The Clery Act:
Crime Reporting Concerns

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The infectiousness of crime is like that of the plague.

—NAPOLEON BONAPARTE (1769–1821),
FRENCH MILITARY AND POLITICAL LEADER
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Abstract: During the past 20 years, amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) have added layers of complexity to campus crime reporting for higher education administrators. This article explores the evolution of the Clery Act, examines the complications in crime reporting, discusses the implications for higher education officials, and makes recommendations on how the law might be improved. Although the literature on the Act indicates increased awareness of crime statistics by students and university officials, concerns regarding the effectiveness of campus crime reporting remain.

Introduction

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires college administrators to report campus crime statistics to the Department of Education (DOE). During the past 20 years, several amendments to the Act have caused confusion about crime reporting. These misunderstandings place university officials at risk of non-compliance. Reporting issues influence the effectiveness of senior administrators, law enforcement officers, and student affairs practitioners. The purpose of this article is to review the evolution of the Clery Act, illustrate the nature of crime reporting, examine the complications in crime reporting, discuss the implications for higher education officials, and make recommendations on how the law might be improved. Despite higher education officials’ attempts to adhere to Clery Act regulations, many colleges and universities do not comply with federal regulations.

Evolution of the Clery Act

Originally known as the Crime Awareness and Campus Security Act of 1990, the basis of the law surrounded the violent murder of Jeanne Clery during 1986. Clery, a 19-year-old student at Lehigh University, was raped and murdered in her residence hall room. The perpetrator was a student at Lehigh University who entered Clery’s residence hall through a bolted door. During the investigation, Clery’s parents learned that Lehigh University officials failed to report 38 violent crimes that previously occurred on campus. As a result, Clery’s parents started a campaign for national crime reporting procedures on college campuses.

The Clery Act supplements the Higher Education Act of 1965, which requires postsecondary institutions to provide appropriate and yearly information on campus crime statistics. The initial premise of the law mandates university officials who receive Title IV funding to provide crime data for their campuses and contingent areas. Because of the relationship with Title IV funding, the DOE regulates the law. The Clery Act, enacted in 1991, serves as a consumer protection law by providing data to families and campus constituents. Providing crime data heightens the campus crime awareness of currently enrolled students and employees, as well as helping potential students make informed enrollment decisions.

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The original law mandated university officials to report security policies and seven types of crime data, including homicide, robbery, sexual offenses, vehicle theft, arson, burglary, and aggravated assault. In addition to reporting the aforementioned data, campus officials are now also required to report any alcohol- or drug-related offenses, weapons violations, and hate crimes on campuses and their contingent areas. Starting in October, college administrators must report the compiled crime data for the prior three years to the DOE. During 1992, Congress amended the Clery Act to include the Campus Sexual Assault Vic-
tims’ Bill Of Rights, requiring postsecondary institutions to provide material on sexual assault policies.9

In 1998, Congress amended the Higher Education Opportunity Act to formally recognize the memory of Jeanne Clery and updated the reporting data requirements again.10 These additions included the requirement to maintain daily crime logs on campus and expanded crime data to contain arson and manslaughter. Subsequently, Congress introduced monetary sanctions of $27,500 per violation, and off-campus crimes were included in geographic crime statistics.

Soon after the 1998 amendments, Congress signed into law the Campus Sex Crimes Prevention Act. Under this Act, sex offenders are required to provide notice of enrollment or employment at any institution of higher education in that state where the offender resides, as well as notice of each change of enrollment or employment status at the college or university. While the college or university is not required to request this data from the state, the institution of higher education “must issue a statement advising the campus community as to where information concerning registered sex offenders can be obtained.”11 University administrators must also provide literature on sexual crime prevention programs.12

In response to the Virginia Tech shootings, Congress amended the Clery Act again in 2008 to include emergency response and notification policies.13 Provisions established emergency response structures for both campus and community constituents. Part of the response includes a yearly emergency drill, which must occur during regular business hours and include all campus constituents.14 The 2008 amendments also defined a timely warning to the campus community if a perceived threat is apparent.15 While the data must include timely warning policies, these notifications are not a part of the official crime log. Additionally, the amendment altered how institutional officials report hate crimes. College officials must report any crime presenting either physical or verbal malice toward individuals based on gender, race, sexual preference, or status.16 Within the hate crime data, administrators must also include data on intimidation, larceny-theft, vandalism, and simple assault.17 The law also includes provisions for fire safety and missing student reporting.18

Frequent adjustments to the types and locations of crimes that must be reported have created uncertainty among higher education administrators. Because administrators interpret these regulations in different ways, crime statistics are reported inconsistently.19

### Crime Reporting Requirements

The DOE requires that college officials follow three guidelines with respect to crime reporting policy: (a) disclose policies, (b) maintain crime records, and (c) provide the campus community with timely and accurate information.20

#### Requirement #1: Making University Reporting Procedures Public

The policy disclosure provisions of the Act require that college officials make available all university regulations regarding crime reporting. These regulations comprise reporting procedures for all campus crimes, as well as how to record and maintain reports. Also included are regulations concerning the contact information for campus law enforcement officials, as well as security rules of all campus structures.21

#### Requirement #2: Collecting and Preserving Campus Crime Logs

In addition to the crime reporting requirements for the annual report, a second reporting requirement is the collection and preservation of all crime logs by campus law enforcement officials.

In addition to the crime reporting requirements for the annual report, a second reporting requirement is the collection and preservation of all crime logs by campus law enforcement officials. The DOE mandates campus officials make crime logs publicly available Monday through Friday during regular business hours. Moreover, both daily crime logs and the yearly Clery report must be accessible online through the university’s website.22 Information in the daily crime report must include all reported cases, their geographic location, and if criminal charges are pending.
The annual Clery report maintains all institutional crime reporting information from the previous three years and all instances of emergency warnings.

**Requirement #3: Communicating Threats and Information to the Campus Community**

The third requirement is that college administrators must deliver timely and effective information to the campus community. Campus officials must alert the campus community to any event presenting clear and ongoing danger. Administrators also must communicate accurate data regarding the location of sex offenders in the local area and victims’ rights to the campus community. Despite these reporting requirements, the intended audience frequently does not use the information provided. A study involving more than 300 institutions found that only 22 percent of students read the annual report, and only eight percent used the report in college selection. Furthermore, only 40 percent of parents reported knowing about the annual report, and only 27 percent read the report. As a result of this lack of awareness about the Act and its reporting requirements, applicants, current students, and their families typically look to advocacy groups or the media for guidance on the issue of campus crime.

The combination of media reports, advocacy groups, and Internet activity perpetuates the notion that schools reporting increased crime statistics are unsafe for young adults. Media outlets and groups, such as Security on Campus (SOC), promote awareness of campus crime to the public. However, campus crime is not a new phenomenon and should be placed in a contemporary context. Campus crime in American higher education dates back as early as the 1600s. While some advocate the position that college campuses should be safe havens for students, faculty, staff, and visitors, the reality is that college campuses reflect the climate of the communities in which they are located. As university campuses expand to include multiple sites, branch campuses, and virtual domains, increasing their “geographic footprint” provides more opportunities for criminal activity to occur. Despite these changes, colleges and universities remain relatively safe environments when compared to the communities in which they are located and society in general.

**Crime Reporting and the Modern College Campus**

Fisher and Sloan indicate that campus crime has moved from a private issue handled by college administrators to a public policy issue. Considering the fact that colleges are complex organizations that vary in size, enrollment, facilities, and campus locations, spatial crime reporting presents legitimate difficulties for university officials. Campus administrators must monitor locations, enrollment, structures, and the communities in which their campuses are located to determine the best deployment of law enforcement resources. As an example, the University of South Florida (USF), located in Tampa, Florida, hosts 37,000 students. USF has several satellite campuses in the surrounding communities. If a crime occurs on a satellite campus, even though the building is not located in the direct community or adjacent to main campus, university administrators must file an incident report in the crime log and report it in the annual report for compliance purposes.

Bromley suggests that the symbolic boundaries between the campus community and the surrounding community create a distinct problem for accurate crime reporting. College campuses have official entries and roads and are generally open to the larger community. Institutions house students in residence halls and provide academic experiences, food, and a myriad of other services for students and faculty members alike. Visitors and guests move in and out of the campus freely. While the campus community is distinct from the larger community, campus police officers often adopt the larger community’s philosophical perspectives on law enforcement. The literature suggests that, by adopting larger community police strategies, the college campus opens itself to further associations with the surrounding community stakeholders. Collaboration between campus and community law officials is important in communicating and reporting crimes, but this collaboration does not always occur or, in some instances, is impossible. The Clery Act requires campus police to make a significant attempt in gathering crime statistics. Campus officials can request data from community law enforcement as a supplement to university data, and if university officials are unable to retrieve any discernible campus crime statistics, the law allows the institution to present community data as a substitute.
Bigger issues arise regarding satellite and international campuses. As campus-owned property, both satellite and international campuses must be included in crime data reports. In some instances, a satellite campus may not employ university officials who are knowledgeable of Clery Act regulations. The DOE identifies the dean of students, student group advisors, and athletics coaches as campus security authorities outside of the campus police function. Because these individual authorities may not be located on satellite campuses, complete and accurate crime data may not be collected. These errors and omissions leave college administrators in potential violation of reporting protocol.

International sites present additional and potentially more serious concerns. As more institutions expand globally, the expectation of crime awareness expands. Similar to the branch campuses, communication with international enforcement tends to be a very dubious process. Many countries do not require law enforcement to save crime data. Of the countries that do, much of this data is not compatible with the Clery reporting framework.

The current DOE Clery Act handbook is 285 pages and contains many technical definitions that outline reporting expectations. As an example, if a campus is surrounded by a fence with an open gate, administrators would count crimes immediately in front of the gate, on the sidewalk bordering the side of the campus with the gate, and the sidewalk across the street as crimes occurring on public property contiguous to the campus. If the gate is closed, operated by a guard, or controlled by a key pass or barrier, then crimes occurring in these areas would not be reported as incidents occurring on public property contiguous to the campus. If, on the other hand, students regularly scaled the fence or there was a hole in the fence allowing access, then for purposes of Clery the gate would be assumed to be open.

As another example, if a public waterway is immediately adjacent to a campus, it should be treated the same as a park. Administrators should extend the reporting area one mile into the area of the body of water that borders the campus. If the portion of the waterway adjacent to the campus is inaccessible, it is not public property, but if the waterway is accessible at specific times, it is public property at the times it is accessible from the campus. Such impractical and prescriptive requirements create an onerous burden that increases the likelihood of error.

Implications for Higher Education Officials

Research suggests campus crime reporting has improved. One study found that 57 percent of college administrators believe the Clery Act improves the quality of crime reporting. Furthermore, because of Clery publishing requirements, campus officials are more aware of campus safety. This awareness has improved institutional attitudes toward campus safety.

Despite a better effort to report and inform, campus officials continue to struggle with which crimes to report. When submitting reports to the DOE, several schools have been found to be noncompliant because they did not include the appropriate materials or include the correct location for reported crimes. Given the intricacies of the requirements, it is not surprising that school officials make errors in their reports.

There are serious implications for higher education administrators who make errors in their crime statistics. Upon review of the data, the DOE levies fines against the institution for each indicated violation and could authorize the elimination of all Title IV funding to that institution. In certain instances, the family or injured party has sued the institution and senior officials for monetary damages. While the DOE has not eliminated Title IV funding from a school in violation of the Clery standards, institutional representatives deal with fines regularly.
Fines levied against institution administrators may accrue quickly. The maximum allowable fine is $27,500 per violation. Once the DOE conducts a Clery institutional review, department officials promulgate monetary sanctions. Fines may accrue quickly. For instance, the DOE fined Eastern Michigan University (EMU) $357,500 for 13 Clery violations during the 2006 school year. EMU failed to report specific information regarding the campus murder of Laura Dickinson. University administrators indicated the murder was not “foul play” and did not disclose the location or additional details in the crime report. In response to the fines, EMU officials stated they did not have an adequate understanding of what to include in the campus crime report. In response, the DOE and court ordered EMU to pay the Dickinson family more than $2.5 million in damages. The total cost of the Clery violations were $3.8 million, which included the payment to the victim's family, severance packages of senior administrators, and fines.

As seen in the EMU example, crime victims and families have sued higher education administrators for monetary damages. On rare occasions, courts have held university officials liable for injuries and deaths. In 2011, Virginia Tech was fined $55,000 for violations of a federal campus crime reporting law in its response to the shootings that claimed 33 lives in 2007. More recently, the families of two students who were killed in the 2007 incident at Virginia Tech were awarded $4 million each, despite the Commonwealth's liability cap for negligence of $100,000.

To reduce such liability, university officials should participate in training programs on crime reporting and classification. The case at EMU provides an instructive example. If officials had been effectively aware of stipulations in reporting crime, the judge may have sided with the institution. Not understanding crime classification and reporting structures provided the victim's family with enough evidence to sue for institutional negligence.

Recommendations for College and University Administrators

The recent amendments can be difficult to follow and create compliance issues for university officials. If administrators do not effectively grasp appropriate reporting protocol, they may be subject to institutional liability.

College and university officials can avoid institutional liability and maintain better Clery compliance using three simple recommendations: to anticipate, collaborate, and educate.

Anticipate

It is unlikely that college representatives will effectively anticipate the occurrence of campus crime; however, they can gain a better understanding of the current state of Clery Act violations. Awareness of current trends in crime reporting will help university officials stay abreast of institutional liability. It is important for administrators to understand why institutions are being fined and how to eliminate such issues within their own campus communities. Administrators should conduct comprehensive audits of all of their campus locations, policies, and procedures. They should assess the efficacy of their reporting procedures, identify areas of weakness, and work in good faith to improve their systems.

Collaborate

Equally important to anticipating Clery Act violations, collaboration between higher education administrators can reduce errors and help avoid liability and fines for non-compliance. Although the official source of crime reporting data stems from the campus police office, many campuses include university counsel, student affairs representatives, counselors, and various other administrators in the data collection process. Such teamwork fosters interest across all levels of the institution and promotes crime awareness in the campus community. Promoting awareness of crime and current legal issues further helps university officials avoid legal implications.

Educate

Higher education officials must continue to inform the broader audience of students, staff, and faculty about crime on their campuses. The DOE’s Handbook for Campus Safety and Security Reporting addresses issues of crime reporting and classification. Law enforcement officials, student affairs officials, judicial officials, and senior administrators can use this tool to provide campus-wide training. College and university administrators who develop intuitive website data and encourage continuing discussions about campus safety from orientation throughout
the academic year help advance student understanding of the Clery Act. It has also been found that students who attend educational programs find the events more informative than reading about crime data.55 While educational programs will not address all campus needs, such initiatives demonstrate “good faith” and encourage better awareness and better campus relations.

Recommendations for the Department of Education

In addition to these institutional changes, DOE representatives would benefit from restructuring the education and compliance functions connected with the Clery Act. The DOE currently provides the Handbook for Campus Safety and Security Reporting to college and university administrators, receives annual crime reports, and conducts investigations into compliance issues. Additional federal agencies involved in the implementation of the Clery Act include the Office of Postsecondary Education, Office of Civil Rights, Office of Public Affairs, and Office of Communications and Outreach.56 Duties held by these additional offices range from providing grant money to non-profit organizations interested in Clery compliance to creating public service announcements. The DOE would benefit from creating a single commission or agency to address the Clery Act. The proposed Clery commission could substantially reduce confusion among higher education administrators. Such an agency would restructure the communication between the DOE and higher education administrators. Rather than communicating with various federal agencies on crime reporting, educational programming, and funding, higher education officials would communicate with the individual commission when addressing all Clery-related needs. This direct line of communication may substantially decrease misunderstandings of regulations between administrators and government officials. Such communication would also build better relationships between higher education officials and those responsible for implementing and enforcing Clery requirements.

Secondly, the DOE should do more to provide a proper context for the data it requires institutions to report. Currently, three years of raw statistics for various crime categories are all that is required. Few inferences can be drawn from a simple frequency count of the number of reported incidents. The DOE cautions those who use its Campus Safety and Security Data Analysis Cutting Tool57 that (a) “data collected do not necessarily reflect prosecutions or convictions for crimes,” (b) “data are not directly comparable to data from the FBI’s Uniform Crime Reporting System,” and (c) “valid comparisons of campus statistics are possible only with study and analysis of the conditions affecting each institution.”58 However, to ameliorate the misuse of these data, in addition to reporting raw frequencies the DOE should list some of the factors or conditions believed to influence crime. Such a list might include:

1. Population density and degree of urbanization
2. Population variations in composition and stability
3. Economic conditions, financial aid, and employment availability
4. Mores, cultural conditions, education, and religious characteristics
5. Family cohesiveness
6. Climate, including seasonal weather conditions
7. Effective strength of the police force
8. Standards governing appointments to the police force
9. Attitudes and policies of the courts and prosecutors
10. Community attitudes toward crime and police
11. The administrative and investigative efficiency of police agencies and cooperation of adjoining and overlapping police jurisdictions
12. Crime reporting practices of community members59

The DOE should also calculate and report these crime statistics in the same way the FBI and offices of state police do on an annual basis. The standard metric for reporting crime statistics is the number of incidents per 100,000 people. While such a ratio does not take into account such factors as geographic location (e.g. rural vs. urban), institutional type (e.g. commuter vs. residential), or type of enrollment (e.g. undergraduate vs. graduate), it does take the size of the institution into account. The importance of such a calculation is shown in the following example: Alpha University reported 50 sexual assaults and Beta College reported 25 assaults for the 2011-12 academic year. Both are undergraduate institutions, largely residential, and located in metropolitan areas of similar size. From the data, one can conclude that Alpha University has twice as many sexual assaults as Beta College.
However, to fully understand the raw data, one must also consider enrollment. Alpha University has an enrollment of 50,000 students. Its crime ratio for sexual assaults = \( \frac{(50/50,000) \times 100,000}{} \) or 100 per 100,000. Beta College has an enrollment of 2,000 students. Its crime ratio for sexual assaults = \( \frac{(25/2,000) \times 100,000}{} \) or 1,250. Using this metric, it appears that sexual assault should be a much bigger concern at Beta College even though Alpha University reports twice as many incidents. For a sample of such a report, see Janosik, Gregory, Strayhorn, and Kalagher, 2007.\(^{60}\) Such additions to the DOE’s Clery website would greatly enhance the utility of the annual reports and place campus crime in a more appropriate context. These changes represent a more balanced and even-handed approach to an important issue that may also improve the relations between the higher education community and the DOE.

Conclusion
The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act mandates university officials to report all campus crimes, both on and adjacent to their campuses. The Clery Act was a response to the increasing nature of campus crime highlighted by the violent murder of Jeanne Clery in 1986. Although the legislation intends to create a safer campus and engage constituents in crime education, the current regulations are difficult to understand and follow. During the past 20 years, numerous amendments to the law create uncertainty on reporting strategies.\(^{64}\) Many university officials indicate confusion about reporting, classification, and location determination of crimes. The transformative nature of college campuses leads to additional reporting problems, including collaboration with branch, international, urban, and rural community police structures. As the Act continues to evolve, university officials must stay apprised of new amendments and regulations to educate themselves and campus constituents. Failure to do so may result in personal tragedy, litigation, and extensive fines causing harm to the university. Finally, the DOE should do more to help college administrators deal with campus safety and Clery Act compliance in a more comprehensive manner. Failure to do so is a disservice to everyone.

About the Authors
Ashley Wood is a graduate student in educational leadership and policy studies at Virginia Tech. She received her master’s degree in counseling and human development from Radford University. She is graduate assistant in the Office of the Senior Vice President and Provost at Virginia Tech. Her research interests include campus security, specifically the Clery Act, and faculty development.

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Endnotes
3 “Clery Act Legislative History (1989-2000).”
4 Ibid.
5 Dennis E. Gregory and Steven M. Janosik, “The Views of Senior Residence Life and Housing Administrators on the Clery Act and Campus Safety,” Journal of College and University Student Housing, 54 no. 1 (2006), 52.


Stelter, "Changes to Clery Act." 


However, these topics are not included in this paper. For more information on fire safety regulations and missing persons, see 20 U.S. Code § 1092(i) and § 1092(j) respectively.


US Department of Education (DOE).

Ibid.

Ibid.

Ibid.


Ibid.

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Ibid.

Ibid.


Ibid.


National Association of College and University Business Officers (NACUBO).

US Department of Education (DOE).

Ibid., 24.

Ibid., 22.
When you can measure what you are speaking about and express it in numbers, you know something about it; but when you cannot measure it, when you cannot express it in numbers, your knowledge is of a meagre and unsatisfactory kind; it may be the beginning of knowledge, but you have scarcely in your thoughts advanced to the stage of science.

—Lord Kelvin (1824–1907),
Mathematical Physicist and Engineer