVERSITY OF**  
**ALABAMA AT BIRMINGHAM**

**BONNIE S. FISHER**  
**PROFESSOR, SCHOOL OF CRIMINAL**  
**JUSTICE, UNIVERSITY OF**  
**CINCINNATI**

WRITTEN FOR *CQ RESEARCHER*, FEBRUARY 2011

**t**he Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires all Title IV-designated U.S. postsecondary institutions to annually report information relating to campus crime and security policies. Clery proponents argued the law would make campuses “safer” by forcing schools to reveal their crime statistics, implement new safety policies, and ensure victims' voices were not silenced by campus administrators more interested in maintaining a school's image than in the safety of students. Yet, assessing Clery's impact is no small feat.

First, what exactly does “safer” mean? Lower overall rates of campus crime? Fewer serious crimes? Reductions in fear of crime on campus? To evaluate Clery's impact, one must define what “safer” means and be able to empirically measure it.

Second, to determine whether campuses are “safer” a baseline for comparison is needed. For example, if the pre-Clery rate for on-campus robberies was 100 victims per 100,000 students nationally, that would be the baseline against which post-Clery robbery rates would be compared. But existing baseline data have problems. For example, prior to Clery, only a minority of post-secondary institutions provided their campus crime data to the FBI for inclusion in its Uniform Crime Reports. Further, institutions were not consistent in their participation. Additionally, even if the number of schools participating was the same over time, the crime figures did not necessarily include the same schools.

Finally, if “safer” means less overall crime on college campuses, problems remain. Clery statistics are based on offenses reported to campus officials, yet research shows that for crimes like rape, many victims never report what happened to the authorities. Further, Clery statistics do not include property theft or stalking, which research shows are likely common campus crimes. Thus, Clery statistics likely underestimate overall campus crime while overemphasizing serious crimes such as robbery and aggravated assault that research shows rarely occur on campus.

In short, Clery promised much. Unquestionably, it raised awareness of campus crime and maintained campus safety on the congressional agenda for over 20 years. Determining whether Clery actually made college campuses safer is a more daunting challenge, and to date no empirical evidence indicates that its promises have been met.

Continued from p. 112

The lawsuit says the assault was committed by two students and a visitor.<sup>61</sup>

The case, which has survived the college's attempt to have the complaint dismissed, is scheduled for trial this year in federal court in New York. Gloria Allred of Los Angeles, a noted civil rights lawyer who specializes in cases involving alleged mistreatment of women, is representing McGrath in the suit. It claims that Wright suffered discriminatory treatment that is prohibited by Title IX.<sup>62</sup>

Wright withdrew from school after the alleged episode, then killed herself out of despondency over the alleged failure of school officials and police to conscientiously pursue her rape report, her mother said. "It took so much courage for Megan to report what happened to her to the college and the police, and she trusted them to investigate her claims and take them seriously," McGrath said at a press conference announcing the filing of the lawsuit. "When they failed her, she was devastated."<sup>63</sup>

Unlike many women who have suffered sexual assault, Wright by all accounts reported the event promptly. An exam the next day at White Plains Hospital found injuries consistent with rape, the lawsuit says.

Dominican officials said the school, in turn, promptly referred Wright — who was 19 at the time — to local police and launched their own investigation as well. "There was no continued harassment or discrimination in this case," Peter Beadle, a lawyer for the college, said in 2008 in arguing for dismissal.<sup>64</sup>

The police didn't file charges. The lawsuit claims that one reason was a conflict of interest by the detective involved, who was an adjunct professor at the college.

His justification for dropping the case, the suit says, was a videotape made outside the dorm room where the alleged rape occurred. The tape showed a student holding up a note that Wright

purportedly wrote and signed. "I WANT TO HAVE SEX," it said.

*The New York Post* reported that the dorm in which the alleged rape took place had been cited in two previous student reports of sexual assault, one that allegedly occurred a month earlier, and one — a gang rape — said to have taken place in 2002.

In a proceeding prompted by a separate complaint by Wright's mother, Dominican College agreed with the New York Attorney General's office to pay \$20,000 for misreporting crime statistics in student handbooks in 2006-2009. The college said it had corrected the statistics on its own and had always reported accurate numbers in its Clery Act disclosures to the Education Department.

## Massacre Repercussions

Even as Virginia Tech officials defend the school's response during the 2007 massacre, trial is set for September in a Virginia state court on lawsuits by the families of two victims.<sup>65</sup>

The families of students Erin Peterson and Julia Pryde refused to join in an \$11 million settlement that the school reached with families of other victims. In a series of decisions in 2010, a judge ruled that the "sovereign immunity" doctrine that shields top government officials from lawsuits over their official conduct did not bar legal claims against university President Charles Steger, the school's former executive vice president, James Hyatt, and some employees of the school's counseling center.

"I don't see President Steger as helping run the government," Circuit Court Judge William Alexander said in announcing his decision.<sup>66</sup>

The two families claim that Steger and Hyatt were negligent during the rampage by Cho, and that the counseling center staffers failed to treat him effectively.

To some extent, the lawsuit intersects with a December ruling by the Department of Education that officials' delay in sounding a campuswide alert after the first two students were shot and killed violated the Clery Act's requirement of "timely warning" of emergencies.

The delay issue stems from the chronology of the massacre. The first two shootings came some two hours before the others. And police first thought that the early shootings stemmed from a domestic conflict.

Even so, the department ruled, officials still should have sounded the alarm. "The University knew that there had been a double shooting with both student victims critically wounded, [and] the shooter was unknown and at large. . . . The fact that an unknown shooter might be loose on campus made the situation an ongoing threat," the department said.<sup>67</sup>

"The University . . . contends that the evidence indicated that a crime of targeted violence had occurred, a person of interest had left the campus, and there was not an ongoing threat," the department said in summing up the university's position.<sup>68</sup>

School officials maintain that stance. "We strongly believe that Virginia Tech personnel acted appropriately in the events leading up to, during, and after April 16, 2007," Mark Owczarski, a university spokesman, said in a written statement in January. "We will vigorously defend against allegations made to the contrary."<sup>69</sup> ■

## OUTLOOK

### Focus on Males

Experts expect interest in campus security to remain high in the decade ahead.

Johnson of the International Association of Campus Law Enforcement Administrators believes continuing technological innovation will heighten the danger of “cyber-bullying,” already seen as a huge problem on campuses. The misuse of technology could “tear at the fabric of community, whether it’s by stalking or harassment or bullying,” he says. And, in a somewhat related development, he says, schools can be expected to intensify their interest in students’ mental health.<sup>70</sup>

Already, in fact, a case of alleged cyber-bullying has been linked to a suicide. Tyler Clementi, a student at Rutgers University in Newark, N.J., killed himself last September, three days after his roommate and a friend of the roommate allegedly live-streamed on the Internet a surreptitiously recorded video of Clementi in an intimate encounter with a male friend. The two alleged perpetrators have been charged with invasion of privacy and are facing as much as five years in prison.<sup>71</sup>

Meanwhile, consultant Margolis, the former University of Vermont police chief, expects growing interest in educating men about rape prevention. “The majority of men are not rapists,” he says. “So a large number of men can be advocates” among other men for emphasizing that sex shouldn’t happen without mutual consent.

The emphasis on men is part of a larger transformation, Margolis says. “Schools’ judicial processes for sexual assault are beginning to shift” toward greater understanding of the dynamics of sexual violence, he says. “Are there schools where there’s a chilling effect on women coming forward? Yes. But others are evolving. Look how many universities now have women’s centers.”

Along similar lines, Friedrichs of the University of Colorado’s Office of Victim Assistance sees a growing focus at colleges and universities on sexual violence and its repercussions. “Be-

cause of lawsuits, universities are very much more aware of their Title IX responsibilities,” she says.

As a result, she says, schools can be expected to take a more active role in seeing that women are treated in non-discriminatory fashion when they allege sexual assault.

De Haven, the scholar of campus shootings, says she expects intensifying public demands that universities

data that you can unpack and make sense out of,” she says. “Right now, we’re letting campuses implement whatever they want to under the Clery Act.”

Overall, though, increased attention to campus crime hasn’t altered its underlying patterns, Fisher says. And these, she says, are unlikely to change in the foreseeable future. “I think it’s going to be the same old-same old,” she says. “We’ve seen this pattern of violence

**“Are there schools where there’s a chilling effect on women coming forward? Yes. But others are evolving. Look how many universities now have women’s centers.”**

**— Gary J. Margolis**

**Former Police Chief,**

**University of Vermont**

provide safe environments. “Courts are beginning to talk that way,” she says. “Safety and security consciousness can be part of the contract between university administrations and their communities. I think that is bound to start happening.”

The imperative certainly exists to tackle the problems apparently associated with shootings. “I think we can figure out what was going on [with students] and alleviate many of the circumstances that provoke them,” she says. “If we can’t do it on college campuses, we certainly can’t do it as a matter of general social policy.”

Fisher, the University of Cincinnati criminologist, urges greater attention to testing which safety programs work and which don’t. “If you’re talking about 7,000 campuses covered under the Clery Act, that’s a hell of a lot of

and victimization over history. We have more students, more universities, but the nature of what’s going on among college students is still the same.” ■

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<sup>7</sup> Bridgette Taylor, “Kim addresses alcohol and assault,” *The Dartmouth*, Sept. 22, 2010, <http://thedartmouth.com/2010/09/22/news/kim>.

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<sup>10</sup> Chris McGreal, “Jared Lee Loughner: What drove him to kill?” *The Guardian*, Jan. 10, 2011, [www.guardian.co.uk/world/2011/jan/10/jared-lee-loughner-arizona-shooting](http://www.guardian.co.uk/world/2011/jan/10/jared-lee-loughner-arizona-shooting).

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<sup>18</sup> “Code of Federal Regulations, Title 34 — Education, Part 668, Subpart D, Sec. 668.46,” [www.securityoncampus.org/pages/34cfr668.46.html](http://www.securityoncampus.org/pages/34cfr668.46.html).

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<sup>25</sup> Winerip, *ibid.*

<sup>26</sup> Helen Hickey de Haven, “The Elephant in the Ivory Tower: Rampages in Higher Education and the Case for Institutional Liability,” *Journal of College and University Law*, 2009, pp. 610-611, [http://papers.ssm.com/sol3/papers.cfm?abstract\\_id=1448090](http://papers.ssm.com/sol3/papers.cfm?abstract_id=1448090).

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<sup>29</sup> Quoted in Thelin, *op. cit.*, p. 214.

<sup>30</sup> Quoted in *ibid.*, pp. 213-214.

<sup>31</sup> Todd Gitlin, *The Sixties: Years of Hope, Days of Rage* (1993).

<sup>32</sup> Mark Rudd, *Underground: My Life With SDS and the Weathermen* (2009).

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## FOR MORE INFORMATION

**American College Health Association**, 891 Elkridge Landing Road, Linthicum, MD 21090; (410) 859-1500; [www.acha.org/Topics/violence.cfm](http://www.acha.org/Topics/violence.cfm). The association's safety and violence coalition provides information on all aspects of student safety.

**American Council on Education**, One Dupont Circle, N.W., Washington, DC 20036; (202) 939-9300; [www.acenet.edu](http://www.acenet.edu). Research and policy organization for higher-education institutions directly affected by federal campus-safety requirements.

**International Association of Campus Law Enforcement Administrators**, 342 N. Main St., West Hartford, CT 06117; (860) 586-7517; [www.iaclea.org](http://www.iaclea.org). Professional association of school security officials that monitors campus-safety trends.

**Office of Victim Assistance**, University of Colorado at Boulder, UCB 140, Boulder, CO 80309; (303) 492-8855; <http://cuvictimassistance.com/>. Website offers access to a variety of campus safety resources beyond those at the University of Colorado.

**Security On Campus, Inc.**, 133 Ivy Lane, Suite 200, King Of Prussia, PA, 19406; (888) 251-7959; [www.securityoncampus.org](http://www.securityoncampus.org). Monitors campus crime news, tracks compliance with Clery Act.

**U.S. Department of Education Data Analysis Cutting Tool**,

<http://ope.ed.gov/security/>. Runs a website providing access to institutions' annual crime data filed under the Clery Act.

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