THE JEANNE CLERY ACT: MAKING CAMPUSSES SAFER THROUGH COMPLIANCE, COLLABORATION AND TRAINING

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A Thesis

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Abstract

of

THE JEANNE CLERY ACT: MAKING CAMPUSES SAFER THROUGH COMPLIANCE, COLLABORATION AND TRAINING

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Review of Literature

A review of the literature on compliance with the Clery Act revealed that it has not been studied nationally. Three researchers in the field of higher education have conducted a majority of the research pertaining to the Clery Act. They are: Steven Janosik of Virginia Tech, Donald Gehring of Bowling Green State University and Dennis Gregory of Old Dominion University. In concert and separately, Janosik, Gehring and Gregory have conducted online and paper surveys directed to students, parents, campus law enforcement officials, judicial affairs officers and residence life administrators seeking data pertaining to compliance with the Clery Act.

Data obtained from questionnaires sent by Janosik and Gehring to students indicated only 27% of student respondents were aware of the Clery Act and only 8% of student respondents used the Annual Security Report when making their college decision choice. In separate studies, Janosik, Gehring and Gregory concluded the Clery Act is ineffective in achieving its stated purpose and the compliance requirements are
ambiguous and burdensome to comply with. Ultimately, Janosik, Gehring and Gregory opined that the energy and emphasis devoted to the reporting requirements of the Clery Act are misplaced and that students would be better served by administration’s focus on the development of services that make a difference instead of a statistical report.

Studies of the nature and type of crime occurring on college campuses conducted by Bromley (1993) and Sloan (1993, 1994) indicate larceny and theft are the most prevalent crimes occurring on campus. However, in studies conducted by Sloan, Fisher and Cullen (1997) and Bennett and Weingand (1994) the failure of students to report crimes such as sexual assault and other serious crimes occurring on campus is prevalent and impedes an accurate depiction of crime on campus.

Statement of the Problem

This research studied the evolving impact of the landmark federal campus security policy and crime reporting law known as the Jeanne Clery Act on institutions of higher education. Enacted in 1990, following the murder of Jeanne Clery, in her dormitory room at Lehigh University, for the first time in United States history, the Jeanne Clery Act required institutions of higher education disclose campus security policies and annual campus crime statistics. Investigation conducted following Jeanne Clery’s murder revealed numerous incidents of violent crime had occurred on Lehigh’s campus, which was not disclosed to prospective or current students. The Clery family first lobbied for a campus crime reporting law in Pennsylvania and then joined with other campus crime victims to enact a federal law. At the behest of victim advocates, and in
response to increasing incidents of violent crime on college campuses, Congress has amended the Jeanne Clery Act several times to clarify the law’s requirements and to increase levels of compliance. Despite the altruistic intent of the Clery Act and Congressional efforts to elucidate the means by which to achieve compliance, administrators at institutions of higher education are complying with the Clery Act in a variable manner. Administrators have defined their skepticism of the Clery Act’s ability to fulfill its own objectives.

Sources of Data

This study gathered data through qualitative personal interviews regarding personal perceptions of compliance from administrators at three institutions of higher education charged with the responsibility of compliance. This data was analyzed and compared with actual Annual Security Reports filed by the three institutions with the Department of Education and against Annual Security Reports disseminated by the institutions to the public. The Annual Security Reports were analyzed to determine if they fully complied with all requirements of the Clery Act and if they contained identical data.

To address the concerns regarding compliance voiced by victim advocates, this researcher conducted a personal interview of S. Daniel Carter, Senior Vice President of Security On Campus, Inc., the 501 non-profit established by the Clery family. To fully understand the compliance requirements of the Clery Act, this researcher attended a compliance training seminar conducted by Security On Campus, Inc.
Conclusions Reached

The data obtained from the qualitative interviews permitted this researcher to more fully understand personal perceptions of the Clery Act that cannot be obtained through online, impersonal, forced choice questionnaires or surveys. The training seminar provided in depth training in Clery Act compliance requirements and offered the researcher the opportunity for assessment and feedback from Security On Campus, Inc. personnel.

The results of the data collected indicated to this researcher that institutions of higher education are complying with the Clery Act at varying levels. Inter-departmental collaboration and training of personnel to fulfill the compliance requirements was not consistent at all three institutions. Greater efforts must be made by institutions of higher education to meet and exceed the requirements of the Clery Act.

______________________, Committee Chair
Virginia L. Dixon, Ed.D.

______________________
Date
ACKNOWLEDGEMENTS

It is my sincere hope this study will contribute to a better understanding of the process necessary to fully comply with the Clery Act. The tragic murder of Jeanne Clery, an innocent young girl began the impetus which changed the landscape of higher education. It was Jeanne’s story that captured my attention and developed my passion to study this important act. It is a task which I will never forget. It is my hope that others will continue this work and polish this beginning.

To my advisors and mentors Dr. Virginia Dixon and Dr. Rosemary Blanchard, thank you for your patience and good counsel as I pursued this most difficult task.
DEDICATION

The enormous devotion of time spent researching, analyzing and writing required for the completion of this thesis would not have occurred without the keen understanding and kind heart of my husband, David Walters. Your encouragement to complete this project helped me to garner strength when I believed I had none.

For my wonderful children, Haley Lynn and Dylan Patrick: I have missed precious moments in your lives. From our experience during this process, may you carry forward these words to live by: “You can do anything you put your mind to.”

For my father, John William Clark, who taught me I could do anything I put my mind to. Your insightful words of wisdom and appreciation of education made my journey possible.

Jeanne Ann Clery

Photo: Courtesy of Security On Campus, Inc.
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Chapter 1

INTRODUCTION

Background

Margaret Mead, a classic American cultural anthropologist encapsulated the meaning of this study with the profound statement: “A small group of thoughtful people could change the world. Indeed, it’s the only thing that ever has” (www.brainyquote.com). Dr. Mead’s profound statement foretells the transformational power of challenges undertaken by the average man or woman against implausible opponents. This study originates from the story of one average American family who managed to overcome immensurable grief to enact a landmark federal law originally known as The Crime Awareness and Campus Security Act of 1990. Under this federal law, for the first time in United States history, institutions of higher education receiving federal financial aid must collect, classify, and annually disseminate campus crime statistics and campus security policies. Prior to the law’s enactment in 1990, institutions of higher education were not required to collect, to report or to disclose violent or other crimes occurring on their campuses to anyone.

The parents responsible for permanently changing the landscape of higher education through enactment of The Crime Awareness and Campus Security Act of 1990 are Howard and Constance Clery. The Clery’s embarked upon the challenge of their lives after the murder of their daughter, Jeanne Clery, on April 16, 1986, in her college dormitory room at Lehigh University, in Bethlehem, Pennsylvania. Jeanne Clery was the
youngest of three children and the only female child of Howard and Constance Clery, hereafter referred to as the Clery’s. Jeanne decided to attend Lehigh University after giving careful consideration to many other universities. Jeanne initially considered attending Tulane University in Louisiana, where her two brothers were students but decided against attending Tulane after her brothers expressed concern over reports of recent violent crimes occurring on their campus. Jeanne felt comfortable attending Lehigh University because it was close to her parents’ home and did not have a reputation for incidents of crime on campus (Carter, S., personal communication, 2008).

Investigation Reveals

The investigation of Jeanne Clery’s brutal murder revealed that Joseph Henry, a fellow Lehigh student and part time maintenance worker at the university, who lived off-campus had committed the murder. Henry had easily entered Jeanne Clery’s residence hall through three main entrance security doors which had been ‘propped open’ with pizza boxes by unidentified residents, to permit unsecured entry to non-residents. Henry planned to steal what he could from unsuspecting residents to support his drug and alcohol habits. Interviews with Jeanne’s roommate revealed Jeanne had left her dorm room unlocked because her roommate had lost her key (Carter, S., personal communication, 2008).

The Clery’s demanded Lehigh administrators provide answers as to how Joseph Henry had gained access to Jeanne’s dormitory when he was a non-resident and why dormitory security had failed to ask who he was and why he was there. According to the Clery’s, the response of Lehigh administrators was unsatisfactory: “We learned that
institutional response to such tragedies could involve callousness, cover-ups and stonewalling” (Clery, 2001b, p. 1).

Lehigh’s response to the Clery’s demand for answers came in the form of a written report, following Jeanne’s murder, prepared by K.P. Pendleton, a Lehigh trustee. The report concluded there was no negligence on the part of the university and stated Lehigh’s safety policies were complete.

After receiving Pendleton’s report the Clery’s filed a wrongful death lawsuit in Pennsylvania Superior Court. Armed with the power of subpoena, the Clery’s legal counsel aimed the proverbial microscope at Lehigh administrators. During the lawsuit Clery lawyers promptly unearthed facts detailing Lehigh administrators had actually kept records of 181 ‘propped-open’ main security door incidents at their residence halls in the four months prior to Jeanne’s murder. The lawsuit also uncovered Lehigh had failed to inform students and staff that 38 violent crimes had occurred on their campus between 1984 and 1986 (Clery, 2001b).

The Clery’s asserted that had the true nature of crime on Lehigh’s campus been disclosed their daughter would have decided against attending Lehigh University. Lehigh’s failure to acknowledge the true status of crime on their campus created a growing storm of inquiry ultimately resulting in American activism. Two years after Jeanne’s murder Lehigh University settled the lawsuit filed by the Clery’s and agreed to materially enhance security on their campus. Following the conclusion of the lawsuit, Constance Clery (1990) stated:
We learned from the outcome of our lawsuit against Lehigh that campus administrators have a duty to protect their students from crime. In addition, we became convinced that such litigation may be the single most effective way to pressure academic officialdom to 1). Recognize campus violence as the threat that it has become; and 2). Do something about it. (Clery, 2001b, p. 1)

Victim Advocacy in Pennsylvania

The Clery’s decided they had to do something about campus crime. Moving forward, in 1988, they founded in Jeanne’s memory, Security On Campus, Inc., the first national, not-for-profit organization dedicated to the prevention of criminal violence at colleges. Their purpose was simple: to provide crime data that will permit students, parents and employees to make informed decisions about their college choice and to assist campus crime victims. They began at the state level and lobbied Pennsylvania legislators to write a campus crime reporting law called the Pennsylvania College and University Security Information Act of 1988 (Sloan, Fisher & Cullen, 1997). Nine states soon followed the Pennsylvania example (Security On Campus, Inc., 1990).

A Federal Mandate

Realizing the need for a federal mandate to collect, disclose and publish campus crime data, the Clery’s joined with parents of other campus crime victims to enact a federal campus crime reporting law. With the counsel and support of Representative Goodling and Senators Arlen Specter and Albert Gore of the 101st Congress, the “Clery Bill” (H.R. 3344, S.1925, S. 1930) was introduced on September 6, 1989. The Clery Bill was signed into law November 8, 1990, by President George H.W. Bush as Title 2 of the
Student Right-to-Know and Campus Security Act of 1991, hereafter referred to as the
Clery Act. The original act required institutions of higher education participating in Title
IV, federal financial aid programs to annually report and publish three years of campus
crime statistics and campus security policies (Security On Campus, Inc., 2008).

In 1989, through Security On Campus, Inc., the Clery’s established the Campus
Crime Victims Litigation Program. This program developed a database of case law in
civil actions brought by victims of campus crime and college administrative cover-ups of
such crimes. The information is made available to victims, their attorneys and all other
parties who wish to do something constructive about preventing campus crime (Security
On Campus, Inc., 2008).

In addition to the horror of their daughter’s murder, the Clery’s advocacy grew
from two factors: 1). Lehigh University’s failure to disclose the real status of crime on
their campus; and 2). at the time of Jeanne Clery’s death in 1986, colleges and
universities were not legally required to collect, disclose or file annual reports, at the state
or federal level regarding crime occurring on their campuses. The Clery’s believed
violent crime occurring on campuses was a closely held secret (Security On Campus,
Inc., 2008). Prior to the enactment of the Clery Act, the reporting of crime on campus
was voluntary. Through 1988, only four percent of America’s colleges and universities
voluntarily reported crime statistics to the Federal Bureau of Investigation (FBI). During
their lawsuit, the Clery’s learned that in 1987, there were at least 31 murders, more than
1,500 armed robberies and 13,000 physical assaults on college campuses nationwide
(Security On Campus, Inc, 2008).
Legislative Intent and Requirements

The legislative intent of the Clery Act is to provide students, parents and employees with campus crime statistics and other data that will enable them to make informed decisions about colleges they might attend or decide to work for. Although significantly condensed, the compliance requirements of the Clery Act consist of three categories:

1. Policy disclosure
2. Records collection and retention
3. Information dissemination

There are eleven policy and information disclosure statements required of institutions of higher education (Westat, Ward & Lee, 2005). The police disclosure statements to be identified are:

1. The reporting of crimes and other emergencies occurring on campus, including ‘timely warnings;’
2. The security of and access to campus facilities;
3. Campus law enforcement;
4. The Annual Disclosure of Campus Crime Statistics;
5. Identify individuals to receive crime reports on campus;
6. Identify programs to inform students about campus safety procedures;
7. Identify policies for crime prevention;
8. Identify policies for monitoring and recording criminal activity through local police agencies;
9. Identify policies regarding alcohol and illegal drugs on campus;

10. Identify drug and alcohol abuse education programs;

11. Identify policies regarding prevention of and procedures to follow in the event of a sexual assault

12. Identify where the campus community can obtain information on sexual offenders.

The second category of compliance with the Clery Act requires that institutions collect, classify and report crimes that have been reported to campus police or campus security authorities. This component of compliance does not require that the crime be investigated nor adjudicated. The crime statistics collected are crimes ‘reported.’ Institutions must also make a ‘good faith effort’ to collect crime statistics from local law enforcement agencies for inclusion in their statistical report. If the institution maintains a campus police force or security department, they are required to have a Daily Crime Log and make it accessible to the campus community during normal business hours (Westat et al., 2005).

The last category of compliance requires institutions of higher education to annually publish campus crime statistics collected to current and prospective students and employees. The same data contained in the Annual Security Report must be entered on the Department of Postsecondary Education’s survey website (Westat et al., 2005). The Department of Education is charged under the Clery Act with monitoring compliance with the Act and for enforcement. Penalties are currently $27,500 per violation (Westat et al., 2005).
Complaints Surface Following Enactment

Despite the laudable intent of the Crime Awareness and Campus Security Act of (1990), it has been assailed with complaints of bureaucratic red tape, allegations of ambiguity in reporting requirements, and lack of efficacy in achieving its stated intent by administrators and scholars at institutions of higher education (as cited in Janosik, 2001; Megerson, 1992; Seng & Koehler, 1993). Criticisms lodged by administrators became the subject of study by a small number of scholars in higher education (Janosik, 2001; Janosik & Gregory, 2002, 2003, 2009). The outcome of these studies initially appeared to confirm the validity of the complaints. Closer examination of the studies regarding complaints associated with the Clery Act prompt questions regarding methodologies used, adequacy of samples studied and whether the researchers can expand their conclusions to a larger, general population.

Administrators and scholars are not the only source of objections associated with the Clery Act. Victim advocates such as Security On Campus, Inc. have openly stated that institutions of higher education are not complying with the Clery Act in a uniform manner. Allegations of manipulation of crime data and the actual hiding of crime have become hot topic issues. Security On Campus, Inc. has responded to administrator’s complaints concerning burdensome compliance requirements by actively lobbying the United States Congress to enact amendments to clarify the Act. Carrying their message further, Security On Campus, Inc. developed and offered the first national compliance training seminars. These seminars offer step by step training on how to comply with the Act while providing updated information on the latest amendments and innovations in
campus safety. When violent criminal events have occurred on college campuses across the nation, Security On Campus, Inc. has responded and offered counseling and onsite training to institutional staff (Carter, personal communication, 2008). Security On Campus, Inc. has openly challenged the Department of Education’s longstanding failure to monitor and audit compliance by institutions of higher education. It took the Department of Education more than a decade after Clery was enacted to actively file and pursue enforcement proceedings against institutions of higher education for Clery Act violations (California State Auditor, 2003).

Twenty years after enactment, the debate between administrators charged with complying with the Act versus victim advocates concerned about the manipulation and hiding of crime data continues. Additionally, the lack enforcement by the Department of Education has become common knowledge and continues today. The debate between administrators who claim the Clery Act is burdensome to comply with and victim advocates who claim administrators are hiding crime and manipulating data frames the basis of this study.

Statement of Purpose

This study will provide an analysis of the compliance requirements of the Clery Act while assessing degrees of evidence supporting or denying the validity of the competing arguments that have doggedly plagued the Clery Act since enactment. The complaints emanating from institutions of higher education allege the Clery Act is fraught with bureaucratic red tape, ambiguous reporting requirements and that it fails to
fulfill its intended purpose (Janosik, 2002; Janosik & Gehring, 2001; Janosik & Gregory, 2002, 2003, 2009). Victim advocates and the media allege that administrators of higher education regularly manipulate or hide campus crime data to preserve reputation and enrollments. Security On Campus, Inc. alleged the Department of Education has failed to enforce the Clery Act and has permitted crime on campus to remain hidden. Victim advocates and the media also allege administrators take issue with the compliance requirements of the Clery Act because they view it as federal intrusion into their internal governance that traditionally benefited from non-interference.

Methodology

The research design is a multiple layered qualitative, non-experimental study of actual compliance versus perceptions of compliance with the Clery Act by: 1). individuals charged with compliance responsibilities at three institutions of higher education in Northern California; and 2). S. Daniel Carter, Director of Public Policy of the non-profit, victim advocate Security On Campus, Inc.

Participants in this study were selected based upon the likelihood that they are representative of populations to which generalizations can be made on a state and national level. When selecting participants charged with compliance responsibilities at their institution of higher education, the researcher chose from Chiefs of Police, Directors of Campus Security or Safety, individuals identified as Campus Security Authorities and administrators in the Office of Judicial Affairs. The aforementioned job titles have consistently similar duties at institutions of higher education across the nation. Two of the
three institutions of higher education are public and one is private. Two of the institutions are located in an urban area and one is located in a rural area. Each of the three institutions studied serve different enrollment populations.

Collection of data took place in the latter part of 2008, in 2009 and in early 2010. All three institutions, and their staff, are referred to by pseudonyms to protect privacy considerations. The first institution, identified as University of the West, is a private, four year university, with three separate campuses, serving less than 10,000 students and located in an urban city area. The second institution identified as Valley University, is a public, four year research university serving slightly above 30,000 students and is located in a rural area. The third institution, identified as City University, is a public, four year metropolitan university serves 30,000 students and located just outside city limits.

This researcher conducted personal interviews, using prepared open ended and direct qualitative questions, with the Chiefs of Police, Campus Safety Department personnel, and/or Campus Security Authorities responsible for actually preparing or assisting in the preparation of the Annual Security Report, and/or other components associated with compliance with the Clery Act. After collecting initial biographical and professional data, the individuals interviewed were asked questions designed to elicit the level of their knowledge of the compliance requirements of the Clery Act. The second part of the interview was designed to draw out individual perceptions of compliance with the Clery Act at their institution. The manner in which the institution’s data were collected and classified for inclusion in the Annual Security Report was discussed with those interviewed. The individuals interviewed were asked to describe the manner in
which their institution handled compliance with the remaining requirements of the Act, such as issuance of timely warnings, policy development and in the development and implementation of sexual assault programs.

Prior to conducting the personal interviews, this researcher accessed the US Department of Education’s (2009) *Campus Security Data Analysis Cutting Tool* website and downloaded the most recent Annual Security Reports filed by each of three institutions. The three Annual Security Reports obtained from the DOE website were analyzed for compliance and scrutinized for obvious irregular data. This researcher then accessed the website for each institution, studied and downloaded the Annual Security Reports posted and published by the institution. The two reports were compared by each institution to determine if they contained the same figures. Next, the Annual Security Reports posted by the institutions were analyzed for compliance with regard to ongoing campus security policy disclosure statements. After the Annual Security Reports were examined, the websites for each institution were reviewed to locate information on the availability of the campus crime log and other Clery Act related information.

As a third measure of verifying accuracy of institutional data, local police agency crime statistics were accessed via the internet to determine differences in crimes reported on campus and in surrounding areas. Lastly, an independent search engine called *NeighborhoodScout.com* was accessed via the internet to locate independently verified community crime statistics for the purpose of comparison with institutional and law enforcement crime statistics.
Victim Advocate Data

To address the victim advocate perspective regarding the compliance debate, data was collected in a personal interview in 2008 with S. Daniel Carter, Senior Vice President, Security On Campus, Incorporated, the national 501(c) non-profit agency created by the Clery family. Prior to interviewing Mr. Carter, this researcher attended a compliance training seminar conducted by Security On Campus, Inc. in Lexington, Kentucky during November 2008. During this seminar, this researcher had the opportunity to speak with many university and college administrators attending the same seminar about their perceptions of compliance with the Act, on their campuses.

Further data was gathered when this researcher travelled to the March 2009, NASPA conference in Seattle, Washington and attended a conference workshop conducted by the University of California, Berkeley on campus safety. During this workshop, four members of the University of California, Berkeley Campus Safety Task Force explained and detailed their best practices policies for both compliance with the Clery Act and for the promotion of campus wide safety.

Research Questions

Three research questions were developed to assist in framing the boundaries of reasonably obtainable data. The research questions equate to the longstanding debate surrounding compliance with the Clery Act. Administrators have alleged the Act’s compliance requirements are burdensome, ambiguous, inaccurate, and that the crime statistics compiled fail to fulfill the intent of the Act. To determine degrees of evidence supporting or denying these allegations the following research question was formulated:
1. Are the compliance requirements of the Clery Act burdensome, ambiguous and or incompatible with the stated purpose of the Act?

The compliance requirements of the Clery Act will be analyzed alongside legislative amendments to determine if legislators and victim advocates have been responsive to complaints lodged by those charged with the responsibility of compliance. Qualitative data collected from personal interviews of Chiefs of Police, Campus Security Authorities and others responsible for compliance provide personal perceptions and individual case studies of three institutions of higher education.

The second research question identifies factors and variables influencing the compliance debate. Data responsive to this question originated from both sides of the debate. Administrators contend they have not been provided clear compliance guidelines, training, tools and funding to properly comply with the Act. Victim advocates, the media and others claim institutions of higher education fail to fully comply with the Act in order to preserve reputation, endowments and enrollment figures.

2. What factors, situations or variables have interfered with, prevented, or hindered full compliance by institutions of higher education?

Data obtained from the qualitative interviews conducted at the three institutions of higher education studied and of S. Daniel Carter of Security On Campus, Inc. will provide degrees of evidence which identify prevalent factors and variables affecting and influencing full compliance. Scholarly research articles will assist in framing complaints associated with compliance with the Clery Act and other factors contributing to the debate.
Data responsive to the third research question also originates from both sides of the compliance debate. Administrators allege the Clery Act fails to fulfill its own objectives and provides inaccurate data that is not used by students, parents and employees when evaluating their college choice. Alternatively, victim advocates and the media allege that administrators manipulate and or hide crime on campus to preserve reputation, endowments and enrollments.

3. Are claims that institutions of higher education are manipulating or hiding crime statistics on campus accurate?

In addition to the qualitative data collected by this researcher, this study will include actual case studies and legal precedent wherein issues have arisen with regard to campus crime statistics and allegations of manipulation and hiding of campus crime data.

Definition of Terms

**Annual Security Report (ASR):** The annual report with statements of campus security policy and crime statistics provided to current and prospective students and employees under the Clery Act by October 1 of each year. The ASR contains three preceding years of campus crime statistics (Westat et al., 2005).

**Campus Security Authority (CSA):** Section 668.46 of the Clery Act; defines a campus security authority as any one of the following:

1. Campus police department or security department of the institution;
2. Any individuals who have responsibility for campus security, but who do not constitute a campus police department or security department, such as persons responsible for monitoring the entrances to the campus property;

3. Any person or organization specified by the institution’s security policy as an individual or organization to which students and employees should report criminal activities;

4. An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. Exceptions to this definition include pastoral or professional counselors working in their official capacity (Colaner, 2006).

**Chi-Square**: This statistic compares the tallies or counts of categorical responses between two (or more) independent groups. Chi-square tests can only be used on actual numbers and not on percentages, proportions or means.

**Cronbach’s Alpha Model**: One of the most popular reliability statistics in use today, it determines the internal consistency or average correlation of items in a survey instrument to gauge its reliability.

**Family Educational Rights and Privacy Act (FERPA)**: A federal law enacted in 1974, and also known as the Buckley Amendment, which protects the privacy of student educational records. Under Buckley ‘educational records,’ are defined as: those records, files, documents, and other materials which contain information directly related to a
student (as cited in Rada, 1998). The law applies to all schools that receive funds under an applicable program of the US Department of Education.

Four Year Institution: A postsecondary institution that offers programs of at least four years duration or one that offers programs at or above the baccalaureate level. It includes schools that offer post baccalaureate certificates only or those that offer graduate programs only. It also includes free-standing medical, law or other first-professional schools.

Geographic Locations for Reporting Under Clery Act On-Campus: Owned or controlled by the institution, within the same reasonably contiguous geographic area or used to meet or support the institution’s educational purposes. Examples are: Residence halls, administrative buildings, buildings that house classrooms or laboratories, fraternity and/or sorority houses. Greek housing is considered on-campus only if the land or building is owned or controlled by the institution (Westat et al., 2005).

Hierarchy Rule: A principle used by the FBI’s Uniform Crime Reporting program and adopted by the Clery Act which specifies that only the most serious crime in a multiple crime situation is reported (Westat et al., 2005).

Immunity from Tort Liability: Immunity is generally conferred on (1) national and state governments unless abrogated by statute; (2) public officials performing judicial, quasi-judicial, or discretionary functions; (3) charitable organizations granted immunity in some states; (4) infants and insane persons (Alexander & Solomon, 1972).

International Association of Campus Law Enforcement Administrators (IACLEA): A professional association for campus law enforcement professionals, that
advances public safety for educational institutions by providing resources, advocacy, and professional development services (www.iaclea.org).

**National Association of Student Personnel Administrators (NASPA):** A national organization providing professional development and advocacy for student affairs educators and administrators. Currently, NASPA serves over 1,200 institutions and has more than 10,000 members (Colaner, 2006).

**NeighborhoodScout.com:** A web based patented neighborhood search engine that uses neighborhood statistics and 200 characteristics to build profiles that allows people to obtain statistics on individual addresses. The data used to build the profiles come from the US Bureau of Census, the US Department of Justice, the National Center for Education Statistics and the US Geological Service among others.

**Non-Campus:** Any building or property not part of the main campus nor a separate campus, which is owned or controlled by the institution, used in support or in relation to the institution’s educational purposes, such as remote classrooms. Examples of non-campus property are: Research facilities, university owned hospitals, space rented or leased for the purpose of offering classes and off-campus residential units owned or controlled by the institution. Crimes occurring during the period of time the institution controls the space are to be included. If a building or property is owned or controlled by a student organization that is officially recognized by the institution, it is non-campus property (Westat et al., 2005).

**OPE ID:** Identification number used by the US Department of Education's Office of Postsecondary Education (OPE) to identify schools that have Program Participation
Agreements (PPA) so that its students are eligible to participate in Federal Student Financial Assistance programs under Title IV regulations. This is a six digit number followed by a two digit suffix used to identify branches, additional locations, and other entities that are part of the eligible institution (Westat et al., 2005).

**Postsecondary Educational Institution:** An institution has as its sole purpose, or one of its primary missions, the provision of postsecondary education. Postsecondary education is the provision of a formal instructional program whose curriculum is designed primarily for students beyond the compulsory age for high school. This includes programs whose purpose is academic, vocational and continuing professional education, and excludes vocational and adult basic education programs (Westat et al., 2005).

**Private Institution:** An educational institution controlled by a private individual(s) or by a nongovernmental agency, usually supported primarily by other than public funds, and operated by other than publicly elected or appointed officials. These institutions may be either for-profit or not-for-profit (Westat, Ward & Lee, 2005).

**Public Institution:** An educational institution whose programs and activities are operated by publicly elected or appointed school officials and is supported primarily by public funds (Westat et al., 2005).

**Referral for Disciplinary Action:** The referral of any person to any official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction (Westat et al., 2005).

**Security On Campus, Inc. (SOC):** A non-profit (501(c)(3)) organization established by Howard and Constance Clery, following the murder of their daughter
Jeanne, and whose mission is to prevent violence, substance abuse and other crimes on
college and university campus communities across the United States, and to
compassionately assist the victims of these crimes.

**Title IV Institution:** An institution that has a written agreement with the Secretary
of Education that allows the institution to participate in any of the Title IV federal student
financial assistance programs (other than the State Student Incentive Grant (SSIG) and
the National Early Intervention Scholarship and Partnership (NEISP) programs).

**Tort Liability:** A civil wrong, other than breach of contract, for which a court will
provide a remedy in the form of damages. Tort actions are brought to compensate
individuals for harm to them caused by unreasonable conduct of others (Alexander &

**Public Property:** This geographic location includes thoroughfares, streets and
sidewalks, public parking facilities on campus, immediately adjacent to and accessible
from the campus. They include the sidewalk across the street from the campus and or a
park that is adjacent to or accessible from the campus (Westat et al., 2005).

**Separate Campuses:** Additional locations or branches of an institution that are not
reasonably contiguous with the main campus are considered independent, and must
perform their own reporting, if 1) they are permanent; 2) offer programs leading to a
degree; and 3), have their own faculty, administrative body and budgetary and hiring
authority (Westat et al., 2005).

**Statistical Inference:** The problem of inferring properties of an unknown
distribution from data generated by that distribution. The most common type of inference
involves approximating the unknown distribution by choosing a distribution from a restricted family of distributions.

Uniform Crime Reporting (UCR): A Program conceived in 1929 by the International Association of Chiefs of Police to meet a need for reliable, uniform crime statistics for the nation. In 1930, the FBI was tasked with collecting, publishing, and archiving those statistics. Today, several annual statistical publications, such as the comprehensive Crime in the United States, are produced from data provided by nearly 17,000 law enforcement agencies across the United States.

United States Department of Education (DOE): The department that is responsible for implementing and enforcing the federal Clery Act. The United States Department of Education Cutting Tool Website is located at http://ope.ed.gov/security/ can be used to access the Annual Security Reports for any institution of higher education.

Limitations of the Study

The most prominent limitation of this study is the lack of a nationwide or individual state baseline research study on compliance with the Clery Act by institutions of higher education. Studies have been conducted on isolated components of the Clery Act; however, existing studies fail to address the full spectrum of compliance requirements under the Clery Act (Janosik & Gehring, 2001; Janosik; Gregory & Janosik, 2003).

A second limitation of the study is the fact that a majority of research on the Clery Act has been conducted, almost exclusively, by Dr. Steven M. Janosik, Associate
Professor of Educational Leadership and Policy Studies at Virginia Tech and two close associates, Dr. Donald Gehring and Dr. Dennis Gregory. Beginning in Fall 2001, Janosik and Dr. Donald Gehring, Professor Emeritus of higher education at Bowling Green University, studied the impact of the Clery Act on student behavior (Janosik & Gehring, 2001). In the summer of 2002, Janosik and Gregory, assistant professor in educational leadership at Old Dominion University, studied the views of campus law enforcement professionals on the Clery Act (Janosik & Gregory, 2002). In 2002, Janosik conducted research on parental views of the Clery Act and campus safety (Janosik, 2002). In the Fall of 2003, Janosik and Gregory researched the influence of the Clery Act on campus law enforcement practices. In the Fall of 2003, Gregory and Janosik also produced a research paper on the effect of the Clery Act on campus judicial practices. The most recent research produced by Janosik and Gregory discusses the Clery Act, campus safety, and perceptions of senior student affairs officers (Janosik & Gregory, 2009).

Funding for many of Janosik’s studies on the Clery Act was provided, in whole or in part, by the Educational Policy Institute of Virginia Tech (EPI). In addition to Dr. Janosik’s position as associate professor at Virginia Tech and 20 years experience as a college administrator, he is also co-director of the Educational Policy Institute at Virginia Tech (EPI) (Janosik, 2001). The stated purpose of EPI is to: (a) establish an organization devoted to educational policy research and services in the Commonwealth of Virginia and the nation, (b) conduct research intended to inform educational policy makers, (c) focus research interests of the faculty and graduate students on educational policy issues, and (d) act as a service unit for educational policy groups such as the State Board of
Education and the State Council of Higher education for Virginia (Janosik & Gregory, 2002).

The preface portion of Janosik’s research papers on the Clery Act indicated studying the Clery Act is a deviation from the normal work of EPI. This deviation from EPI’s normal work is justified because “…administrators and policy-makers continue to debate the intent and implementation requirements of the Clery Act…” (Janosik & Gregory, 2002, p. 1), while Drs. Gehring and Janosik have attempted to ascertain the Act’s effectiveness in increasing student awareness and in changing student behavior (Janosik & Gehring, 2001). In the articles authored by Janosik, EPI represents to readers Drs. Janosik, Gehring and Gregory have national reputations as legal scholars. A review of the curriculum vitas of Janosik, Gehring and Gregory finds them impressive, albeit lacking formal training in the law (vitas). According to Black’s Law Dictionary, the definition of a legal scholar is usually reserved for those formally trained in the law and those who have distinguished service as a judge or magistrate (www.Blacklawdictionary.com, 2008).

Accordingly, this researcher acknowledges a limitation in that the foremost research conducted relating to compliance with the landmark federal law known as the Clery Act has been conducted by individuals without formal legal education. Examination and research of issues relating to compliance with the Clery Act by astute legal scholars from an experienced federal judicial arena would provide invaluable insight into the continuing debate related to compliance.
A fourth limitation of this study involves the limited sampling of only three institutions of higher education. The universities were purposefully selected for study based upon: 1) researcher’s proximity to the campuses; 2) the researcher’s familiarity with their structural system; 3) institutional status as either large public or private universities; 4) institutional status as a public teaching institution or public research oriented institution; and 5), the variations of student populations served by the institutions.

The institutions studied are again identified as: 1). City University, a public, four year, teaching university located in an inner city; 2). Valley University, a public, research oriented, four year university; and 3). University of the West, a private, four year, research oriented university. Ideally, a larger sampling which included a community college and vocational colleges may have contributed different findings or alternatively, provided confirmation of this study’s findings.

Significance of the Problem

The Clery Act was enacted in 1990, twenty years ago at the time of this writing. Victim advocates, legislators, scholars, college administrators and the media continue to debate issues related to compliance and the effectiveness of the Clery Act. Although it is unreasonable to assume the Clery Act solely by itself could stop the progression of or a single occurrence of crime on campus, constituents on both sides of the debate expect a positive outcome from its enactment. The Clery Act demands institutions of higher education focus on campus crime and provide transparency and accountability in the
reporting of campus crime statistics. Alternatively, administrators demand the Clery Act accomplish its intended purpose and provide unambiguous compliance requirements.

While the debate between administrators, advocates and the media persists, the US Department of Education has rarely audited institutions of higher education to determine if they fully comply with the Clery Act. A review of federal Clery Act compliance audits revealed enforcement proceedings follow the occurrence of notorious and well publicized criminal events, rather than regularly scheduled or randomly chosen subjects. Media coverage immediately brings intense and unrelenting focus to the crime occurring on a college campus. While horrific crimes continue to plague campus communities across this nation, in the aftermath, administrators and directors of campus security conduct internal reviews of emergency procedures, notification systems, and campus security policies to determine what went wrong and what they can do better (Rasmussen & Johnson, 2008). As administrators analyze the means and methods to prevent campus crimes, victim advocates assert that compliance with the Clery Act should be used as the tool to tighten and expand campus security as it was intended (Security On Campus, Inc., 2008).
Chapter 2

REVIEW OF THE RELATED LITERATURE

Introduction

Prior to delving into the debate regarding compliance with the Clery Act it is essential to define the nature of the participants in this discussion. On one side of the debate stand institutions of higher education. On the other side of the debate are student-victims, their advocates, legislators, parents and the media. The definition of student-victim advocates, legislators and the media are generally understood. Student-victims emanate from a position of injury or adversity and misfortune. Legislators are elected members of a governing body representing a specific district. Parents send their children to college and often pay for some or all of the cost. The media represents various means of mass communication, including television, radio, magazines, newspapers and the people involved in their production (Encarta Dictionary, 2010).

Institutions of higher education offer their uniqueness. To comprehend the unique nature of institutions of higher education, one must understand and appreciate their historical background (Nichols, 1995). Therefore, this study begins with a historical overview of the development of institutions of higher education, which will hereafter be referred to as IHEs. One must understand the entrenched institutional sensitivity of IHEs and their distaste for intrusion into their traditional arena of internal hierarchical autonomy.
Historical Background of Higher Education

The origin of institutions of higher education date back to 11th Century Europe, with the creation of diocesan cathedral schools (Frankhouser, 1997). Trusting parents sent their children to these schools from far away, to live and study from the master teachers of the time (Frankhouser). Although, the masters’ duties were to gather these students together to impart essential knowledge, the gathering also served self-interests and quests for personal influence. History revealed that the early relationship between the masters and students and local townspeople were troublesome. Crimes were committed and violence occurred between the townspeople and the scholar-students (Schachner, 1938). The assurance of special privileges, rights, immunities and protection from laws of the civil courts were offered to students as enticements to attend particular schools. Some of the privileges afforded masters and scholars were exemption from both military service and payment of personal taxes. The masters and scholars’ conduct were regulated by the educational institution attended and they were placed under the jurisdiction of special courts in which only they could be tried (Frankhouser).

The granting of special privileges contributed to a significant degree of hatred both toward the masters and the students by the townspeople. During the late Mediaeval Period of 1000-1450 AD, student-scholars were known to take full advantage of their privileged status as they frequently gambled, drank to excess and pursued young women of the town with abandon (Frankhouser, 1997). The origin of Cambridge University is particularly descriptive of the relationship between the student-scholar and the local townspeople at the time. In a study of the history and origin of IHEs conducted by
Frankhouser, he described an incident occurring at Oxford in 1209, where a scholar-student got into a difficult situation that resulted in the death of a local woman. As a result of the special status of the scholar-student, he could not be convicted in the local courts. The townspeople in turn exacted their own revenge and hung at least two, possibly three scholar-students as a result. This act prompted the masters to move all students and their facilities out of Oxford to Cambridge, where a new university was established. Thus, the prestigious Cambridge was created as a result of student violence on the Oxford campus.

Oxford was reborn five years later, when King John issued a special charter of privileges for students, enticing them to return to study at the university. These privileges gave students a large degree of power over the town and its people (Frankhouser, 1997). As a result, Oxford grew into a very powerful university with almost complete control both over those who attended it and those who lived within close proximity (Frankhouser).

During the Middle Ages, when violence and bloodshed remained an everyday occurrence, the masters and scholars continued to enjoy their privileged status and jurisdiction over their own behavior. These privileges were relentlessly solidified by the masters with the result producing a significant influence on the development of early universities of the American Colonial period (Frankhouser, 1997).

*The First College: Harvard*

The first institution of higher education in North America was established in 1636, in Massachusetts Bay Colony, a mere sixteen years after the arrival of the Pilgrims
at Plymouth Rock (Harvard, 2009). This flagship, IHE, was aptly named ‘Harvard College,’ after its benefactor John Harvard, a minister who left over half of his estate to the institution upon his death. At inception, Harvard College offered a classic academic curriculum based on the English University model and consistent with the Puritanical philosophy of teaching (Harvard, 2010). When Harvard College opened its doors to students, it was widely considered to be the personification of a noble and religious education. An early brochure about the college claimed Harvard’s purpose was: “To advance Learning and perpetuate it to Posterity; dreading to leave an illiterate Ministry to the Churches” (Harvard, 2010, p. 2).

Despite its unofficial Puritanical roots, by 1909, Harvard College had transformed itself from a small provincial college to a large university through the steady pursuit of intellectual freedom (Harvard, 2010). In 2009, Harvard University celebrated 373 years as one of America’s finest and most sought after IHEs (Harvard, 1999).

Origin of In Loco Parentis

The deference afforded IHEs described earlier was defined by an English common law doctrine known as In Loco Parentis, which means ‘a person or institution who stands in place of the parent’ (Kaplin & Lee, 1995). The doctrine permitted IHEs almost complete authority over the student while it shielded institutions from liability for tort claims brought by injured students and others (Kaplin & Lee). This doctrine referred to the university as an entity who assumes parental status and responsibilities for another, without adopting that person. With origins in ancient Roman law and the Code of
Hammurabi, *In Loco Parentis*, determined universities had educational and moral responsibility for students (Smith & Purvis, 2007). Essentially universities stood in the place of the parent, with all their incumbent authority, operating autonomously, and thriving on the privacy afforded by autonomy (Kaplin & Lee).

From the birth of higher education, *In Loco Parentis* shaped the rights and responsibilities of students, their masters and administrators. This doctrine justified the comprehensive authority of professor and college over student (Smith & Purvis, 2007). In Loco Parentis allowed IHEs to function autonomously and with minimal accountability and outside input. This course of action may explain, in part, why a dearth of statistics related to crime on campus existed prior to 1990 (Frankhouser, 1997). The first judicial articulation of *In Loco Parentis* came from the Kentucky Supreme Court, in the case of *Gott v. Berea College* (as cited in Smith & Purvis, 2007). In Gott, the Court defined the relationship between the student and the university as follows:

> College authorities stand *in loco parentis* concerning the physical and moral welfare and mental training of the pupils, and they may make any rule or regulation for the government or betterment of their pupil that a parent could for the same purpose. Whether the rules or regulations are wise or their aims worthy is matter left solely to the discretion of the authorities or parents…and, in the exercise of that discretion, the courts are not disposed to interfere, unless the rules and aims are unlawful or against public policy. (Smith & Purvis, 2007, p. 2)

Consequently, IHEs were immune from most tort liability relating to injury or complaints by students at this time. IHEs were not required to provide safe campuses or
to report or disclose crimes occurring on their campus (Fisher & Sloan, 1993). Even though IHEs were permitted by state and federal government to internally govern their campuses, they continually benefited from state and federal laws designed to provide them with tax exemption, funding for expansion of existing IHEs and funding for the creation of new IHEs.

The Funding of Higher Education

Under the American system of government, the US Constitution delegates powers to the federal government and reserves certain powers to the states and the people. Through those residual powers retained by the states, IHEs can be and are established (Alexander & Solomon, 1972). Once established, colleges and universities are elevated to a position of pre-eminence in the state’s legal structure. Alexander and Solomon cited the University of California as an example of “constitutional corporate status which prevents the courts from interfering with internal government of the university unless there is evidence of fraudulent conduct on the part of the university” (Alexander & Solomon, 1972, p. 33).

While holding an elevated position in the state, IHEs receive the benefit of funding from three sources: governmental taxation, private gifts, and student fees and tuition (Alexander & Solomon, 1972). Another advantage contributing to their longevity and protected status is exemption from state and federal taxes. Alexander and Solomon stated that the justifications given for tax exemptions were as follows:
1. If these particular functions were not provided by some private institution or organization the ultimate burden of rendering them would fall on the state.

2. The performance of their functions by these private agencies actually increases the capacity of other property to pay taxes, and, thus, exemption is no burden upon taxed property.

3. Being non-profit organizations, they possess no net income and, therefore no capacity to pay taxes.

4. The organizations or institutions are engaged in a service which is beneficial to the public in general or to some class thereof and for purely humanitarian reasons the tax exemption should be allowed.

Another integral factor contributing to successful programs and longevity enjoyed by institutions of higher education, are funds and other donations received from charitable trusts and other benefactors. Historically, private gifts and donations from charitable trusts have been relied upon as primary sources of revenue, to improve existing programs or to create new programs (Alexander & Solomon, 1972). The judiciary has enacted laws to both accommodate and encourage gifts to assist higher education because those funds are believed to benefit society as a whole. In summary, IHEs have historically held an esteemed position in society, benefiting significantly from: 1), deference from interference by the judiciary; 2), immunity from tort liability for injuries to students and others; and 3), exemption from state and federal taxes.

The environment of higher education throughout the 19th Century and a sizeable portion of the 20th Century were enormously different than it is today. Prior to the end of
the 20th Century, IHEs relied upon entrenched traditions allowing them autonomy to regulate their internal affairs through the special virtue and academic ability of their personnel (Kaplin & Lee, 1995). Faculty and administrators were known to possess knowledge and training far beyond that of the general public. Together, faculty and administrators were charged with the responsibility to guard and convey knowledge to future generations. Their expertise was not tarnished by personal bias or ill will and consequently, monitoring of their affairs by state and federal governments was avoided and discouraged (Kaplin & Lee).

The Nature of Federal Intervention into Higher Education

Despite the understated deference to internal governance of IHEs, the federal government of the United States has often intervened and acted for the benefit of higher education. Governmental intervention has provided substantial funding and growth opportunities for higher education while at the same time bringing about enormous change to the privileged master and student relationship. The first federal intervention into the arena of higher education came in the form of legislation known as the first Morrill Act of 1862. Through this Act, the United States Congress provided grants of land to states to establish colleges specializing in agriculture and mechanical arts. Each state was granted 30,000 acres of land for each of its congressional seats (www.brittanica.com, 2010). Almost twenty-eight years later Congress passed the second Morrill Act of 1890, which provided money grants for instruction in various branches of higher education (Kaplin & Lee, 1995). As a result, new colleges were built and various
educational departments were funded. This federal intrusion into the traditionally
sacrosanct higher education arena provided universities and colleges the opportunity to
expand and grow their institutions.

*The Servicemen’s Readjustment Act*

Perhaps the most famous and far reaching federal intervention into the higher
education arena came June 22, 1944, when Congress enacted the Servicemen’s
Readjustment Act of 1944, or better known as the G.I. Bill of Rights. This Act was
drafted in anticipation of the end of World War II and the return of 15 million men and
women serving in the military. To reduce the possibility of post war depression brought
on by widespread unemployment, Congress unanimously passed the Act and President
Roosevelt signed it into law on June 22, 1944. As a result, attending college finally
became feasible for the veterans returning to America after serving in World War II.
Today, many refer to this Act as the “great equalizer,” because it forever changed the
composition of the average American college student (Kaplin & Lee, 1995).

Realizing a need to provide additional funding to attend college for average
Americans, Congress again intervened in higher education by passing the National
Defense Education Act of 1958 (Kaplin & Lee, 1995) This Act provided a large scale
program of low interest loan for students wanting to attend college and for those already
attending IHEs. Congress continued to expand their desire to fund higher education
ambitions with passage of The Higher Education Facilities Act of 1963. This Act
authorized grants and low interest loans to public and private non-profit IHEs for
construction and improvement of educational facilities (Kaplin & Lee).
Two years later, Congress passed their most comprehensive intrusions into higher education with the passage of The Higher Education Act of 1965. This Act authorized federal support for a large list of post-secondary education activities, resources and financial aid. It had been amended numerous times and continues today to be the primary authorizing legislation for federal higher education spending (Kaplin & Lee, 1995). Enrollment in college increased fivefold during the period 1940 through 1980, while the number of IHEs doubled (Frankhouser, 1997). The end of World War II and enactment of the GI Bill changed the composition of the campus population forever. By 1946, over one million veterans were enrolled in college under the GI Bill (Frankhouser). One difference was overwhelming. The new college students were not provided the privileges of early scholar-students. They were required to pay taxes, were subject to state and federal criminal and civil courts and some of them had served in the military and many had families to support. The composition of the college campus and the students attending it had significantly changed (Kaplin & Lee).

The Rise of Student Consumerism and the Decline of In Loco Parentis

Not until the 1960s, did the doctrine of In Loco Parentis begin to fall from favor, as turbulent societal change combined with a broader reading of students’ rights by the judiciary began (Smith & Purvis, 2007). Unpredictable social and political movements, a demand for greater student rights, evolving educational standards and the setting of new legal precedent led to the decline of In Loco Parentis.
One example of the revolutionary change leading to the decline of In Loco Parentis occurred at the University of California, Berkeley, during the Free Speech Movement protests in late 1964. Berkeley’s campus experienced serious student unrest, student protests and a strike that lasted several months. In protests unprecedented at the time, students insisted the university administration lift a ban on on-campus political activities and acknowledge the students' right to free speech and academic freedom (California Monthly, 1965). Ultimately, Governor Edmund G. Brown and Chancellor Edward G. Strong intervened December 3, 1964 and authorized the arrest of over 800 student demonstrators. In his address to the demonstrators, Chancellor Edward G. Strong stated:

This assemblage has developed to such a point that the purpose and work of the University have been materially impaired. It is clear that there have been acts of disobedience and illegality which cannot be tolerated in a responsible educational center and would not be tolerated anywhere in our society. The University has shown great restraint and patience in exercising its legitimate authority in order to allow every opportunity for expressing differing points of view. The University always stands ready to engage in the established and accepted procedures for resolving differences of opinion. (California Monthly, 1965, p. 59)

The New Relationship between College and Student

In 1961, legal precedent demanded a change in the relationship between student and university as a result of the Court’s decision in Dixon v. Alabama State Board of
Education (1961). The United States Court of Appeals provided greater rights for students and less responsibility for institutions while dealing with pressing issues of civil rights (Smith & Purvis, 2007). In Dixon, six students from an all Black State College participated in an anti-segregation lunch counter sit-in and several mass demonstrations. The students were expelled from their college by the President without notice or an opportunity to be heard. The students sued, asserting their Fourth Amendment right to due process had been violated. The trial Court sided with the college stating the students were impediments to education. On appeal in 1961, the United States Court of Appeals for the Fifth Circuit overturned the decision and ruled that the Constitution “requires notice and some opportunity for hearing” before students can be expelled for misconduct (Smith & Purvis, 2007, p. 4). Another important aspect of the Dixon ruling was the establishment of college enrollment as a formal contract between the student and the school (284 F. 2d 150 5th Cir. 1961).

The new student and university relationship defined by court precedent and the decline of In Loco Parentis meant universities had less control over students and students were treated more like adults (Smith & Purvis, 2007). This viewpoint was re-emphasized by the Court in the landmark case Bradshaw v. Rawlings (1979). Bradshaw and several other young male students attended an on-campus sophomore picnic that was sponsored by the university but not chaperoned. The students consumed alcoholic beverages at the picnic and were involved in a car accident on their way home. Bradshaw, a passenger in the vehicle, was left a quadriplegic as a result of the accident. Bradshaw and his parents sued the university alleging negligence in not providing a duty of care (Smith & Purvis,
The university contended they did not have a duty to supervise the sophomore class picnic unless they had a reason to believe a dangerous activity would be conducted (Smith & Purvis, 2007).

The Bradshaw Court agreed with the university and stated:

The modern American college is not an insurer of the safety of its students. Whatever may have been its responsibility in an earlier era, the authoritarian role of today’s college administrations has been notably diluted in recent decades. Trustees, administrators, and faculties have been required to yield to the expanding rights and privileges of their students. (As cited by Smith & Purvis, 2007, p. 5)

From the 1960s through the early 1980s, In Loco Parentis continued its fall from favor as Courts failed to impose liability against IHEs in cases where criminal acts were committed by a third party not under the control of the college or university. Even if the crime occurred on university property, rarely did liability fall upon the institution. The campus revolutions of the late 1960s and early 1970s contributed to the demise of In Loco Parentis as students protested rigid controls and demanded more student rights (Nero v. Kansas State University, 1993).

The End of Diminished Public Scrutiny

Institutions of higher education have traditionally been subject to diminished public scrutiny regarding crime rates on campus. One of two reasons for the diminished public scrutiny has been offered by King (2009). The first reason for diminished public scrutiny of IHEs is their physically contained and separate nature. They have a quasi-
gated community type feel that is protected and policed by its own security detail. The second reason for diminished public scrutiny of IHEs is the fact they have traditionally downplayed or controlled publication of crimes occurring on campus (King, 2009; Wilcox, Jordan & Pritchard, 2008). Institutions of higher education employ well-trained public relations specialists who carefully word and manage situational events. Internal governance has permitted IHEs to handle crimes occurring on campus through judicial affairs departments that adjudicate campus allegations, including alleged sexual assault, outside the purview of public judgment.

When notorious criminal events occur that cannot be controlled internally by IHEs, such as the massacre of 32 students at Virginia Tech, the media seizes the opportunity to publish the news nationally. The shootings at Virginia Tech gave voice to concerns that university campuses remain, and are, increasingly dangerous places (King, 2009). The aforementioned statement is supported by statistical data that indicated many large college campuses face crime problems that are similar to those of small cities (King, 2009; Jennings et al., 2007).

The Media

The publication of violent criminal events on college campuses in the 1980s and 1990s led to a public demand for federal government intervention. The inexorable media focus on campus crime, an increase in the amount of published studies on campus crime and a public outcry to solve the problem of campus crime consumed the 1980s (Jennings, 2007). According to Riedel and Welsh (2002), reports of crime carried by the media
rarely present a representative view of violence occurring in the United States. The media have presented constructions of violence that come to be accepted as objectively real even though, in many circumstances, what is uncovered by research shows the constructed reality to be grossly exaggerated or nonexistent. The media focuses on drug crazed killers, sadists and serial killers partly because they are associated with unusual forms of violence (Riedel & Welsh, 2002). A homicide on a college campus is still a rare occurrence. However, when violent crimes occur on college campuses, the media is relentless in their pursuit to cover the event. The information portrayed by various forms of media has a profound impact on legislation, policy makers, the public and criminal laws. If it is not spectacular in nature, it is not newsworthy (Riedel & Welsh).

The law which responded to the outcry of victim advocates, the media and others was the Student Right-to-Know and Campus Security Act of 1990 (now known as the Clery Act). This law became the legislative instrument designed to intervene and make campuses safer. The intent of the Clery Act was and is to provide an opportunity for campuses to make available information and security services that would enable students to be well informed and to feel secure while conducting activities on campus. The expected outcome following enactment should have been clear, concise and reliable information about crime on campus. According to King (2009), instead of the expected outcome, the opposite occurred. Fundamental questions have been raised among researchers regarding the validity and overall usefulness of the information generated by the Act. Several researchers indicate the crime statistics contained in the Annual Security Report mandated by the Clery Act actually under represent campus crime because they
measure only crimes reported to police, rather than actual victimization incidents. The Annual Security Report also excludes categories of crime with high incident rates, such as larceny and theft (Fisher et al., 2002; King, 2009).

The Status of Campus Crime

Based upon information from the FBI’s Uniform Crime Reporting program and the US Department of Education’s records mandated by the Clery Act, there were 76 homicides reported on college campuses nationwide between 2001 and 2005. Of the 76 homicides reported, 51 were students, creating an average of ten per year. The majority of the 51 students murdered involved acquaintance killings or drug deals gone bad (Fisher, Sloan, Cullen & Le, 2006). Since 1990, 13 fatal mass shooting incidents have occurred on campuses in the United States. Of the 13 mass shooting incidents, eight were committed by current or former graduate, law or medical students, compared to three by undergraduates and two by non-students (O’Neill et al., 2008). Fatal shootings on campus are definitely on the rise and the judiciary is increasingly holding colleges and university accountable for taking care of their students (Stuart, 2008).

In studies by Bromley and Leonard (1990) and Fisher and Sloan (2003) and Fisher (2008), the most prevalent type of crime occurring on college campuses was larceny/theft. All statistical reports of crime are flawed because they rely on the veracity of victim reporting and many victims fail to report criminal incidents to any authorities (Bennett & Weingand, 1994). To combat the prevalence of crime victim failure to report their victimization, the Bureau of Justice Statistics and the US Census Bureau regularly
conducts crime victimization surveys to obtain voluntary data on victimizations not reported to the police. By comparing the results of these two data sources, a more complete and rounded picture of criminal violence is developed (Riedel & Welsh, 2002). The reporting of a crime appears to be a function of the type and perceived seriousness of the crime (Sloan, 1997). Criminal research indicates that robberies on campus are often committed by strangers. However, at least 75 percent of rapes and assaults were committed by friends or roommates. Rape and sexual assault are believed to be the most unreported crime on campus (Fisher, 1995).

Researchers have concluded that personal characteristics such as age (youthfulness) and members of economically disadvantaged groups are the least likely to report their victimization to the police (Sloan et al., 1997). Common reasons given for failure to report criminal incidents were the viewpoint that the crime was not serious enough to warrant reporting, nothing could be done to catch the suspect or to recover stolen property, embarrassment and/or fear of reprisal (Sloan et al.).

The aforementioned statistics weigh heavily on the administrators’ side of the argument regarding Clery Act effectiveness. This data prompted the inquiry as to whether the Clery Act can be relied upon to give an accurate picture of crime on campus when it focuses on the collection of statistics concerning violent crime? Statistics reveal that violent crime occurs less frequently than property related victimization. The failure of a majority of students to report criminal events to campus security authorities or campus police further complicates the issue of whether or not the data collected by colleges and universities is reliable (Brimelow & Rubenstein, 2001; Biderman & Lynch, 1991).
Victim advocates allege campus crime statistics could be more accurate if efforts were stepped up to increase reporting by victims of sexual assaults. Victim advocates want administrators to stop referring sexual assaults to Judicial Affairs departments for internal adjudication (Security On Campus, Inc., 2008; Leinwand, 2000).

Measurements of Crime

The accurate reporting of campus crime statistics is obviously hampered by student-victim failure to report crimes. Further complicating an accurate view of crime on campus is the fact that statistics published in the Annual Security Report represent crimes reported to campus police or campus security authorities. The crimes have not been investigated, verified or adjudicated. Essentially, the statistics reported in the Annual Security Report are raw numbers, not statistics.

According to Riedel and Welsh (2002), it was important to distinguish between crime rates and raw numbers. Raw numbers are the amount of violent behavior defined by location and time. Crime rates are a measure of the amount of change in relation to some basis of calculation such as population at risk. Crime rates have five components:

1. Amount of crime in questions
2. Population at risk for that crime
3. A constant multiplier such as 100,000
4. Location
5. Time span (Riedel & Welsh, 2002)
The components of a crime rate can be converted to a simple calculation:

\[
\text{Crime Rate} = \left( \frac{\text{Amount}}{\text{Population at Risk}} \right) \times 100,000
\]

In order for a crime rate to be useful there must be a match between the characteristics of the entities in the numerator and denominator. Riedel and Welsh explained the crime rate calculation with a comparison of crime numbers from Dallas and Chicago:

(Dallas) \( 17.5 = \left( \frac{191}{1,091,386} \right) \times 100,000 \)

(Chicago) \( 22.7 = \left( \frac{642}{2,821,032} \right) \times 100,000 \)

Because Chicago has the higher rate of 22.7 murders per 100,000, persons living in that city have a higher risk of becoming a murder victim than those living in Dallas. However, the authors indicated while the amount of murder in Chicago is more than three times that of Dallas, the murder victim rate is less than twice the rate for Dallas when the size of the population is taken into account. Relying only on the amount of murder without taking into account population differences can produce misleading statistics (Riedel & Welsh, 2002). The campus crime statistics reported in the Annual Security Report reflect only crimes that have been reported to campus police and or campus security authorities. The statistics do not take into account the population of the individual campus or the surrounding area population.

Official Crime Reports

The first official source of crime statistics in the United States is the Uniform Crime Reporting (UCR) program administered by the Federal Bureau of Investigation
(FBI). The UCR program was conceived in 1929 by the International Association of Chiefs of Police to meet a need for reliable, uniform crime statistics. The UCR publishes an annual summary of information on crimes reported by police agencies. Initially, reporting crimes to the UCR was voluntary, but as the number of law enforcement agencies grew, the UCR mandated state level reporting systems for police agencies.

The second official source of crime statistics is published by the National Center for Health Statistics (NCHS), which are indicated as vital statistics of the United States. Information in this publication is obtained from death certificates completed by medical personnel across the nation.

The best known collection of crime data in the United States is the National Crime Victimization Survey (NCVS) administered by the Bureau of Justice Statistics. All three of the aforementioned sources receive mandatory information from police agencies and voluntary reporting information from individuals (Riedel & Welsh, 2002). It is a common practice to compare crime statistics from all three sources to compensate for under reporting and in order to obtain an accurate picture of crime in the United States (Riedel & Welsh).

Location, Campus Size and Reporting

One of the first campus victimization studies conducted revealed that the proportion of students living in dormitories and the proximity of the campus to urban areas with high unemployment rates were strong predictors of campus crime (McPeters, 1978; Jennings et al., 2007). A decade later, another study revealed that campus size and scholastic quality were significantly related to higher rates of campus crime (Jennings et
Sloan (1997) reported that 64 percent of crime on campus consisted of burglaries and thefts and ten percent of crime was violent in nature. Jennings et al. (2007) intentionally pointed out that Sloan’s crime estimates must be considered with caution due to the fact that it is suspected crime occurring on college campuses is reported to law enforcement at lower rates than crime in the general population.

Violence against Women on Campus

According to Sloan, Fisher and Cullen (1997), violence against women on the college campus may actually be higher than their victimization when away from campus. These researchers also noted that alcohol and drug use are connected to many of the violent and sex related crimes which occur on campus (Sloan et al.). Brimelow and Rubenstein (2001) found that 86 percent of students surveyed reported a high level of concern about becoming a victim of violence while on campus.

Even though most university students report feeling safe on their campus many reported significant levels of fear while on campus (Fisher & Nasar, 1992). Student fear levels appear accurate as research on campus crime indicates one third of students will be victimized at some point during their time on campus (Fisher et al., 2006. In a survey conducted by Jennings (2007), data revealed 22 percent of respondents reported they had been victims of at least one type of crime (i.e., robbery, sexual assault, assault, battery, theft, burglary or fraud) since enrolling at their university. All of the crimes reported in the study occurred while students were on-campus or in close proximity to campus. According to self-reported campus sexual assaults estimates, 2.5 per 100 students
reported being a victim of sexual assault while on campus (Jennings, 2007). Research also has shown fear among women on campus is overshadowed by their fear of sexual victimization (Fisher & Sloan, 2003). Women are more likely to become victims of sexual violence than men and this engenders a constant and enduring fear of sexual victimization (Fisher & Sloan).

Prevalence estimates of property crime versus personal victimization indicated a greater proportion of students reported being victims of property crime (approximately 17 per 100) compared to personal crime (approximately four per 100). According to Jennings (2007), college students experienced property crime victimization approximately four times as often as personal crime victimization.

The Population of Higher Education

According to Beh (2000), between 1960 and 1990, the number of institutions of higher education increased by fifty-seven percent from 2008 to 3535. The number of college students increased by 346 percent, from just over 4.1 million in 1961 to almost 14.2 million in 1991 (Beh). During periods of reduced or low enrollment institutions engage in sharp recruitment practices and compete for students among colleges. Institutions have developed new academic programs and majors to attract students and have actively engaged in marketing of their image. Colleges market themselves through glossy catalogs that make representations and promises to students. As federal financial aid, scholarships and grants made attending college easier for more and more students,
the student population swelled. Two prevalent differences were quite notable, the composition of students and their attitude toward institutional administration (Beh, 2000).

The Resurrection of In Loco Parentis

The thirty year decline of In Loco Parentis came to an end in the 1980s when a new line of campus liability cases ushered in a resurrection of the disfavored doctrine. The resurrection cases imposed new duties upon IHEs and demanded they expand their control over campus life and provide greater safety for students (Smith & Purvis, 2007; Smith, 1989). This change came in response to rising rates of crime on campuses, societal change and a new relationship between the student and the university or college. The resurrection of In Loco Parentis placed the student in a ‘special relationship,’ of dependence upon their college or university. In situations where it was ‘foreseeable,’ that campus crime might occur, IHEs, and individual administrators, who failed to take adequate protective steps or failed to give adequate warning of risks may be liable to student victims. The defining appellate cases follow:

Conceivably the most significant case contributing to the resurrection of In Loco Parentis and a 1980s definition of ‘foreseeability’ is Miller v. State of New York (1984). In this case, a nineteen year old student was kidnapped from the laundry room of her dormitory at 6:00 am by a man wielding a knife. The student was blindfolded by her assailant, led through several unlocked entrances to dormitory rooms and eventually raped twice under threat of death on the third floor of her dormitory. Investigation revealed the student-victim herself had previously complained to residence hall advisors of nonresidents loitering in the building. Numerous crimes had occurred in the
dormitories, including rape, which had been reported in the school newspaper. The student-victim filed a lawsuit seeking damages for failure to provide minimum security measures for residents of the dormitory. The trial court in Miller ruled the attack was ‘foreseeable,’ and awarded the student-victim $400,000 in damages. The trial Court found that by failing to lock the outer doors of the dormitory, the institution had breached its duty to protect its tenants from reasonable foreseeable criminal assaults by outsiders, and the failure to lock the doors was the proximate cause of the rape. On appeal, the case was dismissed on the grounds that the student-victim’s claim was based upon the State’s failure to provide adequate police protection. The Appeals Court found the university owed no duty to Miller. Unwilling to give up, Miller appealed the decision and won again (Smith & Purvis, 2007). The Court stated:

The university is held to the same duty as private landlords in the maintenance of physical security devices in the building itself; that having locked doors in the dormitory falls within the scope of the State’s proprietary function as landlord, and that there was sufficient evidence to support the Trial Judge’s conclusion that the State’s failure to lock the outer doors was a breach of the State’s duty and a proximate cause of the rape. (As cited by Smith & Purvis, 2007, p. 7)

In 1983, one year earlier than the Miller verdict, a similar ruling was handed down by the Massachusetts appellate court in the case of Mullins v. Pine Manor College (1983). This case also involved a female student who had been raped in her dormitory. Prior incidents of violent crime had occurred in the student-victim’s dormitory while complaints of inadequate dormitory locking systems and a lack of security guards were
ignored by university administration. This case achieved a high level of notoriety because in addition to a judgment against the college itself, a personal verdict of $175,000 was affirmed on appeal against the college’s Vice President of Operations for failure to oversee the adequacy of campus security (Smith, 1998).

In Mullins, the Court stated:

The fact that a college need not police the morals of its resident students, however, does not entitle it to abandon any effort to ensure their physical safety. Parents, students, and the general community still have a reasonable expectation, fostered in part by colleges themselves, that reasonable care will be exercised to protect resident students from foreseeable harm. (Smith, 1998, p. 3)

The Courts continued to expand the responsibilities of IHEs in case of Jesik v. Maricopa Community College (1984). The court in Jesik defined the duty of campus police to intervene in an argument between students while on campus property. Peter Jesik was registering for fall classes in the college gymnasium when an argument erupted between him and Charles Doss, a fellow student. Doss told Jesik he was going home to get his gun and would return and kill him. Jesik told Scott Hilton, a campus security guard what had happened and received an assurance of help and protection. When Doss returned, Jesik appealed to Hilton, the security guard for assistance. The guard then talked to Doss, but did not search his briefcase. Once Hilton walked away, Doss pulled a gun from his briefcase and shot and killed Jesik. The Arizona Supreme Court held the statutory duty of adequate supervision coupled with notice imposed a specific duty to exercise reasonable care to protect Jesik (Smith & Purvis, 2007). The college owed Jesik
a higher duty of protection than it owed the public in general. The college had failed to exercise reasonable care to protect Jesik from foreseeable criminal harm (Smith, 1998).

The duty of reasonable care for college and university campuses returned in 1984, with legal precedent established in the landmark case, Peterson v. San Francisco (1984). In April 1978, student Kathleen Peterson was violently assaulted by an unidentified male while ascending a stairway from a lower campus parking lot. The attack occurred at the same campus location where numerous prior violent attacks had occurred and which was surrounded by untrimmed foliage near the stairway. Peterson sued San Francisco Community College on the grounds that the college had a duty to protect her and to warn her of known dangers on campus.

In 1983, the first Peterson trial resulted in a verdict for the college, finding it was not liable for her injuries. However, on appeal, the Supreme Court of California reversed the original decision and held the community college district had a duty to exercise due care to protect students from reasonably foreseeable assaults on campus. The college had breached its duty of reasonable care because the parking lot was poorly lit, surrounded by thick, untrimmed foliage and several prior attacks had occurred at the same location. The college was aware of prior assaults in the parking lot and had failed to notify students of the danger (Smith & Purvis, 2007).

Ultimately, from a legal perspective, the resurrection of In Loco Parentis can be equated to the finding of a special relationship between a college or university and the injured party. The Restatement (Second) of Torts § 323 (1963) provided:
There is no duty to control the conduct of a third person as to prevent him from causing physical harm unless (a) a special relationship exists between the actor and the third person which imposes a duty upon the actor to control the third person’s conduct, or (b) a special relationship exists between the actor and the other which gives to the other a right to protection. (Kaplin & Lee, 1995, p. 396)

When IHEs make the decision to build, maintain and operate dormitories and other on-campus residential housing, they owe a legal duty to use reasonable care under the circumstances to protect the occupants of that housing from foreseeable criminal conduct (Nero v. Kansas State University, 1993).

The Federal Government’s Response to Campus Crime

Not until 1990, with the enactment of The Crime Awareness and Campus Security Act of 1990, an amendment to the Higher Education Act of 1965 (HEA) were IHEs required to “provide information and statistical data concerning crimes occurring on their property to the general public or to state or federal governments” (Fisher, 2003, p. 3). The Crime Awareness and Campus Security Act of 1990 (Title II of Public Law 101-542), required IHEs accepting federal Title IV financial aid funds, to report campus crime statistical data and campus safety policies, annually to the Department of Education via their dedicated website and to also publish this information to current and prospective students, faculty and staff by October 1st each year (Security On Campus, Inc., 2000). The annual compliance requirements of the Clery Act have evolved from its enactment in
1990, through several amendments designed to solve and eradicate ambiguities and provide greater compliance direction to administrators (Security On Campus, Inc., 2008).

*Amendments to the Crime Awareness and Campus Security Act of 1990*

The first amendment to the Clery Act occurred April 9, 1991 (Public Law 101-542) and changed two provisions: 1) the initial collection of statistics was changed from September 1st to August 1, 1991; and 2) the crime statistics reporting period was changed from school year to calendar year (Security On Campus, Inc., 2008).

The second amendment to the Clery Act occurred July 23, 1992, (Section 486(c) of Public Law 102-325) and broadened sexual assault reporting and added the requirement that institutions have sexual assault policy statements (Security On Campus, Inc., 2008).

The third amendment to the Clery Act occurred October 7, 1998, (Section 486(e) of Public Law 105-244) and 1) expanded the crime categories that must be reported; 2) added the mandate requiring reporting by geographical location; 3) expanded the definition of “campus;” 4) expanded reporting requirements for hate crimes; 5) added the mandate of a public crime log; 6) imposed a fine of $25,000 per violation; and 7), renamed the Act after Jeanne Clery (Security On Campus, Inc., 2008).

The Clery Act was amended for the fourth time October 28, 2000 (Section 486(e) of Public Law 105-244) and added the mandate that the campus community be provided notice of where public sex offender registration on campus can be located (Security On Campus, Inc., 2008).
On August 14, 2008, the Clery Act was significantly amended partially in response to the tragedy at Virginia Tech and in response to Eastern Michigan University’s handling of the murder of Laura Dickinson (Carter, S. personal communication, 2008). The new mandates took effect immediately and are as follows:

1. **Campus Emergency Response & Immediate Warning:**

   The *Higher Education Opportunity Act* (HEOA) adds a statement of “emergency response and evacuation procedures” to the Clery Act Annual Security Report (ASR) produced by institutions of postsecondary education. The policy disclosure “shall include” a statement that the institution will “immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff” on campus (as defined in the Act). Warnings may only be withheld if they would compromise efforts to contain the emergency. *Accompanying “report” language calls for warnings to be issued “without any delay” following confirmation of an emergency;*

2. **Hate Crime Reporting:**

   HEOA expands hate crime statistics reported under the Clery Act to include larceny-theft, simple assault, intimidation, and vandalism;

3. **Law Enforcement Authority & Agreements For Investigating Crimes**

   HEOA expands the existing statement of policy on the law enforcement authority of campus security personnel to also include a disclosure about whether or not institutions have agreements, such as a written memorandum
of understanding (MOU) with state and local police, for the investigation of alleged crimes;

4. Whistleblower Protection & Anti-Retaliation:

a. HEOA establishes safeguards for “whistleblowers” by prohibiting any retaliatory action against any individual “with respect to the implementation of any provision” of the Clery Act.

5. US Department of Education Reporting:

HEOA requires the US Department of Education (DOE) to report to Congress annually on Clery Act compliance and their work to implement the law. It also authorizes, but does not require, DOE to consult with the US Department of Justice (DOJ) about the development & dissemination of “best practices” on campus safety and emergencies.

6. Technical Amendments:

HEOA exempts foreign institutions located abroad from Clery Act reporting obligations and would change references to named Congressional committees to “authorizing” committees.

Complaints Regarding the Clery Act

Even though the Clery Act has existed for twenty years at the time of this writing, it is still considered by many college administrators and scholars to be burdensome, ambiguous and unreliable (Hartle, 2001). Administrators have made known their distaste for the federal intrusion into internal university affairs and their scholars have published numerous studies defining their skepticism of the Clery Act’s ability to fulfill its own
objectives (Janosik, 2002; Janosik & Gregory, 2002, 2003, 2009; Janosik & Gehring, 2001). Administrators have attacked the legal requirements of the Clery Act verbally in the corridors of their campuses and in published articles designed to criticize the federal government’s intrusion into their domain (Hartle, 2001).

Janosik, Gehring and Gregory

*Student Awareness of the Clery Act*

Discovering a deficit of scholarly research regarding many aspects of the Clery Act, Janosik and Gehring (2001) conducted the first national study on the impact of the Clery Act on student behavior. This initial study focused on two areas: 1), student awareness of the Clery Act; and 2), if students changed their behavior as a result of the statistical information mandated by the Clery Act. In this study Janosik and Gehring defined the purpose of the Clery Act as two-fold.

First, by requiring institutions to report specific crime statistics, open their criminal activity logs, and share information about their crime prevention programs with prospective students and their parents so information about campus safety can be factored into the college choice decision. Second, by notifying students, faculty, staff, and other of criminal activity occurring on campus, individuals can be made aware of the potential risks and make active choices about personal behavior. (Janosik & Gehring, 2001, p. 1)

The sample for the survey was obtained from a list of voting delegates of the National Association of Student Personnel Administrators (NASPA). The sample was
narrowed to NASPA delegates serving undergraduate students and resulted in 305 administrators or 30.6%. The sample included three, two year private institutions (.1%), 30 two year public institutions (10%), 137 four year private institutions (45%), and 135 four year public institutions (44%). Administrators were asked to draw a random sample of 30 students, representative by gender, from each of their campuses for the study. On behalf of the researchers, administrators distributed 9,150 questionnaires to undergraduate students. A total of 3,866 (42%) were returned to Janosik in useable condition, representing 2,286 (59%) women and 1,575 (41%) men (Janosik & Gehring, 2001).

The instrument designed for the study consisted of thirteen questions addressing three areas:

1. Whether students knew of the Clery Act’s existence;
2. If the students had changed their behavior in response to attending campus crime prevention programs
3. If the students had changed their behavior in response to reading information in their institution’s annual report.

The questionnaire was designed to categorize responses by a) gender; b) victim or non-victim status; c) institutional type: public or private; d) location of institution: urban or rural; and e) size of institution: under 5,000 students or over 5,000 students (Janosik & Gehring, 2001).

Data pertaining to student awareness of the Clery Act revealed slightly more than one-fourth or 27% of student respondents were aware of it. Only 24% of students recalled
receiving information on the Act in admissions materials and 22% recalled receiving the Annual Security Report from their institution. Twenty-two percent of responding students recalled actually reading their institution’s Annual Security Report (Janosik & Gehring, 2001).

Taking gender into account, data revealed men were significantly more likely to be aware of the Clery Act and to have read the Annual Security Report. Alternatively, women were more likely to have read ‘other campus materials,’ to inform themselves about crime on campus. Sixty percent of responding students had read ‘other crime related reports,’ such as news articles or flyers produced by their institution (Janosik & Gehring, 2001).

With regard to victim status, data revealed 562 or 15% of respondents had become victims of some type of criminal activity while enrolled at their institution. Surprisingly, of these victims, men comprised 17% and women twelve percent. Respondents who reported being victimized were more likely to know of the Clery Act, but were no more likely than their non-victim counterparts to recall receiving the Annual Security Report or using the information contained in it (Janosik & Gehring, 2001).

Notable differences in data surfaced concerning student respondents from private institutions and smaller colleges. These students were significantly more likely to remember receiving the crime summary contained in their admissions packet and had used the summary in their college choice decision. These students were also more likely to remember receiving their institution’s Annual Security Report, to have read the report
and read other awareness materials such as flyers, posters and newspaper articles distributed by their institution (Janosik & Gehring, 2001).

Two significant differences in the data were found with regard to location of institution. The first distinction found students attending urban institutions were more likely to have read ‘other awareness materials’ about campus crime or crime prevention than students attending rural institutions. Based upon this distinction Janosik and Gehring (2001) concluded students attending urban institutions were significantly more likely to change the way they moved around campus.

Respondents attending institutions of less than 5,000 students were significantly more likely to have recalled receiving the crime summary in an admissions packet, recalled reading it and used it in their college choice decision. Student respondents in this category were also significantly more likely to have remembered receiving their institution’s Annual Security Report and to have attended crime awareness or crime prevention programs (Janosik & Gehring, 2001).

Student respondents attending institutions of more than 5,000 students were significantly more likely to have read other kinds of campus crime awareness and prevention materials. Based on this information, Janosik and Gehring concluded students attending institutions with more than 5,000 students were significantly more likely to have changed the way they moved around their campuses (Janosik & Gehring, 2001).

In response to their first line of inquiry pertaining to student awareness of the Clery Act, Janosik concluded a majority of students remain unaware of the Act and do not
use the information contained in the summary of crime statistics known as the Annual Security Report (Janosik & Gehring, 2001).

The study’s second area of inquiry asked whether students had changed their behavior in response to attending campus crime prevention programs. Data indicated 27% percent of responding students had attended a crime prevention or awareness program, whose existence was mandated by the Clery Act. Women were more likely to have changed the way they protected themselves, their property or moved about campus. Women were also found more likely than men to report criminal activity. Respondents who had been victims of crime were significantly more likely to have attended a crime prevention or awareness program, to have changed the way they protect themselves and their property and changed the way they moved about campus (Janosik & Gehring, 2001).

The last area of inquiry asked whether students had changed their behavior in response to reading information in their institution’s Annual Security Report. Data revealed only of responding students used crime statistics, eight percent as part of their college choice decision making. A small difference was noted in that ten percent of students attending private institutions and ten percent of students attending institutions with enrollments of less than 5,000 were more likely to incorporate crime information into their college choice decision (Janosik & Gehring, 2001). Of the students surveyed, 89% reported feeling safe or very safe on their campus and 75% reported feeling safe or very safe off campus. While acknowledging 15% of student respondents had been the victim of a crime while enrolled on their campus, Janosik and Gehring reported their data
comports exactly with existing conclusions of the US Department of Education on campus crime. In 2001, the Department of Education reported that incidences of crime on college campuses were much lower than the nation as a whole.

Despite recognizing students’ lack of motivation to read crime reports as a factor influencing how students respond to issues of campus crime and safety, Janosik and Gehring (2001) opined the energy and emphasis devoted to the reporting requirements of the Clery Act may be misplaced. They concluded that data offers evidence students might be better served through administration’s focus on the development of services and programs that seem to make a difference rather than a statistical report of campus crime statistics. Data from Janosik and Gehring’s first national study on the impact of the Clery Act on student behavior initially appear to support the assumption that the majority of students are unaware of the Clery Act, do not use the Annual Security Report in their college choice decision and do not modify their behavior because of it.

View of Campus Law Enforcement Officers on the Clery Act

One year later, Janosik partnered with Dennis Gregory (2002), an Assistant Professor of Educational Leadership at Old Dominion University to research the views of senior campus law enforcement officials on the Clery Act. This study focused on the Act’s effect on campus law enforcement practices at IHEs. For this study Janosik and Gregory defined the major purposes of the Clery Act as:

(a) impose a standard method by which colleges and universities report campus crime for colleges and universities, (b) force the sharing of this information so that parents, students, employees, and applicant groups can make better decisions
and (c) reduce criminal activity on college campuses. (Janosik & Gregory, 2006, p. 5)

This study served to fill another void in existing scholarly research on the Clery Act and again addressed the unremitting disagreement over the effectiveness of the legislation. The debate portrayed institutional authorities as manipulating or hiding crime on their campuses to protect their image and reputation (Janosik & Gregory, 2002). The sources of this debate have been attributed to victim advocates, such as the Clery family, some legislators and print and broadcast media (Janosik & Gregory).

The sample for this study was derived from the International Association of Campus Law Enforcement Administrators (IACLEA) which served as the professional association for campus law enforcement. A 47 item, forced choice questionnaire was designed, using some material from an earlier survey conducted by Janosik (2001). Reliability of the earlier instrument, using a student sample of 3,150 respondents, was determined to be .76, when the Cronbach Alpha model was used (Janosik & Gregory, 2002).

The survey asked five research questions:

1. How has the Clery Act changed the nature of law enforcement on college and university campuses?
2. How are institutions distributing mandated ASR reports to their constituents?
3. Has the Clery Act had any impact on reducing campus crime?
4. Do campus law enforcement officials perceive that the Act has influenced student behavior?
5. Are college administrators hiding reported incidents of campus crime?

Thirty-seven questions addressed law enforcement practices affected by the Act and ten questions requested demographic data from respondents. Janosik addressed content validity of the instrument by requesting a review of it by a panel of student affairs and campus law enforcement officials chosen by the researchers. The survey was distributed by mail to the leading IACLEA member at 944 institutions with instructions to return via a prepaid envelope.

Results included 371 questionnaires returned producing a response rate of 39%. Janosik determined reliability for the questionnaire to be .78 when the Cronbach Alpha model was used. Janosik and Gregory (2002) acknowledged interpretation of the data was hampered due to the low response rate and inability to check for response bias among non-respondents. The sample population consisted of 83% chiefs of campus police and 17% from other senior law enforcement officers. Ninety-six percent were members of IACLEA and 74% sworn law enforcement officers. Public institutions represented 62% of respondents and private IHEs 38%. Forty-two percent of respondents were employed at IHEs with fewer than 5,000 students while 58% worked at IHEs with more than 5,000 students. The location of respondents’ institutions were almost equally divided with 49% urban IHEs and 51% rural IHEs. All respondents were aware of the Clery Act and were involved in developing or assisting with their preparation of their institution’s Annual Security Report (Janosik & Gregory).

As to whether the Act had changed the nature of campus law enforcement, 57% indicated it had been effective or very effective in improving the quality of campus crime
reporting procedures. Forty-three percent indicated the Clery Act had served as a stimulus for improving campus law enforcement policies and procedures and 37% gave recognition to the Act for being effective or very effective in increasing the number of campus safety programs. Data revealed law enforcement officials at private IHEs were much more likely to report the Clery Act had been a positive stimulus for improving law enforcement procedures than their public IHE counterparts (Janosik & Gregory, 2002).

A majority of the data developed from this study indicated the Clery Act had improved the quality of campus crime reporting procedures, has stimulated improvement in campus law enforcement procedures and has increased the number of campus safety programs. Despite the low response rate for this study, this data provided optimistic and constructive evidence that the compliance requirements are slowly fulfilling the intended goals of the Clery Act.

Janosik and Gregory (2002) discovered some irregularities regarding compliance at some of the respondent institutions. Under the Clery Act, the collection, classification and compilation of campus crime statistics into an Annual Security Report (ASR) must be followed by its annual distribution to current and prospective students and employees. The exact mechanism of publication is not prescribed by the Clery Act. Data indicated 38% of IHEs use more than one method of distribution. Seventy-eight percent of IHEs that post the ASR data electronically also notify constituents, in writing, the data is available. Accordingly, the data allowed the assumption that 22% of respondents in the study are not in full compliance with requirements of the Clery Act. Only ten percent of respondents indicated a belief the ASR helped to change how students protected their
property while 24% said the distribution of the ASR led to an increase in student confidence in their department (Janosik & Gregory, 2002).

Under the Clery Act, an IHE that maintains a campus police department or security department is required to maintain a daily campus crime log, which must be made available to the public during normal business hours. All campus law enforcement respondents in Janosik’s study indicated they maintained a daily campus crime log and made them available to the public (Janosik & Gregory, 2002). With regard to this particular mandate confusion or ambiguity did not appear to exist.

When respondents were asked if the Clery Act had any impact on reducing campus crime, 70% of respondents reported campus crime rates had remained relatively constant since its passage. Ninety percent of respondents said the act had no impact on campus crime (Janosik & Gregory, 2002).

Arguably, the most important and positive finding of Janosik and Gregory’s (2002) study on law enforcement views on the Clery Act indicated 53% of respondents believed providing campus programs encouraged by the Act increased student confidence in their institution’s police force. Once again, private versus public institutions provided different data and indicated private IHEs were more likely than public IHEs to report a perceived increase in confidence in campus police as a result of the activities and programs connected with the Clery Act.

An overwhelming majority, 91.5% of respondents in this law enforcement study, denied college administrators were hiding incidents of campus crime on their campuses. The remaining 9.5% of respondents who indicated crime was being hidden on their
campus, attributed 4.6% of the conduct to chief student affairs officers and 1.2% to judicial affairs officers (Janosik & Gregory, 2002).

Accordingly, the data permitted the assumption that if concealment of crime on campus occurred; it was not perpetrated by law enforcement officers and was occurring at very low rates. Due to the low response rate of sample participants caution must used in translating this outcome to the general population.

Two areas of concern surfaced in the Janosik and Gregory study. First, data revealed 22% of respondents did not notify their constituents in writing, when crime data was available on their website or how to locate the data. Second, twelve percent of respondents did not make public upon request, crime reports when the release would not affect pending investigations (Janosik & Gregory, 2002). Janosik and Gregory concluded the failure to notify constituents that crime data is available and how to find it and the failure to make crime reports available not affecting pending investigations, are violations of the Act.

The conclusions drawn from the data by Janosik and Gregory are:

1. The Clery Act has had minor positive effects on some campus law enforcement practices.
2. Crime reporting has improved, but has been proven ineffective.
3. Decreases in campus crime, where they have occurred, are perceived not to be a result of the Clery Act.
4. Improvements in the quality of campus police policies and procedures have not been perceived to be occurring.
5. Changes in student behavior are more affected by campus programs and publications than by the crime reports themselves. (Janosik & Gregory, 2002)

The authors recommended the following steps be taken to bring the results of this study in alignment with the purposes of the Act:

1. Focus on the development of services that make a difference. (i.e., conduct workshops or seminars to inform students on how to protect themselves and their property).

2. Develop publicity campaigns that focus on safety and include in them in the campus newspaper.

3. Presidents should address campus safety in their fall convocations and invite nationally known speakers to lecture on the need for campus safety.

4. Create better support structures for IHEs struggling to comply with the changing requirements of the Act.

5. Department of Education should provide funding to assist with compliance issues and sponsor regional workshops. (Janosik & Gregory, 2002)

The first three recommendations made by the researchers required steps be taken by institutions rather than the Clery Act. The fourth and fifth recommendations involved increasing the Department of Education’s effort to train and support enforcement of the Clery Act. Since 2002, the US Department of Education (DOE) had funded several grants to Security On Campus, Inc. to conduct regional seminars on compliance and to address amendments to the Act. DOE has also funded and implemented the production of a written handbook on compliance with the Clery Act entitled: The Handbook for Campus
Crime Reporting (2005). Regional seminars on compliance and amendments to the Act are conducted several times per year by Security On Campus, Inc., the 501 non-profit created by the Clery family (Carter, personal communication, 2009).

Parents’ Views on the Clery Act

Another gap in research on the Clery Act was addressed when Janosik (2002) conducted a forced-choice survey study on parents’ views on the Clery Act and campus safety during a freshman orientation. Here, Janosik identified the goal of the Clery Act to be:

(a) to provide consistent crime information so that parents, potential students and potential employees will be better able to evaluate an institution before they make a commitment to it; (b) to educate students and employees about campus crime so that they might better protect themselves from the risks in their campus environment; and (c) to reduce crime (Janosik, 2002, p. 3).

Janosik (2002) began this study with a summary of previous research conducted on the Clery Act. Gehring and Galloway (1997) conducted a survey on practices the of admissions offices, and concluded that IHEs had failed to include appropriate Clery Act material in admissions packets and were still unsure of the Act’s reporting requirements. Janosik (2001) and Janosik and Gehring (2001), found that ten years after the Clery Act was enacted, only 25% of students knew about it or had read mandated crime reports. Janosik and Gregory (2002) assessed views of campus law enforcement officers on the Act and found this group felt the Clery Act did little to reduce crime and the mandated crime reports were not used by students.
This study conducted by Janosik (2002) focused on first year students at a large research institution in the southeast. The sample was gathered during a summer freshman student orientation program where 450 parents were randomly selected when they walked by a checkout table at the conclusion of the two day event. Parent respondents were asked to complete a 24 item, forced choice questionnaire designed for this study. Of the 450 parent participants selected, 424 questionnaires were returned completed at the time of the event. Twenty-six chosen participants chose to take a prepaid return envelope. Eleven of the 26 parent participants, who did not complete the questionnaire at the time of the event, returned it by mail later. Ultimately, 435 useable questionnaires or 97% were returned to the researchers. Data revealed all respondents were parents of first year students. Two hundred thirty-six or 54% of parents were sending their first child to college, whereas 199 or 45% of parents had additional children attending college. Thirty-seven parent respondents or 8.5% had some high school or graduated from high school. The remainder of the sample, or 91.5%, either attended college or graduated college. Twenty-six percent of parent respondents indicated a member of their immediate family had been the victim of a crime. An overwhelming 99.8% of parent respondents thought their child would be safe or very safe on the campus they chose to attend.

Janosik (2002) used four questions to guide his research:

1. Are parents aware of the Clery Campus Crime Act?
2. Do parents use the campus crime information they are provided?
3. What do parents think about the strategies college administrators use to inform students about campus crime issues?
4. How do parents respond to the college administrators who share this kind of information with them?

Data revealed one quarter of parent respondents knew about the Clery Act and 40% remembered receiving the campus crime summary in their student’s admission packet. Janosik (2002) noted parents with less education were less likely to know about the Act; however, he did not determine the difference to be statistically significant. Parent respondents who had an immediate family member who had been a victim of crime were statistically more likely to be influenced by Clery Act information. Twenty-two percent of parent respondents remembered receiving the complete annual security report with 15% reported reading it.

One third of parent respondents thought their student would read the annual crime report and 58% thought if their student read the report, the information would change the way he or she protected property. Fifty-four percent thought the information in the annual crime report would change how students protected themselves from harm. Nine out of ten parent respondents remembered college administrators discussing campus crime issues with them during the orientation. As a result, 84% of parent respondents reported feeling an increased confidence in those responsible for campus safety and 90% of the respondents affirmatively when asked if administrators were forthcoming and candid about campus safety issues (Janosik, 2002). Janosik attributed the positive views held by parents to orientation and campus visit programs that included frequent and honest conversations about campus safety issues which go a long way in assisting parents and students understand inherent risks on college campuses (Janosik). He concluded that: 1)
Despite a ten year effort to increase usefulness of the annual campus crime reports, only one quarter of parents participants knew about the Clery Act; 2) Only six percent of parent participants reported being influenced by any of the material mandated by Clery; 3) Groups specifically targeted by the Clery Act, do not read the Annual Security Reports; 4) Parents perceived the campus and immediate area off-campus as being extremely safe; 5) Parents who had experience with crime in their immediate family were less likely to feel college administrators were being candid about campus crime and were more likely to feel administrators were trying to hide information; 6) Parents were no more aware and knowledgeable of the Clery Act than student groups; and 7), Factors such as academic reputation, cost, distance from home, and attractiveness of the campus most likely remain the dominant points of consideration in the college decision making process (Janosik, 2002).

*Stetson Law Review: How Effective is the Clery Act?*

Janosik partnered with Dennis Gregory (2002) to author a special edition law review article for the Stetson University College of Law. While the article failed to state the reasoning for the atypical authorship, the authors stated purpose was to study the impact the Clery Act has had on higher education and to discuss ensuing commentary and debate concerning the effectiveness of the Clery Act and whether administrators are hiding campus crimes. In this law review article the pair re-visit their pre-existing research questions regarding the effectiveness of the Clery Act: 1) Are students and parents aware of the Clery Act?; 2) Do students or parents use the information provided by the Act in college choice?; 3) Has the Act and its requirements changed student and
employee behavior regarding safety on campus?; 4) Are institutional officials hiding incidents of crime on campus?; and 5) Are college and university administrators and the Department of Education clear about what the Act requires of them?

Janosik and Gregory (2002) delivered percient examples of popular press and other media commentary concerning the Clery Act while commenting on crime in American society, within public schools and on college and university campuses. The authors discuss results of recent studies on the Clery Act and make recommendations for improvement of campus safety programs.

Since enactment of the Clery Act in 1990, The Chronicle of Higher Education has published news articles, opinion pieces and letters to the editor discussing the difficulty administrators have experienced in complying with the Act, while highlighting the mistrust between advocacy groups such as Security On Campus, Inc. and higher education administration. Various articles have described incidents of crime on campus across the nation and have provided startling crime statistics on campus rapes and alcohol and drug violations. Other articles have detailed the plight of university administrators confused about what they should report in the Annual Security Report while accusing administrators of hiding crimes occurring on their campus to preserve their reputation in other articles (Gregory & Janosik, 2002).

Gregory and Janosik (2002) highlighted the mistrust and animus between advocacy groups such as Security On Campus, Inc. and higher education administration concerning compliance with the Clery Act. The authors described an article that contained an allegation that a university public relations director had tried to minimize
the impact of a campus death due to alcohol intoxication. Howard Clery, who was quoted in that article stated: “…it shows that [the university] is more interested in its public image than the safety and welfare of its students” (as cited in Gregory & Janosik, 2002, p. 4).

The authors appeared to diminish requirements of the Clery Act in a January 12, 2000. In an article written by Terry Hartle, Senior Vice President of the American Council on Education, he called for a simpler law and regulations than now exist for the Clery Act. In Hartle’s (2001) opinion:

Rather than focus on essential information, the crime regulations mandate that colleges report everything that anyone might conceivably like to know – be it an arrest for underage drinking away from campus or a violent crime on campus. The law does little to improve safety on campus or to influence student behavior. (p. 53)

Although Hartle’s (2001) article contained numerous suggestions for improvement to the Clery Act, Gregory and Janosik (2002) discussed and concentrated on the following in their law review article:

1). Focus on violent crime rather than all crime;
2). Limit who is responsible for collecting and reporting crime;
3). Clarifying the right to privacy of alleged crime victims;
4. Provide increased support from the Department of Education
5). Ensure adequate training for federal auditors and clarification to campus officials before potentially punitive audits take place. (Gregory & Janosik, 2002), p. 53)

Gregory and Janosik (2002) readily acknowledged Hartle’s (2001) opinion and garnered immediate and substantial criticism from Howard and Constance Clery, representing Security On Campus, Inc. and in the form of a letter addressed to The Chronicle from the Society of Professional Journalists. As Gregory and Janosik poignantly called attention to the vehement response from the Clery’s and the Society of Professional Journalists, they pointed out neither of them responded to the request for improvements in the law made by Hartle.

It is appropriate at this juncture to address Hartle’s suggestions for improvement to the Clery Act.

The first suggestion is to focus on violent crime rather than all crime. Although this suggestion for improvement fails to define what classifications of crime Hartle meant to include in the ‘violent’ crime category, it is reasonable to assume murder, rape, robbery and aggravated assault fit into this category. However, it must be acknowledged that there are crimes that begin as a lower level crime and end up as multiple more serious crimes. An example would be a motor vehicle theft that resulted in an aggravated assault or manslaughter. Hate crimes and arson can also fit into the category of violent crime if they are connected to a more serious crime. Considering the research regarding student victimization is relatively new, much research is yet to be conducted (Fisher et al., 1998). There are many theoretical and empirical gaps which prevent a thorough
baseline analysis. According to Fisher, few broad-based studies of student victimization have been published in scholarly or professional journals. The exception is a study by Sloan et al. (1997).

Despite the lack of peer reviewed studies on student victimization, focusing only on the occurrence of violent crime turns a blind eye to studies that already indicated a majority of the crime that occurs on college campuses is property related victimization (Fisher & Sloan, 2006). To achieve an accurate picture of student victimization, students must report all crimes committed against them instead of failing to report, data regarding the crime must be collected, classified and investigated accurately and ultimately reported and published to appropriate constituents. The literature supporting this line of reasoning is evident.

Many studies have provided data that (Fisher et al., 1998; Miethe & Meier, 1994) variables such as individual-level demographics and lifestyle choices create opportunities for victimization. This same data revealed the one defining characteristic of victims is their youthfulness (Miethe & Meier; Sampson & Lauritsen, 1990). A National Crime Victimization Study (1993) found that 16 to 19 year old individuals had the second highest violent victimization rate in the United States. The twelve to 15 year old age group had the highest violent victimization rate, with 20 to 24 year old individuals holding third place in the victimization hierarchy. It is important to note the results of the National Crime Victimization Study (1993) included thefts and other property crimes.

In a study conducted by Fisher and others (1993), data revealed that individuals ages 18 to 24 comprised 62% of the undergraduate student population, and individuals
age 25 to 34 comprised 46% of the graduate student population. In the 1993-94 academic school year, nearly 15 million college students were enrolled in higher education institutions in the United States. Considering the college population is comprised of a large majority of youthful individuals, age 18 to 24, the sheer size and age of the college student population creates a large pool of youthful, potential victims in a concentrated area called ‘the campus’ (Fisher et al., 1998).

Third, there are four main concepts that explain variables leading to victimization. They are:

1. Proximity to crime – physical closeness to a large number of offenders;
2. Exposure to Crime – one’s visibility and accessibility to crime;
3. Target Attractiveness – having symbolic or economic value to the offender;
4. Lack of Capable Guardianship – ability of person or objects to prevent the occurrence of crime. (Cohen & Felson, 1979)

On the college campus, proximity to crime is maximized when individuals come into routine contact with relatively unknown persons (in a class, at the library, or in student center) or live in buildings, (such as residence halls or dormitories), where there are many unknown residents (Fisher et al., 1998). Research has shown that persons related by primary group ties are more likely to have a mutual interest in each other’s welfare (Cohen & Felson, 1979). The odds of victimization increase when people reside in multiunit dwellings (Miethe & Meier, 1994).

Persons are exposed to higher risks of victimization when their activities and lifestyle, place them in risky or vulnerable situations, under particular circumstances, and
with particular kinds of persons (Miethe & Meier, 1994). The most vulnerable groups for violent victimization are those who engage in public activities at night, such as going to bars or movies (Cohen & Felson, 1979).

Target attractiveness can be created because they have symbolic or economic utility to the offender. The victim can be selected because they are easy to transport or little resistance will be shown should they be taken. A large student body and the volume of property they bring with them offer an ample supply of targets for offenders (Miethe & Meier, 1990).

Studies have also shown that in the context of the college campus, students are poor guardians of themselves and their property. Research has also revealed that students routinely fail to engage in simple guardianship activities that could reduce risk of victimization (Fisher et al., 1997). Examples can be found when students leave their personal belongings such as a backpack unattended while they leave for break or when they walk alone at night to their car after a late night class.

The second suggestion is limiting who is responsible for collecting and reporting crime. The Clery Act specified that Campus Security Authorities (34 CFR 668.46(a) are designated to collect crime data and are defined in the Act as:

1. Campus Police Department or Campus Security Department;
2. Individuals responsible for campus security, including access monitors or resident assistants;
3. Individuals or offices designated to receive crime reports;
4. Officials with significant responsibility for student or campus activities.
The definition of Campus Security Authority (34 CFR 668.46(a)) is defined broadly to accommodate the myriad of institutions that must comply with the Clery Act. The specific number of individuals designated as a Campus Security Authority is dependent upon the size and nature of the institution. For larger IHEs, examples of Campus Security Authorities would be the chief of police, the dean of students, the vice president of student affairs, athletic coaches, and residence life directors. Since Hartle’s (2001) suggestion to limit individuals responsible for the collection of crime data actually lies within the good judgment of the individual institution, it cannot be considered as a valid improvement to the Clery Act.

It is suitable to note that placing the responsibility of an IHE’s compliance with the Clery Act on a single person is not advisable for many reasons. First, the task, depending upon the size of the institution, can be overwhelming. According to *The Handbook for Campus Crime Reporting*, prepared by Weststat, Ward and Lee (2005) and published by the US Department of Education’s Office of Postsecondary Education, ‘coordination of compliance’ is the preferred terminology for this job description because it is not a ‘one person’ job. Second, the choice of one or two individuals as designated compliance officers limits the opportunity for greater levels of collaboration to problem-solve, assess and improve compliance efforts. Third, as indicated by some of the data collected for the three case studies, failure to have more than a few individuals responsible for compliance can lead to allegations of misconduct and can produce inaccurate statistics.
The third suggestion is clarifying the right to privacy of alleged crime victims.

The Family Education Rights and Privacy Act [FERPA] of 1974, (The Education Amendments of 1974), was signed into law August 21, 1974 by President Gerald Ford with an effective date of November 19, 1974. Ninety days after enactment, FERPA was enacted as a new § 438 of the General Education Provisions Act (GEPA) and called the “Protection of the Rights and Privacy of Parents and Students” (20 U.S.C. § 1232g). The amendment was commonly referred to as the Buckley Amendment after its principal sponsor, Senator James Buckley of New York. FERPA was offered as an amendment on the Senate floor and was not the subject of Committee consideration. Congress has amended FERPA a total of nine times in the 28 years since its enactment (Rada, 1998).

When first enacted, FERPA provided parents with the right to inspect and review any and all official records, files and data directly related to their children, including all material that is incorporated into each student’s cumulative record folder, and intended for school use or to be made available to parties outside the school or school system. Included in the materials are: identifying data, academic work completed grades, standardized tests, attendance data, aptitude and psychological tests, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior problems.

Four categories of records were excluded from release under FERPA:

1. Records in the sole possession of instructional, supervisory, and administrative personnel;
2. Records of a law enforcement unit which are kept apart from ‘education records,’ and maintained solely for law enforcement purposes, and not made available to persons other than law enforcement officials of the same jurisdiction;

3. Records of employees who are not also in attendance; and

4. Physician, psychiatrist, or psychologist treatment records for eligible students.

FERPA provided three separate rights to parents and eligible students: 1) The right to inspect, review and access educational records; 2), the right to challenge the content of education records; and 3), the right to consent to the disclosure of education records. The 1994 IASA Amendments made to FERPA added a new sub-section (h) regarding the treatment of disciplinary records, which stated that nothing in FERPA prohibits an agency or institution from including in a student’s records appropriate information regarding disciplinary actions taken against the student for ‘conduct that posed a significant risk to the safety or well being of that student, other students, or other members of the school community,’ or from disclosing that information to teachers and other school officials who have legitimate educational interest in the student’s behavior (Rada, 1998).

According to FERPA, no records can be released without prior written consent from parents, if the student was under age 18, and the release must specify what records are to be released and identify the parties to whom the records may be released. All rights afforded parents under FERPA transfer to the student upon reaching the age of majority.
In 1990, when Congress enacted the Clery Act, a new exception was added to the prior written consent rule:

Postsecondary institutions may disclose to an alleged victim of any crime of violence (as defined in US Code Title 18, §16) the results of any disciplinary proceeding conducted by the institution against the alleged perpetrator of the crime, regardless of the outcome of the proceeding. Congress amended this provision in the Higher Education Amendments of 1998 by including “nonforcible sex offenses” and clarifying that only ‘final results’ may be disclosed (i.e. name of student perpetrator, violation committed and sanction imposed). Written consent is still required to disclose the name of any other student (Rada, 1998, p. 32).

In the 1998 Amendments to FERPA, new exceptions to the prior written consent rule were added. Two of these amendments are relevant to this study. The first exception permitted postsecondary institutions to “disclose the final results of any disciplinary proceeding for a crime of violence or non-forcible sexual offense to anyone, including members of the general public, if the institution determines that the student committed a violation of its rules or policies with respect to the crime” (Rada, 1998, p. 28). The second exception in 1998, allowed institutions of higher education to disclose to a parent or legal guardian information regarding a student’s violation of any law or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the student is under age 21 and the institution determined that the student has committed a disciplinary violation with respect to the use or possession.
The fourth suggestion is to provide increased and better informed support for institutions by the Department of Education. The Department of Postsecondary Education has created an information website concerning compliance with the Clery Act that provides a PDF copy of the Handbook for Compliance and other related training areas. A help desk is available by email and telephone for institutions requiring compliance assistance. Security On Campus, Inc. conducts from four to five regional training seminars annually. The fee to attend one of the seminars is approximately $350.00 and the training is clearly presented. Support and training is already available to IHEs at this time.

The fifth suggestion is ensuring adequate training for federal auditors and clarification to campus officials before potentially punitive audits take place. The training necessary to become a Clery Act compliance auditor by the federal government is well beyond the scope of this study. The Department of Postsecondary Education has indicated a willingness to increase training efforts for the Clery Act.

The Findings

The findings of Gregory and Janosik detailed in the Stetson Law Review (2002) article indicated:

1. Only 25% of student respondents are aware of the Clery Act and recall reading the Annual Security Report;

2. Ten percent of students used the Annual Security Report in choosing their college;
3. Campus law enforcement officials believe the Annual Security Reports are not an effective tool for changing student awareness of crime on campus because students do not read them;

4. The Clery Act appears to have had a positive impact on campus law enforcement practices as 43% of senior law enforcement reported the Clery Act stimulated the improvement of law enforcement policies and practices;

5. Fifty-seven percent of law enforcement officials indicated the Act had been effective in improving the quality of their crime reporting procedures.

Based upon their findings, Gregory and Janosik (2002) made the following recommendations for improvement in increasing the safety of campuses:

1. Campus safety begins on the campus: all campus constituents must contribute and work together;

2. External and internal constituencies must work together: advocacy groups, the media, professional organizations and the DOE must work together to reach the goal of campus safety. Use ‘summits’ to discuss concerns establish common ground and seek mutual solutions;

3. Funding is necessary: Preferably by a non-profit agency that has no stake in the outcome;

4. Create an Office of Clery Act compliance: Within the DOE that is responsible for compliance has expertise and training available;

5. Declare a moratorium on new regulations and new amendments to FERPA for minimum of three years: Campus officials complained the Act has been
amended so many times over the years that individuals charged with compliance are so overburdened and confused about the amendments;

6. Declare a moratorium on punitive enforcement of the Clery Act for minimum of three years: financial penalties are inappropriate at this time without an office dedicated to training in compliance;

7. Campus safety and Clery Act research should increase: Few studies have been completed on campus safety related topics. What has been completed has focused on compliance. Further research is needed;

8. Gain congressional and DOE support for campus safety efforts: DOE should recognize, publicize and reward campuses doing an exemplary job. (Gregory & Janosik, 2002)

The Effect of the Clery Act on Judicial Practices

To assess the perceptions of campus judicial affairs officers regarding the effectiveness of the Clery Act, Gregory partnered again with Janosik (2003). Campus judicial affairs officers are charged with the responsibility of classifying, collecting and reporting crimes reported to them and for reporting arrests and referrals for drug, alcohol and weapon violations for inclusion in the ASR. Campus Judicial affairs officers also adjudicate violations of university student conduct rules and regulations and even conduct that can be criminal in nature.

Using a forced choice survey, the researchers surveyed 1,143 members of the Association for Student Judicial Affairs (ASJA), responsible for compliance with the Clery Act at their institution. The response rate of 36.9% and was comprised of 39%
Senior Student Affairs Officers who supervised at least one judicial conduct administrator, 44% were judicial affairs officers with the remaining 17% indicating they were faculty, graduate students or others. Sixty percent of respondents worked at public institutions and 40% worked at private institutions. Eighty-eight percent of respondents worked at four year institutions with the remaining twelve percent working at two year institutions (Gregory & Janosik, 2003).

Based on a review of existing literature on the Clery Act, Gregory and Janosik (2003) identified seven purposes of the Clery Act: 1) Improving campus crime reporting by forcing colleges to report campus crime data in a more consistent manner; 2) Allowing prospective students and their parents to make informed decisions about the relative safety of institutions to which they are considering applying for admission; 3) Improving campus safety programs; 4) Improving campus police policies and procedures; 5) Raising student awareness and thus changing their safety related behavior; 6) Eliminating the perceived hiding of campus crime by institutional officials; and 7) Reducing campus crime (Gregory & Janosik, 2003).

Student judicial officers are charged with the responsibility of dealing most regularly with student behavior on campus. They are responsible for collecting and providing data regarding student drug, alcohol and weapon violations not resulting in arrest to campus police for inclusion in the Annual Security Report mandated by the Clery Act. Campus student judicial officers adjudicate a wide variety of policy infractions and depending on the design and requirements of the individual campus, these can include: academic integrity, residence hall policies, student government regulations,
club and organization operations and behavior that violates institutional policy and may be considered a violation of criminal and civil laws.

Until this study by Gregory and Janosik (2003), no research had been performed regarding the effect of the Clery Act on campus student judicial practices. Three research questions were used to frame their research:

1. Has the Clery Act changed the nature of student judicial practice on college and university campuses?
2. Has the Clery Act changed the relationship between campus law enforcement and campus judicial officers?
3. Has the Clery Act been effective in achieving its purposes as identified above (Gregory & Janosik, 2003)?

To provide data for the first research question, student judicial officers were asked if the volume of student conduct cases had increased since the passage of the Clery Act. Thirty percent indicated their caseloads had increased and 4% indicated their caseloads had decreased. Following the 1998 amendments to the Clery Act, which required IHE to report as part of their ASR, the number of cases where students have been referred for disciplinary action for alcohol, drug or weapon violations; 30% indicated an increase in cases, ten percent noted a decrease and 58% indicated no change. Thirty-one percent indicated an increase in drug cases since 1998, while 61% reported no change. Eighty-eight percent indicated no change in the number of weapons cases since 1998 (Gregory & Janosik, 2003).
Gregory and Janosik (2003) discovered the following manner in which student judicial affairs officers perceive campus law enforcement officers and vice versa. Campus law enforcement officers saw their role as law enforcement and often felt at odds with student judicial affairs officers, who saw their role as educational. According to the researchers: “Campus police could not understand how judicial affairs officers could ‘slap the wrist’ of offenders and assign research assignments, letters of apology and the like rather than punitive sanctions” (Gregory & Janosik, 2003, p. 768). When asked if the relationship between campus law enforcement and student judicial affairs officers had been improved by the Clery Act, 50% of respondents indicated it had. Although the study did not define the criteria that improved the relationship, Gregory and Janosik opined that increased communication, joint training and a better understanding of mutual responsibilities of each department contributed.

When student judicial affairs officers were asked if they were automatically notified when a student was arrested, 82% responded affirmatively and 15% indicated they were not automatically notified. Student judicial officers at private institutions were determined to be more likely than their public counterpart to contact campus law enforcement when a student was arrested (Gregory & Janosik, 2003).

To answer the last research questions, student judicial officers were asked if they believed students were aware of the Clery Act. Fifty-one percent of respondents believed students were aware of the Clery Act while seven percent stated their students were not aware of the Clery Act. Forty-two percent of respondents were unable to tell if student were aware or not. When asked if the Clery Act was effective in reducing crime on
campus, only two percent of respondents reported it was effective and 50% indicated it was either ineffective or very ineffective. Forty-eight percent of respondents were unable to tell if the Clery Act was effective in reducing crime on campus. Ninety-seven percent of respondents reported their students were safe on campus and 88% reported their students were safe off campus (Gregory & Janosik, 2003).

Conclusions

Gregory and Janosik (2003) concluded that a few good things are happening as a result of the Clery Act. Campus officials are almost universally aware of the Clery Act and campus law enforcement and student judicial officers are working together to produce the Annual Security Report. Awareness and participation rates were lower at the community college level due to fewer crime occurrences and the lack of on campus residences. A majority of judicial officers believe their students are aware of the Clery Act and the Annual Security Report mandated by it. Lastly, judicial officers reported that the safety programs and notices sent to students were having an effect on students’ behaviors with regard to protecting their person and property (Gregory & Janosik, 2003).

Views of Residence Life and Housing Administrators

The Clery Act required institutions of higher education separately report crime statistics for dormitories and other residential facilities for students on-campus. Accordingly, Residence Life and other housing administrators and their staff must collect, classify and report this information to the individual(s) responsible for preparation of the Annual Security Report. The separate reporting for on-campus residential housing is intended to provide direct information to prospective and current
students regarding the relative safety of on campus housing. The views of residential
administrators regarding the Clery Act were first studied by Gregory and Janosik (2006).
After reviewing the most recent data available at the time from the Department of
Education (2003), the authors acknowledged that it appears that on residential campuses
much of the campus crime occurs in residence facilities (Gregory & Janosik). They found
justification for this new study of the views of residential housing administrators because
of the data that had indicated much of campus crime occurs in residence halls.

The stated goal of the study was: 1), to measure how aware senior housing
officials are of the Clery Act and the safety of the campus outside of their area of
responsibility; and 2), to assess the perceptions of senior housing officials as to the
effectiveness of the Clery Act. Gregory and Janosik (2006) received the support and
endorsement of the Association of College and University Housing Officers (ACUHO)
who agreed to forward an email announcing the study to the association’s voting
deleagtes. Through the use of a questionnaire, the researchers surveyed 832 institutional
members of ACUHO, which is the primary professional association for individuals
responsible for student residences on US campuses. A total of 335 ACUHO members
completed and submitted the online questionnaire, for a response rate of 40%. The
researchers noted the reliability of the instrument as .73 using the Cronbach Alpha
Model. The authors acknowledged that the low response rate was a study limitation. The
population of the study was limited to all domestic senior residence life and housing
officers who were members of ACUHO. The sample included only people holding these
positions. The researchers reported that because the demographic characteristics of the
sample are not representative of the population with respect to type and size of institution, results cannot be generalized to the larger population (Gregory & Janosik, 2006).

Respondents were asked if they perceived prospective students were influenced by campus crime statistics in making their college decision. Nearly three quarters or 251 of respondents indicated they did not know the answer to the question. One tenth or nine percent of respondents believed the data influenced college choice and 16% or 53 of respondents perceived the data had no influence. Ninety-eight percent of respondents were aware of the Clery Act and two percent were unaware of it. Eighty-five percent of respondents believed students at their institution were either provided copies of, or directions on how to locate, the ASR for the institution. As the authors expected, 73% of respondents were unaware as to whether students read the crime data reported in the ASR. Eleven percent perceived that students did read the ASR and 13% of respondents believed students did not read the ASR (Gregory & Janosik, 2006).

When asked whether the Clery Act had an impact on changing student perceptions or behaviors, 15% of respondents indicated students changed the way their protected their property while 55% perceived no change in student behavior. The researchers followed up by asking whether respondents perceived their campuses as being safe. Ninety-seven percent perceived their campuses as safe or very safe while the remaining three percent perceived their campus as either unsafe or very unsafe. When queried on whether the Clery Act has had an effect of reducing campus crime, 48% of respondents perceived a lack of knowledge on the topic while 47% of respondents
perceived no reduction in crime. A majority of respondents, 54%, perceived the Clery Act had improved crime reporting while 22% perceived no improvement in crime reporting (Gregory & Janosik, 2006). The final research question concerned whether campus officials were hiding crime was broken down into two parts.

1. Have campus administrators been candid and forthcoming about campus safety issues were hiding campus crime? Ninety-one percent of respondents believed administrators had been open about campus safety issues and seven percent perceived they had not been open about such issues.

2. Have administrators at their institution had attempted to hide campus crime issues from others? Eighty-four percent perceived that crime had not been hidden while eight percent perceived that crime had been hidden (Gregory & Janosik, 2006).

The authors concluded that because a great deal of campus crime occurs in residence halls, it is incumbent upon residence life and housing administrators to become familiar with the requirements of the Clery Act and to gain an understanding of the safety and crime issues that affect their residents. In almost a complete turnaround from prior conclusions drawn by these authors in their research on the Clery Act, they advocated for training in compliance and collaboration with other professionals on campus. The authors found the relative lack of knowledge on the part of senior residence and housing administrators to be troubling.

Why Must Institutions of Higher Education Comply with The Clery Act?
The compliance requirements of the Clery Act apply equally to all public and private institutions of higher education that participate in federal Title IV student aid programs. In order to administer federal student aid programs, institutions of higher education are required to sign Program Participation Agreements (PPAs) with the DOE. The programs include: Pell Grants, Federal Supplemental Educational Opportunity Grants, the Federal Work Study Program, Federal Plus Loans, the Federal Family Education Loan Program, the Direct Loan Program and the Leveraging Educational Assistance Partnership. Each institution must comply with the requirements of the Clery Act from the date their Program Participation Agreements (PPAs) are signed by the Secretary of Education (Westat et al., 2006) DOE is responsible for enforcement actions for non-compliance. Civil penalties for violations can presently result in fines of $27,500 per violation at this time (Campus Crime, 2006).

Victim Advocates Complain Enforcement by DOE is Minimal

In 2006, primarily as a result of complaints of dismal compliance with the Clery Act by IHEs from Security On Campus, Inc. and other victim advocates, Senator Arlen Specter convened a meeting of the US Senate Committee on the Judiciary. Specter requested testimony from the DOE regarding the status of Clery Act compliance and enforcement for alleged violations. Specter requested DOE specifically identify their efforts to provide greater levels of guidance on compliance to IHEs (Campus Crime, 2006).
During the hearing, DOE testified the first compliance violation proceeding launched against an IHE occurred in 2000. Mount Saint Clare College in Clinton, Iowa, was fined $15,000 for failing to include fifteen incidents in required reports from 1993 through 1998 (California State Auditor, 2006). The second DOE compliance violation proceeding occurred in 2005, against Miami University of Ohio. The university was fined $27,500 for improperly withholding written results of a disciplinary proceeding from a sexual assault victim. The third compliance violation proceeding also took place in 2005, and involved Salem International University of Salem, West Virginia. Multiple compliance violations were issued against Salem for failure to report crimes between 1997 and 1999, including five forcible sexual assaults, three robberies and failure to issue and timely warnings to the campus community. DOE issued a fine of $250,000 against Salem, which was later reduced through negotiation to $200,000 (US Senate, 2006).

Although the first DOE enforcement proceeding and fine against an IHE occurred a decade after the Clery Act was enacted, Security On Campus, Inc. has, on many occasions, been contacted by victims for assistance and has been notified of compliance violations in advance of DOE’s knowledge. Security On Campus, Inc. has advised DOE in writing of suspected violations and requested investigations be conducted and fines levied. Unfortunately, DOE’s response to the diligence of Security On Campus, Inc. has been slow (Carter, personal communication, 2008; US Senate, 2006).

During Specter’s 2006 hearing on compliance, DOE officials testified that in June 2005, fifteen years after enactment, they had finally authorized the development of a written handbook for campus crime reporting and compliance with the Clery Act. The
handbook provides the first written guidelines on compliance but does not address conversion of federal reportable crimes to state crime definitions. By 2002, twelve years after enactment, DOE testified they had trained one thousand campus security administrators and other law enforcement officials in compliance with the Clery Act (US Senate, 2006).

The aforementioned testimony appears to provide evidence to support the assumptions that universities are complying with the Act at varying levels while DOE is slow in enforcement practices. It appears the assumption the DOE is failing to enforce the Clery Act on a regular basis and is instead responding to compliance issues only when a tragedy occurs on a college campus is accurate.

The prestige associated with IHEs began with noble and religious beginnings of the first colleges in the United States of America. Administrators fostered and marketed an impression among students, parents, and the general public that college campuses were ivory towers where students commenced enlightening academic journeys and began personal quests for freedom (Roche, 1994). Today, the impression of the college campus as an ivory tower surrounded by towering trees and manicured lawns continue to be perpetuated by glossy college and university catalogs. The collegial environment is depicted as a gentile atmosphere, attracting eager, albeit naïve students while at the same time satisfying parental worries concerning separation.

Campuses have been considered safe havens, with criminal acts occurring outside campus borders, while students inside the border pursued education and matured socially and intellectually (US Department of Justice, 2008). The campus community was safe
because it was comprised of astute faculty, engaging and eager students and well trained staff, all with a common purpose (Schachner, 1938). The classic perception of the college campus as an idyllic, safe, greenbelt location where intellectualism and inquiry converge to produce an educated citizenry is and always has been inaccurate. A review of the literature pertaining to the history of IHEs reveals from their inception, the university campus has had a long and bloody history, mostly hidden from general public view (Roche, 1994)
Chapter 3

METHODOLOGY

Population and Sample

Three institutions of higher education were purposefully selected for this study on the basis of their individual characteristics and the ability to generalize data achieved to larger populations. The population of each institution studied serves different enrollment levels and serves different communities. City University is a public, four year institution serving approximately 30,000 undergraduate and graduate students and is located in an urban setting. University of the West is a four year, private institution serving less than 10,000 undergraduate and graduate students and is located in an urban area. Valley University is a public, four year doctoral granting, research institution serving approximately 30,000 students, and is located in a rural setting.

To address victim advocacy perceptions of compliance, S. Daniel Carter, Vice President of Security On Campus, Inc. was purposefully contacted for an interview. This researcher also attended a compliance training seminar conducted by Security On Campus, Inc., to obtain firsthand knowledge regarding compliance with the Clery Act.

Design of the Study

The research design is a quantitative analysis of the perceptions of individuals charged with complying with the Clery Act at three institutions of higher education. The perceptions of compliance were compared with actual compliance submitted to the
Department of Education by the three institutions of higher education. The perceptions of the victim advocate side of the debate were obtained through the interview of S. Daniel Carter of Security On Campus, Inc. and other college administrators this researcher spoke with during the training seminar conducted by Security On Campus, Inc.

Data Collection

The data collected for this study is intended to provide degrees of evidence that either support or refute the three research questions. The research questions have framed an ongoing debate between administrators of institutions of higher education and victim advocates and the media. Administrators claimed the Clery Act is burdensome to comply with, contains ambiguous requirements and fails to fulfill its own stated intent should be obtained from administrators employed at institutions of higher education. Victim advocates allege administrators are not complying with the Clery Act due to institutional resistance. The media claim administrators are not complying with the Clery Act because they are manipulating crime statistics and hiding crime on campus to preserve their reputation.

Prior to collecting data for this study, this researcher complied with the requirements of her University’s Institutional Review Board and completed and submitted a Human Subjects form which provided proposed qualitative interview questions and identified individuals to be interviewed. The form was approved on November 11, 2008 and returned to this researcher. The approved Human Subject form is attached hereto as Appendix A.
The Administrator’s Perspective

The researcher travelled to each institution studied and conducted personal interviews, using prepared open ended and direct qualitative questions, with the Chiefs of Police, Campus Safety Department personnel, and or Campus Security Authorities responsible for actually preparing or assisting in the preparation of the Annual Security Report, and or other components associated with compliance with the Clery Act. After collecting initial biographical and professional data, the individuals interviewed were asked questions designed to elicit the level of their knowledge of the compliance requirements of the Clery Act. As the interviews progressed, the researcher allowed the individual interviewed to lead the researcher toward various issues and topics of interest.

After identifying the three institutions of higher education to be studied, the researcher identified individuals at each institution who were employed in positions charged with the responsibility of compliance with the Clery Act. The steps undertaken to gain entry to the three institutions are comprised of two methods. For City University and University of the West, the researcher telephoned the Chief of Police at each institution, identified herself as a graduate student writing a thesis on compliance with the Clery Act by institutions of higher education. The researcher asked the Chiefs of Police if they would be willing to participate in the study through a face to face interview conducted in their office at a time and date convenient for them. Both of the Chiefs indicated their willingness to participate in the study. The researcher set a convenient date and time for the interview and confirmed the date via email. The researcher also emailed a list of
prepared questions to the Chiefs in advance of the scheduled date. Neither of the Chiefs requested the interview be anonymous.

The steps undertaken to gain entry to Valley University involved a different method. During the time this researcher was enrolled in courses leading to the Master of Arts degree, a member of her cohort worked at one Valley University in an upper middle level administrative position. This classmate was very interested in the subject of compliance with the Clery Act. During a discussion with the classmate, she mentioned the names of two individuals at Valley University who could assist in this study. This classmate allowed the researcher to use her name when the two individuals were contacted at Valley University. When contacting the two individuals at Valley University, the researcher mentioned her classmate had recommended them for interviews with regard to Valley University’s compliance with the Clery Act. Both agreed to be interviewed for the study; however, each requested the interview be kept anonymous. This researcher set a date and time convenient for both participants and confirmed the interview date in writing. The researcher also emailed a list of prepared questions to them in advance of the scheduled date.

The interviews of the Chiefs of Police at University of the West and City University were tape recorded and the researcher took field notes. The Chief of University of the West was interviewed in a conference room. The interview with the Chief of the University of the West lasted two hours. The Chief of City University was interviewed in his office with the interview lasting two and one half hours.
The interviews at Valley University were not tape recorded at the request of the participants interviewed. The researcher relied on copious field notes. The interviews took place in a conference room with both participants present at the beginning of the interview. Tableau was present for approximately 45 minutes before she received a telephone call to respond to a situation on campus. The remainder of the interview was conducted with Mason alone. The entire interview lasted almost three hours.

The interview questions were designed to draw out individual perceptions of compliance with the Clery Act at their institution. The researcher also inquired as to the individual’s perception of the effectiveness of the Act and the manner in which their institution treated compliance with the Act. The researcher specifically asked questions regarding the manner in which their institution handled compliance with the other requirements of the Act, such as issuance of timely warnings and in the development of sexual assault programs.

The researcher remained neutral and refrained from making any statements during the interviews that could be considered biased for, or against the compliance requirements of the Act. This neutral position maintained by the researcher aided in allowing personal biases and perceptions of the individual interviewed to surface.

Prior to conducting the personal interviews, this researcher accessed the Department of Education’s Campus Security Data Analysis Cutting Tool website and downloaded the most recent Annual Security Reports filed by each of three institutions. The three Annual Security Reports obtained from the DOE website were analyzed for compliance and scrutinized for any obvious irregular data. This researcher then accessed
the home website for each institution and downloaded the Annual Security Reports posted and published by the institution. The two reports were compared to determine if they contained the same figures. Next the Annual Security Reports posted by the institutions were analyzed for compliance with regard to ongoing campus security policy disclosure statements. Then each institution’s website was reviewed to locate information on the availability of the campus crime log. All three institutions maintain a campus police force and as such are required under the Clery Act to maintain a campus police log.

The Victim Advocate Perspective

To collect qualitative data to determine if allegations made by victim advocates are valid, in 2008, this researcher travelled to Lexington, Kentucky where she conducted a personal interview with S. Daniel Carter, Senior Vice President, Security On Campus, Incorporated, the national 501(c) non-profit agency created by the Clery family. Just prior to the interview of Mr. Carter, the researcher attended a compliance training seminar conducted by Security On Campus, Inc. During the seminar, the researcher spoke with many university and college administrators also attending the seminar on behalf of their institution, about their perception of compliance with the Act on their campuses.

Compliance and the Department of Education

For the purposes of determining actual compliance with the Clery Act, the researcher accessed the Department of Education’s dedicated website and downloaded the most recent Annual Security Report filed by the three institutions. The ASR filed with
the DOE was compared to the ASR posted on the institution’s website to determine if they contained the same data.

Using the Clery Act compliance checklist contained in the Department of Postsecondary Education’s Handbook, this researcher used each institution’s ASR and information posted on their websites to determine if the institution had complied with the Clery Act.

Outside Sources

Due to the fact that statistical crime data is innately flawed because some crimes are never reported, often scholars rely upon several different sources to obtain crime data. The Uniform Crime Reports published by the FBI and the Unites States National Crime Victimization Survey are two common measures of comparison. This researcher discovered a new search engine database called NeighborhoodScout.com®. This search engine uses neighborhood statistics to build profiles that allow individuals to compare the crime rates of particular neighborhoods by entering an address. This researcher entered the address of all three institutions and downloaded crime statistics for each for comparison.
Chapter 4

DATA ANALYSIS

Introduction

The separate nature of institutions of higher education has permitted them to internally govern themselves with relatively little federal intervention. IHEs have benefited from federal funding which has brought them numerous resources enabling them to grow their institutions and offer new academic programs. When violent crime came to campus and destroyed the idyllic serenity of academia, advocates, the media and the public demanded federal intervention. Initially, institutional resistance to complying with the Clery Act was significant (Carter, personal communication, 2008). The failure of the DOE to actively enforce the Clery Act permitted institutions to continue to view it as an intrusion into their sanctuary. As crime on campus began to be studied more and more by scholars, it became obvious that violent crime was prevalent, undisclosed and on the rise. In the wake of the Virginia Tech massacre of 32 students, suddenly administrators across the nation took notice and many were proactive and examined their own emergency policies and procedures. While the post Virginia Tech reaction has encouraged administrators to move toward a greater level of compliance with the Clery Act, why did it take them so long?

This researcher sought to interview administrators responsible for compliance with the Clery Act, to gain their personal perceptions of it. On the average, the interviews lasted approximately two and one half hours. The participants were willing to discuss
their background, job responsibilities and how they really felt about the Act. The qualitative interview provides information that an online survey cannot provide. Raw numbers do not supply in depth narrative detail, nor do they permit observation of emotional and physical response.

The interviews produced evidence of a clear demarcation between the manner in which campus law enforcement and campus security authorities’ perceived compliance with the Clery Act. The two individuals interviewed who were employed as Chief of Police/Director of Campus Safety held positive views of the Clery Act. They reported taking active steps to improve campus safety through greater visibility on campus and through the development of communication and training with outside local law enforcement. Both Chiefs interviewed demonstrated great pride in their work on campus and indicated they wanted to continue to improve their duties under the Clery Act.

The interview of the Director of Student Judicial Affairs and the Campus Crime Prevention Program produced different results. This interview with the Director of Student Judicial Affairs lasted approximately two hours. The researcher will refer to the Director of Student Judicial Affairs as “Mason,” to preserve her request for anonymity. Mason expressed frustration with the amount of time and staff that she had to devote to compiling the data for the ASR. The interview was conducted in November 2008, at a time when higher education funding was being attacked from many areas. The pressure to perform more duties with less staff and funding was obvious. Mason did not believe that students were aware of the Clery Act, and believed students did not use it in deciding what college to attend. In her opinion students chose a college because of its academic
programs, location, affordability and reputation. Mason clearly stated her institution took complying with the Clery Act very seriously and regularly collaborated with other campus security authorities on safety issues on campus.

The interview of the Director of the Campus Crime Prevention Program, who will be referred to as “Tableau”, lasted for only forty-five minutes because she was called to handle an emergency on campus. Tableau indicated that administrators at her institution collaborated consistently with members of campus law enforcement, judicial affairs and her department. Tableau indicated that consistent campus crime and regulation violations occurred at fraternities located off campus. Tableau indicated a major concern on campus involved several fraternities who “…acted like gang members and perpetrated a lot of violence” (Tableau, personal communication, 2008).

The law enforcement officials interviewed demonstrated an appreciation for the components of the Clery Act. The Chiefs interviewed supported complying with the Clery Act at the highest level possible to avoid fines, legal liability and to make their campuses safer.

IHEs often feel the bureaucratic red tape pain associated with deflecting precious educational funds from their intended purpose toward efforts to perform what they believe are perfunctory tasks. However, when compliance with the Clery Act is understood and training is provided the process becomes simple.

The first research question explains the compliance requirements of the Clery Act. Once an individual becomes familiar with the three categories of compliance, the Clery Act becomes understandable. Breaking the three components down into simpler tasks
allows an individual to work toward compliance by completing smaller tasks.

Compliance is not a one person job. It requires collaboration, documentation and regular communication. The three institutions studied will be evaluated for compliance with the Clery Act following a discussion of the actual mandates.

Research Question No. 1: The Compliance Mandates of the Clery Act

What are the compliance requirements of the Clery Act and are the mandates framed in an understandable and unambiguous manner that would enable an institution to fully comply?

Compliance According to the Department of Postsecondary Education

Compliance with the Clery Act is more than collecting, classifying and compiling a list of individual campus crime statistics. In addition to collecting campus crime statistics for the preceding three years for inclusion in the Annual Security Report several other mandates are required by the Clery Act. When the Clery Act was enacted in 1990, institutions of higher education did not have the benefit of a handbook or guidelines leading them to a level of full compliance. Fortunately, after years of complaints regarding compliance requirements the federal government, in 2005, funded the preparation and publication of a handbook on compliance with the Clery Act.

The United States Department of Education is charged with the enforcement of the Clery Act. Presently, the fine for a single compliance violation is $27,5000 (Westat et al., 2005). The development and publication of the Department of Postsecondary Education’s Handbook was intended to simplify compliance with the Clery Act. The
Handbook (2005) consists of two hundred pages and is divided into four sections, each dealing with a specific compliance mandate. In the appendices, are examples of letters that can be used to obtain local police data, templates for crime statistics and policy disclosure statements. The Handbook (2005) is written in plain language, is understandable and contains all the information necessary to comply with the Clery Act.

Three Categories of Compliance

The Department of Postsecondary Education’s Handbook has made compliance easier by dividing what is required of institutions of higher education by the Clery Act into three categories:

1. Policy disclosure
2. Records collection and retention
3. Information dissemination

The Handbook breaks each of the three categories down further to focus on individual duties under each category.

Policy disclosure.

Policy disclosure includes providing the campus community and the public with accurate statements of current policies and practices regarding:

- Procedures for students and others to report criminal actions or other emergencies occurring on campus;
- Security of and access to campus facilities; and
- Campus law enforcement.
The policy disclosure requirement is intended to encourage IHEs to focus on crime and security on campus and the prevention of it. This area provides students, employees and others with information permitting them to make informed decisions concerning their personal safety while on campus and what procedures to follow in the event of a crime. When developing policy statements, DOE encourages IHEs to use plain language that can easily be understood by the general public (Westat et al., 2005). The number of students served by an institution of higher education is irrelevant in the development of a policy disclosure statement. If the IHE participates in Title IV federal student financial aid programs, it must develop written procedures that instruct and inform students in various situations.

The policies that must be developed, disclosed to students and staff, and addressed in the Annual Security Report include the following:

1. **Campus Policy for Students and Others to Report Criminal Actions or Other Emergencies on Campus**

   a). **Timely Warning:** The purpose of this policy disclosure is to alert the campus community to potentially dangerous situations that represent a serious or continuing threat to students and employees in a timely manner and to keep the campus community informed about safety and security on campus on an ongoing basis during an event. The policy statement must specify how a ‘timely warning’ will be made to members of the campus community after a Clery Act crime has been reported. The policy should include circumstances for which a ‘timely warning’ will be issued, the
individual(s) or office responsible for issuance of the ‘timely warning’ and manner in which the warning will be disseminated. It is imperative that your institution’s written ‘timely warning’ policy accurately reflects the timely warning system currently utilized by your institution (34 CFR 668.46(b)(2) (Westat et al., 2005).

The strength and quality of an institution’s ‘timely warning’ policy can assist in insulating the IHE from legal challenges or it can pave a steady path to institutional liability.

b). Annual Disclosure of Crime Statistics: The policy disclosure must describe how the IHE’s Annual Security Report (ASR) is prepared, who prepared the report and how and from what sources the crime statistics are collected (34 CFR 668.46(b)(2)(ii) (Westat et al., 2005).

Crucial components leading to a successful compliance in this area are accurate collection, counting, and classification of crime data. On-campus crime data should be collected by employees trained in the proper counting and classification of Clery Act crimes and in the proper collection of supportive documentary evidence.

c). Identify Individuals to Receive Crime Reports and Inform of Confidential Reporting Availability: This policy disclosure must include a list of the titles and contact information of each person or organization the IHE would prefer students and employees report criminal offenses to. The policy must also disclose if the IHE permits confidential crime reporting
2. Campus Policies Concerning Security of and Access to Campus Facilities
   a). This policy must provide a statement describing the security of and access to campus facilities and campus residences. If the campus does not have on-campus residences this policy should state so. Included in this is a statement of how the campus is kept secure and how outsiders are prevented from gaining access to the facilities.
   b). The second part of this policy disclosure should address security considerations, such as how often your campus is examined to determine all security lighting is properly working or foliage is properly trimmed.

Conducting an environmental analysis of an institution’s campus, buildings and facilities on a frequent basis can provide advance notice of areas of concern. Using that notice to inform, the concern can be addressed in advance of an event that may cause injury or damage to a member of the campus community.

3. Campus Policies Concerning Campus Law Enforcement
   a). This policy disclosure must provide a statement indicating if, and how many, campus security personnel are authorized to arrest individuals and their working relationship with state and local law enforcement. The institution must state if they do not have a campus security department or campus security or police personnel (34 CFR 668.46(b)(4)(i) (Westat et al., 2005).
b). This policy must encourage individuals to report all crimes to campus police and police agencies for its institution’s jurisdiction in an accurate and timely manner;

c). Describe procedures, if any, that encourage pastoral or professional counselors to inform those they counsel of procedures for reporting crimes confidentially. If the institution does not use such procedures, state so (34 CFR 668.46(b)(40(iii) (Westat et al., 2005).

4. Policies Describing Programs to Inform Students About Campus Safety Procedures

a). This policy disclosure must provide a statement which describes the type and frequency of campus programs designed to inform students and employees about campus security procedures and to encourage students and employees to be responsible for their own security and the security of others (34 CFR 668.56(b)(5). A list of all programs is not required, just the type and frequency (Westat et al., 2005).

5. Policies on Crime Prevention Programs

a). This policy disclosure must provide a description of campus programs designed to inform students and employees about crime prevention programs available. If there are no such programs, you must disclose this fact (34 CFR 668.46(b)(6) (Westat et al., 2005).

6. Policies Concerning Monitoring and Recording of Criminal Activity through Local Police Agencies
a). This policy disclosure must provide a statement of policy concerning
whether your institution uses local police to monitor off-campus student
organizations officially recognized by your institution. If there are not any
off-campus student organizations, state so (34 CFR 668.46(b)(7) (Westat
et al., 2005).

7. Policies Concerning Alcoholic Beverages
   a). This policy disclosure must provide a policy regarding the possession, use
      and sale of alcoholic beverages and the enforcement of underage drinking
      laws (34 CFR 668.46(b)(8) (Westat et al., 2005).

8. Policies Concerning Illegal Drugs
   a). Provide a statement of policy regarding the possession, use and sale of
      illegal drugs and enforcement of federal and state drug laws (34 CFR
      668.46(b)(9) (Westat et al., 2005).

9. Policies on Drug or Alcohol Abuse Educational Programs
   a). Provide a description of the institution’s drug or alcohol abuse
      education programs as required under Section 120(a through (d) of the
      HEA. For this requirement an institution may cross-reference materials it
      uses to comply with the HEA (34 CFR 668.46(b)(10) (Westat et al., 2005).

10. Campus Policy Regarding Sexual Assaults Programs to Prevent Offenses and
     Procedures to Follow When a Sexual Offense Occurs
a). This policy disclosure must provide a description of educational programs to promote awareness of rape, acquaintance rape and other forcible and non-forcible offenses (34 CFR 668.46(b)(11)); and

b). Procedures students should follow if a sex offense occurs including who should be contacted, the importance of preserving evidence and to whom the offense should be reported. The Clery Act does not specify whom to contact or to whom the offense should be reported. It requires this information be included in the institution’s procedures (34 CFR 668.46(b)(11)(ii));

c). The policy must contain information on a student’s option to notify appropriate law enforcement authorities and a statement that institutional personnel will assist the student in notifying such authorities if the student requests assistance in doing so (34 CFR 668.46(b)(11)(iii));

d). Notify students of existing on-campus and off-campus counseling, mental health or other student services for victims of sexual offenses (34 CFR 668.46(b)(11)(iv));

e). Notify students that the institution will change a victim’s academic and living situation after an alleged sexual offense, and options for those changes if requested by the victim and are reasonably available (34 CFR 668.46(b)(11)(v)); and

f). The procedures for campus disciplinary action in cases of alleged sexual assault must contain a clear statement that the accuser and the accused are
entitled to the same opportunity to have others present during a disciplinary proceeding and both must be unconditionally informed of the outcome of any institutional disciplinary proceeding (34 CFR 668.46(b)(11)(vi)(A)&(B);
g). A list of sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape or other forcible or non-forcible sex offenses (34 CFR 668.46(b)(11)(viii) (Westat et al., 2005).

11. Advising the Campus Community about Sex Offenders

a). A statement must be provided advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained. Institutions are not required to disseminate this information (34 CFR 668.46(b)(12);

b). Institutions of higher education are not prohibited from disclosing information about registered sex offenders on the basis of FERPA.

The second category of compliance with the Clery Act involves the correct collection, counting and classification of campus crime statistics for inclusion in the Annual Security Report, the duty to maintain a campus crime log, the duty to obtain crime statistics from local law enforcement and the retention of records documenting institutional efforts in this area.
Records collection and retention of data.

1. Institutions are required to keep some campus records and to request records from local law enforcement agencies:

2. Institutions must keep records of crime reported to Campus Security Authorities 34 CFR 668.46(a);

3. Institutions must make a reasonable good-faith effort to obtain certain statistics from appropriate law enforcement agencies to include in Annual Security Report 34 CFR 668.46(b) and the Web-based report to DOE;

4. If an institution maintains a campus police or campus security office, they are required to keep a daily crime log that must be open to public inspection 34 CFR 668.46(f) (Westat et al., 2005).

An IHE must prescribe a group of individuals who will serve as Campus Security Authorities. These individuals designated as Campus Security Authorities must be trained and informed of their responsibilities for Clery Act reporting. Campus Security Authorities are usually individuals who have significant responsibility for student and campus activities, student housing, student discipline or judicial affairs. Members of the campus police or campus security department are automatically considered Campus Security Authorities.

When choosing individuals to become a Campus Security Authority, their relationship with students and the function of their office is decisive. Campus Security Authorities have the duty to report to appropriate law enforcement, campus or local police, a Clery Act crime, reported to them, which they conclude has been made in good
faith. Campus Security Authorities must prepare a written report on crimes reported to them. The collection of crime reports made to Campus Security Authorities for inclusion in the Annual Security Report is left up to the IHE to determine (34 CFR 668.46(a).

The crimes disclosed in the Annual Security Report are crimes that have been reported, in good faith, to a Campus Security Authority, campus police or local police by a victim, witness or a third party. The resulting statistics assembled in the Annual Security Report are statistics from reports of alleged criminal incidents. “The Clery Act does not require a police investigation or a finding of guilt or responsibility associated with the specific reporting” (Westat et al., 2005, p. 23).

Classification of Clery Act Crime

Institutions are required to disclose crime statistics using four factors: 1), where the crime occurred or geographic location; 2), the type of offense; 3), to whom the crime is reported; and 4), when the crime was reported. Geographical locations for which crime statistics must be reported have been previously discussed and defined in the definitions of terms. The reporting of offences are divided into three categories.

Crimes defined in the Federal Bureau of Investigation’s (FBI’s) Uniform Crime Reporting Handbook (UCR):

a). Criminal homicide:

1. Murder and Non-negligent manslaughter;

2. Negligent manslaughter;

b). Sex Offences:

1. Forcible (rape, sodomy, sexual assault with object, fondling)
2. Non-forcible (incest, statutory rape)

3. If several offenders rape one person, count one rape only.

c). Robbery: (Classify according to subheadings)

1. Using a firearm;

2. Using a knife or cutting instrument;

3. Using a club, acid, brass knuckles or other dangerous weapon;

4. Strong arm (using hands, fists, feet, etc)

5. Count one offense for each distinct operation, including attempts.

d). Aggravated Assault:

1. Using a firearm

2. Using a knife or cutting instrument;

3. Using a club, acid, brass knuckles or other dangerous weapon;

4. Using hands, fists, feet.

When classifying aggravated assault consider type of weapon used, seriousness of injury and intent of offender.

e). Burglary:

1. Forcible entry;

2. Unlawful entry, no force (entering unlocked structure);

3. Attempted forcible entry (forcible entry attempted but not completed).

f). Motor Vehicle Theft:

1. Automobiles;

2. Truck and buses;
3. Other vehicles (scooters, motorcycles, mopeds).

g). Arson: (All arson must be investigated to determine if willfully or maliciously set before it can be included in the statistics.)

1. Structural (residential, storage, industrial, community and other structures);

2. Mobile (vehicle and mobile property):

3. Other (all property not classified as structural or mobile).

Arson classification requires the establishment of the point of origin. In the event persons are killed as a direct result of arson, both homicide and arson are logged in the statistics.

Classification of Hate Crimes begin with the geographic location of the crime and then determine what, if any, category of prejudice or bias is involved in the incident. Then determine if any other crime involving bodily injury is involved. The categories of prejudice and bias are:

a. Race

b. Gender

c. Religion

d. Sexual orientation

e. Ethnicity and national origin

f. Disability.
Prior to classifying a crime as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude the offender’s actions were motivated by the prejudice or bias.

Classification of Arrests or Disciplinary Referrals for Illegal Weapons Possession and Substance Law Violations requires institutions disclose the number of arrests and the number of persons referred for disciplinary action for drug and liquor law violations and illegal weapons possession (34CFR668.46(c)(viii)(A)(B). Only violations of law are counted. Violations of institutional policy are not counted. If an individual is both arrested and referred for disciplinary action, count only the arrest. Count only referrals in which institutional officials initiate a disciplinary action of which a record is kept and may result in the imposition of a sanction.

To further clarify this category, count the number of arrests for illegal weapons possession, the number of arrests for drug law violations and the number of arrests for liquor law violations. Identify the number for each of the aforementioned separately.

The Hierarchy Rule

When multiple offenses occur simultaneously, counting of the crimes is governed by the FBI’s UCR Hierarchy Rule (34 CFR 5.668.46(c)(7). The Hierarchy Rule requires counting only the most serious offense when more than one offense was committed during a single incident. The following are the UCR crimes and their position for reporting according to the Hierarchy Rule:

- Murder and Non-Negligent Manslaughter
- Negligent Manslaughter
Forcible Sex Offenses
Non-Forcible Sex Offenses
Robbery
Aggravated Assault
Burglary
Motor Vehicle Theft
Arrests
Referral for Disciplinary Actions

The Hierarchy Rule classifies crimes based on the seriousness of the crime for the purpose of annual reporting. Two exceptions to the Hierarchy Rule are the crime of arson and hate crimes. Arson is always counted as an offense regardless of the nature of any other offense committed. Multiple offenses committed during the commission of arson would result in the most serious offense being counted along with arson. When multiple offenses occur, only crimes that are bias motivated are classified as hate crimes (Westat et al., 2005).

Presenting the Statistics

General non-hate crime statistics should be presented in a tabular format:

- By calendar year in which the crime was reported for each of the three most recent years;
- By type of crime, arrest or disciplinary referral;
- By geographic location where crime occurred.
Hate crime statistics can be presented in a narrative or descriptive format due to the normally low volume of this type of crime. Examples of the format for this type of reporting can be viewed in Appendix B.

The third and last category of compliance with the Clery Act involves the dissemination and publication of the information which has been collected related to compliance.

Information Dissemination is designed to provide campus community members with information necessary to make informed decisions about their safety. The information must be disseminated in several ways:

1. Provide ‘timely warning’ of any Clery Act crime that might represent an ongoing threat to the safety of students or employees 34 CFR 668.46(e);
2. Provide access to the crime log 34 CFR 668.46(f) during normal business hours;
3. Publish an Annual Security Report 34 CFR 668.46(b) and distribute it to all current students and employee, and inform prospective students and employees about the content and availability of the report;
4. Inform the campus community where to obtain information about registered sex offenders
5. Submit the institution’s crime statistics to the DOE through their Web-based data collection system 34 CFR 668.41(e)(5).
One of the hottest topics involving crime on college campuses today is the breadth, speed and quality of an institution’s ability to ‘timely warn’ its campus community when threats to security arise on campus. In the wake of campus shootings at Virginia Polytechnic Institute and State University (Virginia Tech) April 16, 2007, by Seung Hui Cho; the failure of Virginia Tech Campus Police to issue a ‘timely warning’ to the campus community allowed the shooter to move about the campus and choose a new location to begin a second shooting rampage. Investigation of the massacre revealed three levels of systemic institutional failure contributing to the tragedy. The first level involved the structural failure of the public health system and public safety provided by state and federal governments. The second level of failure involved what was done, and not done by university management. The third failure involved medical care and victim-survivor services provided at the scene (Davies, 2008; Kennedy, 2008).

The failure of Virginia Tech Police to convene a threat assessment team and issue a ‘timely warning’ after Seung Hui Cho killed two students in the dormitory at 7:00 am, materially affected what played out two hours later at 9:00 am in Norris Hall. Virginia Tech Police mistakenly conveyed the impression to the campus community that Seung Hui Cho was no longer on campus. After classes began at 9:00 am, Seung Hui Cho entered Norris Hall and chained the main entrance doors from the inside. He began shooting anyone he saw (Davies, 2008; Kennedy, 2008).

An institution’s ‘timely warning’ policy statement is identified in the ongoing policy disclosure requirements. An actual ‘timely warning’ is usually implemented by a
campus threat assessment team commonly comprised of chiefs of police, campus police
and Campus Security Authorities. The threat assessment team meets to discuss a
developing situation that represents a threat to the campus community and decides
whether or not to issue a ‘timely warning’ (Chief Blue, personal communication, 2010).
If this process is well defined in advance, the issuance of a ‘timely warning’ can save
lives. The tragedy of Virginia Tech prompted colleges across the country to review their
emergency procedures, response systems and campus safety policies (Rasmussen &
Johnson, 2008).

Components of a ‘Timely Warning’

The purpose of the ‘timely warning’ is to keep the campus community informed
about safety and security issues on an ongoing basis. An institution must have a ‘timely
warning’ policy that alerts the campus community of certain crimes in a manner that is
timely and will aid in the prevention of similar crimes (34 CFR 668.46(e). The crimes for
which a ‘timely warning’ must be issued are all Clery Act crimes. The Clery Act does not
interfere with, nor does it prohibit an institution from issuing a ‘timely warning’ for other
emergencies affecting the campus community, such as for a storm, flood warning or for a
series of thefts.

The information to be included in the ‘timely warning’ is not currently specified
by the Clery Act. As a result of this researcher’s attendance at a Security On Campus,
Inc. compliance training seminar, instruction was provided on what should be included in
a ‘timely warning.’ The general components of a ‘timely warning’ are:

- Provide information that will promote safety
• Include the time, date, location and type of crime

• Where applicable provide a general description of the incident and offender

A sample ‘timely warning’ is provided at Appendix C. (Security On Campus, Inc., 2008).

_Campus Crime Log_

Any institution which has a campus police department or security office must maintain a daily crime log (34 CFR 668.46(f). Any crimes, not just Clery Act crimes, are entered in the log when reported to campus police or campus security. The nature of the crime, (i.e. assault, battery), date and time the crime occurred, general location where the crime occurred and disposition of the complaint (i.e. arrest, judicial referral) should be included in the crime log.

An institution may temporarily withhold information if there is clear and convincing evidence that a release of the information would jeopardize a person, jeopardize the investigation, cause a suspect to flee or result in the destruction of evidence. The crime log for the most recent 60 day period must remain open for public inspection during normal business hours. Crime logs must be retained for three years following publication of the last Annual Security Report (Westat et al., 2005).

_Publish the Annual Security Report_

The Annual Security Report (ASR) must be published and distributed annually by October 1. The ASR can be given directly to individuals at orientation or other campus events or mailed to them. Due to cost considerations, institutions usually post the ASR on a university web site and then mail a notice in the form of a post card indicating the ASR
is available, with the exact URL to students. The availability of the ASR must be provided to prospective students and employees by a written notice (Westat et al., 2005).

**Information Regarding Registered Sex Offenders**

Individuals convicted of sex crimes can be required, upon release from prison, to register with law enforcement agencies under Megan’s Law. If a registered sex offender is enrolled at, or employed at a postsecondary institution, he or she must provide this information to the state. The state is then responsible for providing the sex offender’s information to the campus police department or to law enforcement authorities in the jurisdiction (Westat et al., 2005).

Institutions are required only to provide a statement advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be accessed. Institutions are not required to disseminate sex offender information (Westat et al., 2005).

**Submitting Crime Statistics via Web-Based Data Collection**

Institutions are required under the information dissemination component of compliance for Clery Act to annually complete a web-based survey entitled *The Campus Crime and Security at Postsecondary Education Institutions Survey*. This survey collects data on criminal incident reports by more than 6,700 colleges, universities and institutions of higher education in the United States. Annually in the summer, the US Department of Education sends a letter and certificate to the institution’s president or chief executive officer. This letter provides the institution’s User ID and password to

The survey website requires registration of the institution and identification of the individual entering the data. A dedicated telephone line (800) 435-5985, is provided by DOE to assist with questions or problems concerning the entry of data. Questions or concerns can also be emailed to: http://CampusSecurityHelp@Westat.com. After the Annual Security Report has been completed it should be posted in a prominent place on the institution’s website (Westat et al., 2005).

Case Study – University of the West (UOW)

University of the West is located in a city with approximately 279,513 residents within a 56.5 square mile radius that makes up its city. This city has the highest per capita violent crime rate for cities with populations over 100,000 (Chief Blue, 2010). The crime rate on campus is significantly lower than the surrounding areas.

Crime statistics obtained from NeighborhoodScout.com using the University’s address reveals 1.77 violent crimes on the campus, compared to 15.78 violent crimes in their city and 5.61 violent crimes statewide. Property crime comparisons are 74.49 on campus, 77.83 for their city and 35.44 statewide. The chance of becoming a victim of violent crime was 1 in 565 while the chance of becoming the victim of a property crime was 1 in 13. This information supports literary research that defines property crime as the major crime occurring on campus.
On March 5, 2010, this researcher travelled to University of West, a private, four-year university located in an urban area for the purpose of interviewing the Director of Public Safety and Chief of Police. For privacy considerations, the Director of Public Safety and Chief of Police will be identified as Chief Blue. After obtaining biographical data from Chief Blue he was asked how his institution complies with Clery Act and what he considers best practices in compliance.

Chief Blue attended Northeastern University, obtained an associate degree in commercial aviation and then joined the United States Air Force and came to California. After being honorably discharged Chief Blue was hired by a local police agency in 1978. He completed his Bachelor of Arts in Social Science and Master of Arts in Public Administration at a California State University. Chief Blue was employed as a police officer for twenty-five years and achieved the rank of lieutenant. He attended Command College. In 2003, Chief Blue retired from the local police agency. During his tenure at the local police department, he performed crime analysis, SWAT, field training officer, walking beat program, narcotics unit, and served as a homicide investigator for four years that transitioned into community policing and became a district commander for the downtown area with also encompassed special events management. Chief Blue retired from the local police agency and was hired by University of the West on the same day.

Chief Blue provided this researcher with typed responses to the interview questions previously forwarded to him. The responses provided specific information and the names of individuals at his institution charged with compliance responsibilities. To
One of the first questions asked was the identity of staff the institution designated as campus security authorities. University of the West specifies any faculty member is considered a campus security authority in addition to the Public Safety Department and the institution’s student victim advocate. Individuals responsible for preparing the ASR or collecting data for inclusion in the ASR are an administrative coordinator, a member of Housing and Greek Life and a judicial affairs officer. The Chief receives annual compliance training and the university internally trains staff through the use of training guides. University of the West provides a daily crime log and makes it available for inspection at any time. The University has all required policy disclosure statements required under the Clery Act. University of the West disseminates its ASR to all current students via email and post the report on its website for viewing.

The documentation submitted by University of the West to the DOE and the ASR published on their website are identical. Accordingly, this researcher can verify that University of the West has complied with the Clery Act. A checklist for Clery Act compliance for University of the West can be found in Appendix B.

Case Study – City University

City University is located in a city with a population of 407,075. Using the address of City University crime statistics were obtained from NeighborhoodScout.com. Violent crime on campus was 7.58 per 1,000 individuals, while the city’s crime rate was
11.63 per 1,000. The statewide average was 5.61 per 1,000 individuals. Property crime rates for on-campus were 206.50 per 1,000, while 71.59 for their city, and 35.14 statewide per 1,000 individuals. The chance of becoming a victim of violent crime was one in 132 while the chance of becoming the victim of a property crime was one in five.

On July 10, 2009, this researcher travelled to City University to interview the Chief of Police who also serves as Director of Public Safety. He will be referred to as Chief Red. The first area of discussion obtained his background with City University. The Chief has worked for the University for twenty-five years in campus law enforcement. The Chief is the main individual responsible for the collection of data to include in the ASR. The Chief is assisted by and collaborates with University Counsel and other campus security authorities throughout the year regarding the preparation of the ASR. The Chief has established a Memorandum of Understanding with local law enforcement agencies and conducts annual emergency cross training. The Department of Public Safety maintains a Daily Crime Log and makes it available during normal business hours. The Annual Security report is made available to current and prospective students and employees by written notification in the form of a postcard which directs them to a specific URL that contains the full ASR. Paper copies are also made available upon request.

According to the data gathered during this interview and from the checklist used by the DOE, City University is in compliance with the Clery Act. Subsequent to this interview, an event occurred at City University that shocked its campus community. A resident assistant reported at approximately 2:10 pm hearing noises and windows
breaking in a residence hall room. Six minutes later electronic lock records reveal another
student resident entered the room where the noises were heard. Although the specifics of
the crime are unknown, one of the students beat the student who entered the room last to
death with a baseball bat. The perpetrator is alleged to have charged at campus police
with a knife and was shot several times but survived.

The issue in this crime involves the timeline of events surrounding the shooting
and the lack of a ‘timely warning’. The timeline is as follows:

- 2:10 pm: First record the disturbance;
- 2:16 pm: The victim enters the residence hall;
- 2:55 pm: Campus police arrive;
- 2:36 pm: City Fire Department is notified;
- 2:44 pm: Department of Public Affairs notified;
- 2:59 pm: City Police officers called in;
- 3:02 pm: First City Police Officers arrive on scene;
- 4:30 pm: ENS Text message sent: “The campus is safe after the incident in the
  residence halls”.
- 5:15 pm: President of the University holds a press conference

The perpetrator of the crime did not have a gun; he used a baseball bat and a knife
to kill his roommate for unknown reasons. Had he had a gun instead, the carnage could
have been much more. Based on Clery Act requirements, a ‘timely warning’ should have
been issued by the university as the crime initially developed.
A checklist for Clery Act compliance for City University can be found in Appendix C.

Case Study – Valley University

Valley University is located in a city with a population of approximately 296,410. Using the address of Valley University crime statistics were obtained from NeighborhoodScout.com. Violent crimes on campus were 2.37 per 1,000, while city violent crime was 4.64 per 1,000. The statewide average was 5.61 per 1,000. The property crime statistics on campus are 77.85 per 1,000, while city property crime was 44.33 per 1,000. Statewide property crime was 35.44 per 1,000. The chance of becoming a victim of violent crime on campus is 1 in 422 while the chance of becoming the victim of a property crime is one in 13.

In November 2008, this researcher travelled to Valley University to interview two individuals responsible for compliance with the Clery Act. One individual was the Director of Student Judicial Affairs and is referred to as ‘Mason’ and the other was the Director of the Campus Crime Prevention Program, referred to as ‘Tableau’. Both individuals are designated by the University as Campus Security Authorities. Both Mason and Tableau have their juris doctorate degree and are members of the California State Bar Association.

Judicial Affairs Valley University

Mason worked for Valley University, for twenty three years, in various positions that eventually led to her current position as Director of the Office of Student Judicial
Affairs and as a designated campus security authority. The Mission Statement of Mason’s department is: The Office of Student Judicial Affairs supports the University's educational purposes and goals and serves the campus by administering a fair and effective disciplinary system, by enforcing student conduct standards, by upholding student rights and by responding to student grievances. SJA works with students and faculty to promote academic integrity, ethics, responsible behavior, and student learning in a safe and civil campus environment (Mason, personal communication, 2008).

After confirming Mason’s duties relative to compliance with the Clery Act, the researcher asked her to provide her perception of compliance with the Clery Act. Mason indicated she considered compliance with the Clery Act as an unfunded, additional, burdensome task for her office. As budgetary constraints increased and political pressure mounted to do more in her department with less staff and funding, keeping track of student referrals for drug, alcohol and weapon violations seemed like the wrong place to concentrate resources. Mason believed the resources spent on compliance with the Clery Act would be better spent on programs such as substance abuse treatment and prevention and for sexual assault victim related programs. Despite her perception, Mason reported that Valley University’s Campus Security Authorities regularly met to collaborate on policy development and campus security related issues (Mason, personal communication, 2008).

Mason did not believe a majority of students at her institution were aware of the Clery Act or used the Annual Security Report to make their college decision choice. All of Mason’s departmental staff are aware of the Clery Act and are trained in compliance
(Mason, personal communication, 2008). This researcher verified that Valley University published the required policy disclosure statements required by the Clery Act. Valley University maintains a campus crime log and makes it available to the public during normal business hours. The Annual Security Report is sent to current students and employees via email and postcard notification that the ASR is available at their specific URL. Paper copies are made available on campus by request and to prospective employees during the orientation process.

*Campus Violence Prevention Program Valley University*

Tableau worked for Valley University for sixteen years as Director of the Campus Violence Prevention Program and as a designated campus security authority. The Mission Statement of Tableau’s department is: The Campus Violence Prevention Program (CVPP) unit of the Valley University, Police Department explores myths and exposes the realities of sexual violence, relationship violence, and hate related activity, focusing on prevention through education. The program's primary mission is to eliminate these forms of violence and in the interim, to ensure support services are available for survivors. The program is committed to the advancement of services available to survivors through prevention, intervention, education, training, and policy (Tableau, personal communication, 2008).

In 2007, the Campus Violence Prevention Program was awarded a 1,000,000 system wide grant for the purpose of developing new programs in the area of sexual assault. The goal of the new programs will be to provide immediate, confidential and supportive response to survivors. According to Tableau, the development of confidential
sexual assault reporting by the Campus Violence Prevention Program has allowed sexual assault victims to confidentially ‘report’ the assault. Tableau indicated the confidential reports serve two purposes: 1) Administrators will be better informed and able to take action in the event a perpetrator is a repeat offender; and 2), the crime will be included in the Annual Security Report and will accurately reflect crime on their campus (Tableau, personal communication, 2008).

During the interview, the researcher asked Tableau if she had an explanation for the relatively high on campus forcible sexual assault statistics contained within the 2005, 2006 and 2007 Valley University Annual Security Reports. The actual numbers reflected were 48 forcible sexual offences in 2005, 68 offenses in 2006 and 69 offenses in 2007. Tableau explained that as a result of the confidential sexual assault reporting program Valley University’s statistics are higher. Tableau stated: “If our numbers are higher, it means we are doing our job”. The confidential sexual assault reporting program appears to support Clery Act compliance efforts at first glance. However, when the researcher asked how documentation of the confidential reports was handled, Tableau offered a rather long explanation that did not answer the question. Then, during the interview Tableau received a telephone call from her staff which indicated an emergency required her attention. After spending forty-five minutes with this researcher, Tableau excused herself to attend to the emergency (Tableau, personal communication, 2008).

On October 1, 2009, Valley University held a news conference and alleged Tableau had been placed on administrative leave with pay in connection with allegations that she improperly charged travel expenses to a federal grant and allegations of
irregularities in Valley University’s reporting of sexual assault statistics under the Clery Act. The over reporting of sexual assaults for 2005, 2006 and 2007, was allegedly discovered during Tableau’s medical leave, when a different Valley University employee was preparing the Annual Security Report. The investigation of the allegations against Tableau is ongoing at this time. A checklist for Clery Act compliance for Valley University can be found in Appendix D.

Research Question No. 2: Factors Affecting Compliance

What factors or variables have interfered with prevented or hindered full compliance with the Clery Act by Chiefs of Police or Campus Security or Campus Security Authorities charged with the compliance duties under the Act?

The Victim Advocate’s Side

The emotional component of the victim advocate’s perception of institutional failure to fully comply with the Clery Act is clear and understandable. However, the data obtained by this researcher during the interview of S. Daniel Carter of Security On Campus, Inc. appears less emotional and more fundamental in nature. Carter described several factors that have influenced compliance with the Clery Act from the beginning. The factors described by Mr. Carter are: 1). Institutional resistance to compliance with the Clery Act; 2). Lack of interest in security; 3). Budgetary concerns; 4). Campus security departments are low on institutional priority lists; 5). Lack of respect for law enforcement professionals; and 6). Lack of collaboration. (S. Daniel Carter, personal communication, 2008).
Carter first became aware of the issue of crime on campus when a close friend’s boyfriend, Thomas Baer was stabbed to death August 21, 1988, in front of his fraternity house on the campus of the University of Tennessee. According to Carter, when he entered college at the University of Tennessee the following year, he already had a heads up on campus crime. He became involved in student government and began taking on campus safety very aggressively. During the late 1980s, Carter indicated campus security was a very low priority for IHEs, who were more concerned with the business of providing a college education. Carter discovered a program called Safe Campuses Now, at the University of Georgia, and made contact with its director, Dana Gettsinger, in an effort to bring the program to the University of Tennessee. Gettsinger had herself been a victim of campus violence. Through Gettsinger’s connection with individuals working with Security On Campus, Inc. Carter was asked to perform work for Constance Clery. In 1992, Carter helped develop and pass the *Campus Sexual Assault Victims Bill of Rights* and the Buckley Amendment clarification to the Clery Act. In 1994, after graduating from college, Carter became one of the first recipient’s of the *Jeanne Clery Campus Safety Award*. In 1994, Carter went to work for Security On Campus, Inc. (Carter, personal communication, 2008).

Carter equated institutional resistance to the Clery Act with their lack of interest in and priority for law enforcement and safety practices on campus. Traditionally, institutions of higher education concentrated on providing an education for students. Crime on campus was relatively rare and they did not see the necessity to devote funding and staffing to campus security. Initially after the Clery Act’s enactment, many
institutions either had difficulty complying with it or were unwilling to devote the effort to fully comply. Today, according to Carter most schools are doing a reasonably sound job of complying. However, when tragic events such as Eastern Michigan University and Virginia Tech occur, investigation reveals that policy statements disclosed by the institution were not actually practiced. Carter aptly stated: “The massacre at Virginia Tech changed the field of compliance forever. It proved that in the event of an emergency you do not have time to convene a policy committee meeting before issuing a ‘timely warning.’” (Carter, personal communication, 2008).

The systemic failure of Eastern Michigan University (EMU) to properly handle the on-campus murder of Laura Dickinson was noted by Carter as the ‘most horrific’ violation of the Clery Act. The Department of Education specifically requested Security On Campus, Inc. conduct an individual training of all EMU staff responsible for Clery Act compliance in 2007. The audit of EMU conducted by the DOE revealed that many employees knew of the misinformation disseminated by EMU administration following the Dickinson murder but were afraid to say anything. Using this information, Security On Campus, Inc. lobbied for and passed the 2008 Whistleblower protection amendment to the Clery Act. This amendment provides protection for employees or others who become aware of the misconduct of administrators (Carter, personal communication, 2008).

To fully comply with the Clery Act, Carter recommended that institutions develop multi-disciplinary teams to collaborate, train and communicate. The teams must work together to develop policy statement which are reflective of what will actually occur in
the event of an emergency. Another suggestion made by Carter was incorporating an institution’s successful compliance with the Clery Act into their marketing campaign. Use the Clery Act as a tool to attract students and make them feel safe. Carter also recommended institutions send employees responsible for compliance to one of the four to five training seminars conducted annually by Security On Campus, Inc. at least once and preferably more than once (Carter, personal communication, 2008).

When this researcher asked Carter if he thought institutions were not complying with the Clery Act to protect their reputation, he stated that he believed that is what is reported constantly by the media. He acknowledged that there are institutions that have sought to protect their reputation, such as EMU; however, most do not fall into that category (Carter, personal communication, 2008).

**Competition and Preservation of Reputation**

According to Stuart (2008), the modern university today has become involved in a clash between commercialization and commodification of universities and the traditional view that universities are cloistered halls of learning and higher intellectual thought. Unfortunately, “[u]niversities share one characteristic with compulsive gamblers and exiled royalty: there is never enough money to satisfy their desires (Bok, 2003). To satisfy the need for money, universities have long engaged in practices to attract students. In the 1980s, universities joined the mainstream capitalistic drive to compete in the marketplace and become entrepreneurs. Higher education began to obtain government and grant funding for scientific research, which in turn brought in funding from licensing
rights, consulting activities, and similar academy-business joint ventures (Stuart, 2008, Bok, 2003).

Competition among universities and colleges has been fueled by media publications such as *US. News & World Report’s* annual rankings of the best colleges and universities and professional schools (Stuart, 2008). As a consequence of this competition, colleges and universities go to great lengths to market themselves to students and to spend inordinate sums of capital to woo the best students (Stuart, 2008).

**Factors Affecting Compliance**

According to an audit of California’s Education Institution’s (2003) conducted by the State of California Auditor, they noted six area of concern regarding compliance with the Clery Act:

1). Institutions receive little guidance on converting California’s definitions of crimes to Clery Act reportable crimes. According to the audit (2003) no single governing body in California exists to provide guidance in converting California crimes to UCR crimes.

Clery Act reportable crimes are defined by the Uniform Crime Reports prepared by the FBI. A list of the UCR crime definitions compared to any state’s criminal definition of crime is a simple manner by which to conduct conversion of state crimes to UCR crimes, since familiarity with the UCR crimes will aid in better reporting under Clery.

2). Institutions do not maintain documentation of the incidents they include in the ASR and often inaccurately report the number of incidents.
In the 2003 audit, only one institution of the five audited, maintained adequate backup documentation for incidents reported in the ASR. The Clery Act required backup documentation is kept for a period of three years after reporting. Counting the reportable incidents for inclusion in the ASR is also very specific, but is covered in the DOE’s Handbook on compliance. Training in compliance with the Clery Act can easily remedy this problem. In the event of a random audit by the DOE, institutions must document their ASR crime incidents.

3). Institution’s interpretations of the Clery Act definition for reportable locations can vary.

The ASR requires that the location where the crime occurred be recorded in addition to the type of crime. The reportable locations are on-campus, non-campus, public property and separate campuses. Each of the aforementioned are defined in the DOE Handbook. Again, proper training in compliance will resolve this issue.

4). Institutions do not always have adequate process for accurately identifying crimes at reportable locations.

Elimination of this problem will come from training in compliance. Identification of Clery Act crimes requires knowledge of the UCR crimes and the reportable geographic locations: on-campus, non-campus, public property and separate campuses.

5). Collecting insufficient information from campus security authorities and local police agencies can lead to error.

This compliance issue will be easily resolved through training either internal or through Security On Campus, Inc. Campus Security Authorities must be trained and
made aware of their duties when they are identified as such. They should have a pre-
made crime incident report made available to them to record necessary information that
will be forwarded to the campus police. Obtaining data from local police agencies is an
acknowledged problem. This area of concern can be remedied through building a
relationship with local law enforcement agencies that includes providing the necessary
data for the ASR and cross training in emergency preparedness.

6). Institutions do not always comply with Clery Act requirements.

This issue involves the level of full compliance with the Clery Act. Some
institutions comply with parts of the Act while most fail to fully comply. This problem
can be remedied through training in compliance (California State Auditor, 2003).

Compliance Issues within the Case Studies

The collection of crime statistical data and the proper reporting of it are
prescribed by the Clery Act. However, the good faith attempt to collect crime statistics
from jurisdictional and local law enforcement has been raised as a factor affecting the
ability to fully comply with the Clery Act. Institutions are required to send letters to
jurisdictional and local law enforcement requesting their crime statistical data. Copies of
the letters sent must be retained by the institution to show they have complied with this
part of the mandate. Following up and obtaining the data from jurisdictional and local
law enforcement is left up to the particular institution.

An exemplar of this area of difficulty was found by this researcher during
interviews of Chiefs of Police at University of the West and City University. Two
different institutional treatments regarding the process of obtaining local law enforcement crime data were discovered.

University of the West’s Chief of Police is a former sworn officer of his institution’s local police department. As a former insider, he has well developed, long standing relationships with local law enforcement. Accordingly, for him, obtaining crime data from local law enforcement is cooperative and reciprocal (Chief Blue, personal communication, 2010).

The Chief of Police at City University, referred to as Chief Red, has found obtaining crime data from local law enforcement to be difficult, frustrating and sporadic. Although City University and local and regional law enforcement cross train for emergency preparedness, the exchange of crime data is not cooperative and regular. City University’s Chief is not a former employee of local law enforcement. Consequently, City University’s Chief sends an annual letter to local law enforcement requesting their crime data and follows the initial letter up with a follow-up letter. The response from local law enforcement is sporadic (Chief Red, personal communication, 2009).

The reasoning behind the mandate that institutions request and include local law enforcement crime statistics in their Annual Security Report is to facilitate communication and cooperation between the two entities. An institution’s crime rate on campus is often affected by the crime rate of the surrounding area.

Summary

The factors, variables and impediments to achieving full compliance with the Clery Act are directly related to the knowledge and level of training of the individual
charged with complying with the Act. The requirements of the Clery Act are many and training at individual institutions is not always efficient, effective and detailed. If an institution treats compliance with the Clery Act as a measure of success that is to be applauded and used by prospective students in their college decision process, enrollment figures may increase measurably. Alternatively, if an institution neglects its compliance efforts, it may face fines by the DOE, loss of reputation and liability for civil judgments by the students the institution failed to protect.


Are claims that administrators of institutions of higher education are manipulating or hiding campus crime accurate?

This research question draws the most contested and measureable response from both sides of the debate. Initially, this researcher will permit the current, scholarly research and legal case precedent to speak to the degrees of evidence the institutions are manipulating or hiding campus crime. The result of this researcher’s qualitative interviews and subsequent data obtained will follow and offer additional data from which the reader will ultimately have to make his/her own decision.

According to Rada (1998), as crime has come to campus, many universities have organized student disciplinary boards in an effort to deal with student offenders within the university community, without police involvement. These student disciplinary boards have begun to adjudicate complex criminal issues, ranging from theft to assault to rape,
and are almost always carried out in secret. The result of this practice is that student
offenders suffer only the most nominal of punishments, and other students on campus
remain unaware that a crime has taken place (Rada). In addition to the research
conducted by Rada, the National Center for Victims of Crime (1995), had stated that
through the use of the privacy protection of academic records afforded by the Family
Educational Rights and Privacy Act of 1974 (FERPA), institutions of higher education
have been able to suppress information about incidents of crime and student
victimization. Suppression of this information and documents concerning violent criminal
incidents occurring on campus has helped to protect the reputation of these institutions
(National Center for Victims of Crime, 1995).

*Family Educational Rights and Privacy Act of 1974: The Buckley Amendment*  

The Family Education Rights and Privacy Act of 1974 (FERPA), § 513 of P.L.
93-380 (The Education Amendments of 1974) was signed into law August 21, 1974 by
President Gerald Ford with an effective date of November 19, 1974. Ninety days after
enactment, FERPA was enacted as a new § 438 of the General Education Provisions Act
(GEPA) and called “Protection of the Rights and Privacy of Parents and Students” (20
U.S.C. § 1232g). The amendment was commonly referred to as the Buckley Amendment
after its principal sponsor, Senator James Buckley of New York. FERPA was offered as
an amendment on the Senate floor and was not the subject of Committee consideration. It
is important to note that as framed this law contains no preface or statement of purpose.
The only definitive remarks concerning the law’s purpose came from its author, Senator
James Buckley, who stated the statute was intended to address “…The growing evidence
of abuse of student records across the nation” (Rada, 1998, p. 2). Congress has amended FERPA a total of nine times in the 28 years since its enactment.

When first enacted, FERPA provided parents with the right to inspect and review any and all official records, files and data directly related to their children, including all material that is incorporated into each student’s cumulative record folder, and intended for school use or to be made available to parties outside the school or school system. Included in these materials are: identifying data, academic work completed grades, standardized tests, attendance data, aptitude and psychological tests, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior problems.

It is imperative to note that four categories of records were excluded from release under FERPA:

1. Records in the sole possession of instructional, supervisory, and administrative personnel;
2. Records of a law enforcement unit which are kept apart from ‘education records,’ and maintained solely for law enforcement purposes, and not made available to persons other than law enforcement officials of the same jurisdiction;
3. Records of employees who are not also in attendance; and
4. Physician, psychiatrist, or psychologist treatment records for eligible students.

FERPA provided three separate rights to parents and eligible students: 1) The right to inspect, review and access educational records; 2) The right to challenge the
content of education records; and 3), The right to consent to the disclosure of education records. According to FERPA, student records cannot be released without prior written consent from parents, if the student was under age 18, the release must specify what records are to be released and identify the parties to whom the records may be released. All rights afforded parents under FERPA transfer to the student upon reaching the age of majority. Accordingly, students over the age of 21 must sign the release themselves.

In 1990, when Congress enacted the Clery Act, a new exception was added to the prior written consent rule:

Postsecondary institutions may disclose to an alleged victim of any crime of violence (as defined in U.S. Code Title 18, §16) the results of any disciplinary proceeding conducted by the institution against the alleged perpetrator of the crime, regardless of the outcome of the proceeding. Congress amended this provision in the Higher Education Amendments of 1998 by including “nonforcible sex offenses” and clarifying that only ‘final results’ may be disclosed (i.e. name of student perpetrator, violation committed and sanction imposed). Written consent is still required to disclose the name of any other student (Rada, 1998)

The 1994 IASA Amendments made to FERPA added a new sub-section (h) regarding the treatment of disciplinary records, which stated that nothing in FERPA prohibits an agency or institution from including in a student’s records appropriate information regarding disciplinary actions taken against the student for ‘conduct that posed a significant risk to the safety or well being of that student, other students, or other members of the school community,’ or from disclosing that information to teachers and
other school officials who have legitimate educational interest in the student’s behavior (Rada, 1998).

In the 1998 Amendments to FERPA, new exceptions to the prior written consent rule were added. Two of these amendments are relevant to this study. The first exception permits postsecondary institutions to disclose the final results of any disciplinary proceeding for a crime of violence or nonforcible sexual offense to anyone, including members of the general public, if the institution determines that the student committed a violation of its rules or policies with respect to the crime (Rada, 1998). The second exception in 1998, allows institutions of higher education to disclose to a parent or legal guardian information regarding a student’s violation of any law or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the student is under age 21 and the institution determines that the student has committed a disciplinary violation with respect to the use or possession (Rada, 1998).

**The Definition of ‘Educational Records’**

Until the exception to the prior written consent rule provided by the Clery Act in 1990, and the direct Amendments to FERPA in 1994 and 1998, institutions of higher education interpreted ‘disciplinary records’ as ‘educational records,’ protected under FERPA (Rada, 1998). Under FERPA, ‘educational records’ are defined in plain language as: Those records, files, documents, and other materials which contain information directly related to a student.

The definition of ‘educational records’ does not include, records of instructional, supervisory, and administrative personnel that are in the sole possession of those
personnel, records maintained by law enforcement unit of the educational institution, or records on students made and maintained by physicians, psychiatrists, psychologists or other recognized professionals in connection with the treatment of that student (Rada, 1998). Similar to the Clery Act, FERPA will withdraw all federal student financial aid funding from any institution deemed to have done the following:

1. Denied parents the right to inspect and review the educational records of their children; and/or
2. Any institution that has a policy or practice of permitting the release of student ‘educational records’ or personally identifiable information contained within such records without the written consent of the parents.

Are Disciplinary Records Part of Educational Records?

According to Rada (1998), the current problem concerning university disciplinary records exists for two reasons: 1) FERPA does not contain a clear statement regarding in which category disciplinary records should be kept by a university; and 2) A separate provision in FERPA authorizes university officials to incorporate disciplinary records into the educational records of students. As stated by Rada (1998): “These two factors have allowed universities to opportunistically shield damaging disciplinary records from public and student scrutiny. Congress, by drafting this piece of legislation the way it did, has effectively put its imprimatur on the cover-up of campus crime” (p. 29).

Despite numerous lawsuits in state and federal courts regarding FERPA, relatively little litigation has focused on the proper treatment to be given ‘disciplinary records.’ Two notable cases uniquely focus and frame this particular issue.
Red & Black Publishing Company vs. Board of Regents

The Red & Black, the student newspaper of the University of Georgia, sued the Board of Regents and the President of the University of Georgia for injunctive relief, seeking access to records and disciplinary proceedings of the Student Organization Court. The trial court held the Red & Black had a right of access to the records under the Open Records Act but not to the proceedings under the Open Meetings Act. The trial court dismissed the President of the university as a defendant. Both parties appealed the court's rulings (262 Ga. 848, 427 S.E. 2d. 257 (1993).

The nature of the Student Organization Court and its relationship to the Board of Regents had to be determined on appeal to answer the questions as to whether it was subject to the Open Records and Open Meetings Acts. The Board of Regents governs the University of Georgia and delegated to the university the formulation of rules and regulations concerning student discipline and social organizations. The University created the Office of Judicial Programs to handle discipline of students and social organizations. The Office of Judicial Programs provides training for 'student justices' to administer the Courts and to coordinate the development of judicial bodies and hearing boards on campus (262 Ga. 848, 427 S.E. 2d. 257 (1993).

The Student Judiciary

The student judiciary hears and adjudicates alleged violation of University rules and regulations. It is divided into five different student courts: Traffic Court, Campus Court, main Court, Pharmacy Court and Organizational Court. Students serve as justices
on the Courts and the sessions are held on campus. The Office of Judicial programs, who are University employees, provide secretarial and administrative support.

The Organization Court

The Organization Court hears and adjudicates cases involving violations of University rules by fraternities and sororities. Five student justices must be present for the Organization Court to hold a hearing and to determine the appropriate disciplinary measures. Three votes are necessary to find a defendant organization guilty. Hearings are closed to the public (262 Ga. 848, 427 S.E. 2.d. 257 (1993).

The Case

The Red & Black sought records of the proceedings of the student judiciary. The University denied the request on the basis that the records were protected by the Buckley Amendment or better known as FERPA. The trial Court granted the newspaper’s request for access. University of Georgia appealed. The Appeals Court affirmed the trial Court’s decision in favor of Red & Black, holding that the records of the Student Organization Court were not ‘educational records’ as defined by FERPA. The University of Georgia was forced to comply and release the records (262 Ga. 848, 427 S.E. 2.d. 257 (1993).


In 1995, the Editor in Chief of Miami University’s student newspaper, The Miami Student sought records of student disciplinary proceedings held before the University Disciplinary Board. The editor intended to use the records to develop a database and to track student crime on campus. Initially, the university refused to provide the documents
and records. The editors then made a written request to the university requesting the records under the Ohio Public Records Act. In April 1996, the University released the records sought with redaction of relevant names, dates, location of crime and other relevant information. The University asserted that the information redacted was protected by FERPA.

*The Miami Student* editors found the university’s response inadequate and filed for a Writ of Mandamus to compel the University to comply with their request under the Ohio Public Records Act (Ohio Rev. Code Ann. § 149.43). The Court granted the Writ of Mandamus sought by *The Miami Student* and determined the University must turn over the records as they were not academic in nature and therefore, not exempt from disclosure under FERPA. Miami University appealed the decision to the Supreme Court of the United States and was denied certiorari.

*Campus Sexual Assault Victim’s Bill of Rights of 1992*

The *Campus Sexual Assault Victim’s Bill of Rights of 1992* arose from a landmark lawsuit filed by four current and former female students who were raped by two male students, previously accused of sexual assaults and allowed to stay on campus by administrators at Carleton College in Northfield, Minnesota (Matthews, 1993). Representative Jim Ramstad of Minnesota sponsored the bill which gave victims of sexual assault the right to call on-campus authorities to investigate campus sexual crime. Under the Ramstad law universities are required to set up educational programs and notify sexual assaults victims of available counseling.
The Campus Sexual Assault Victim’s Bill of Rights of 1992, and the Clery Act enacted just two years apart, have worked in conjunction to afford greater assistance to victims of sexual assault while on the college campus. According to the National Center for Victims of Crime (1992), sexual assault on the college campus has often been considered a ‘cover-up’ crime in an effort to protect the reputation of the institution. To minimize incidents of rape on campus, administrators have encouraged victims not to pursue criminal recourse for their sexual victimization as well as persuading victims to proceed in the more lenient campus judicial system, or drop the issue altogether.

*The Tragedy of Eastern Michigan University*

There can be no minimizing of the tragic murder of Laura Dickinson, for she and her family suffered twice. Once was at the hands of her murderer Orange Taylor, III and the second time with the bungled handling of her murder by administrators at Eastern Michigan University.

On December 15, 2006, approximately six months after Arlen Specter’s hearing regarding delayed and improper compliance practices with the *Clery Act*, a crime almost identical to the one that took Jeanne Clery’s life occurred at Eastern Michigan University (EMU). Campus authorities at EMU discovered the body of student Laura Dickinson in her dormitory room, naked from the waist down with a pillow over her head December 15, 2006. Administrators announced immediately they did not suspect foul play. Subsequent investigation revealed EMU officials failed to truthfully disclose the circumstances of the discovery to Dickinson’s parents and failed to issue a ‘timely warning’ to their campus community that a possible murder had been committed.
In fact, EMU officials did not disclose any information concerning Laura Dickinson’s murder until February 23, 2007, when Orange Taylor III, an EMU student was arrested by Washtenaw County Police for the rape and murder of Dickinson. At that juncture, EMU’s administrators had to tell the true story. Dormitory surveillance cameras recorded Taylor entering Dickinson’s dormitory at 4:30 a.m. December 13, 2006, and leaving an hour and a half later. Taylor, a non-resident, admitted entering the dormitory to steal computers but denied seeing Dickinson. DNA testing later revealed Taylor’s DNA matched DNA found on Dickinson’s body.

Administrators at EMU failed to inform their campus community, and equally egregious, Dickinson’s parents, that a murder had occurred. James F. Vick, Vice President for Student Affairs was placed on administrative leave during the investigation and was later dismissed from employment (Lipka, 2007).

Due to such conduct EMU was subsequently determined by the DOE to have lacked substantial systemic administrative capability to adhere to the compliance provisions of the Clery Act. On December 18, 2007, the largest compliance violation fine of $357,500 was imposed on Eastern Michigan University (EMU) for thirteen separate violations; however, not all the fines were associated with the murder of student Laura Dickinson (Carter, personal communication, 2008).

Recent Events Prompt Rethinking of Policies

Three recent events sent a shock wave through college campuses across the nation and prompted renewed attention to the Clery Act. In December 2006, sophomore Laura Dickinson was found dead in her residence hall room at Eastern Michigan University
(EMU). Administrators failed to properly comply with the Clery Act and issue a ‘timely warning’ to students following her murder.

*The Virginia Tech Massacre*

The second event is the worst tragedy to occur on a campus in history. On April 16, 2007, at Virginia Polytechnic, more commonly known as Virginia Tech, thirty-two students were shot and killed by undergraduate student, Seung-Hui Cho. The attacks began in a residence hall at 7:00 am when Cho killed two students. Two hours later, at 9:00 am, Cho moved to the main campus classrooms where he killed 30 more people before committing suicide. In the wake of the attacks Virginia Tech administrators were criticized for failure to have a ‘timely warning’ policy and procedures that would have reduced the amount of casualties. On April 10, 2008, survivors and families of victims of the massacre received an eleven million dollar settlement from the State of Virginia (MSNBC, 2008).

*Northern Illinois University*

On February 14, 2008, another tragic mass shooting occurred at Northern Illinois University in DeKalb. Steven Kazmierczak, a 27-year old graduate student entered a lecture hall at 3:06 p.m. and fired into the crowd of students assembled for class. Twenty-four people were shot and six died before Kazmierczak committed suicide. Northern Illinois University’s official website provided a ‘timely warning’ to the campus community by reporting the possibility of a gunman on campus at 3:30 pm and told students to stay away from the area where the incident occurred. Administrators placed
the campus on lockdown. Northern Illinois University administration was largely praised for their expeditious response during this emergency.

Summary

“A catastrophe inevitably triggers an autopsy of the events leading up to the calamity for a couple of purposes: to assure that what happened will not happen again and to determine who might have been to blame” (Stuart, 2008, p. 2).

The Eastern Michigan University debacle, the Virginia Tech massacre and the Northern Illinois University shootings cannot be blamed on non-compliance with the Clery Act. However, a pattern has become apparent. The Clery Act requires administrators to create a policy designed to provide students and employees with ‘timely warnings’ of imminent threats to the safety of the campus community. Administrators at EMU and Virginia Tech failed to comply with the ‘timely warning’ policy and procedure requirements. The results were catastrophic. Northern Illinois University issued a ‘timely warning’ to its campus community and may have prevented additional deaths. IHEs which fail to have timely warning policies and procedures in place risk substantial liability and damage to their reputation.

It is time to embrace the compliance requirements of the Clery Act and to even move beyond it to achieve greater campus security.

The internal, organized student disciplinary boards and courts adjudicating violations of campus regulations and student conduct definitely exist. It is also obvious that FERPA has been used to deny access to non-educational records concerning crimes
committed on campuses. Whether it is actual misinterpretation of the meaning of educational records or intentional denial of information can only be determined on a case by case basis. Legal precedent such as Red & Black Publishing Company v. Board of Regents and The Miami Student v. Miami University reveal the internal nature of student conducts courts and define their unwillingness to release the results of their own proceedings. In some cases, sexual predators have been permitted to remain on campus by administrators, only to commit additional sexual assaults upon other unsuspecting students. The purpose of these courts and boards should be defined and limited to violations of regulations and student conduct that do not constitute any crime.

The case of inflated sexual assault numbers at Valley University produced great embarrassment for the University, which has since corrected its numbers and had made efforts to document all confidential sexual assault reporting. After reviewing the data responsive to this last research question, it is evident in this researcher’s opinion that it is likely that administrators have and are manipulating and or hiding crime on campus.
Chapter 5

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Summary

It has been twenty-four years since the murder of Jeanne Clery, in her dormitory room at Lehigh University. Jeanne was where she was supposed to be, doing what she was supposed to do, when a deviant sexual predator entered her unlocked room and murdered her. In her honor, her parents, Howard and Constance Clery created Security On Campus, Inc. to lobby first for a state and then a federal campus crime reporting law to inform students and others of the true status of crime on campus. The original title was The Student Right-to-Known and Campus Security Act of 1990 (Public L. No. 101-542, § 201 [1991]). Because stand alone bills are rare in Congress, the Clery Act was attached to a larger bill. Eventually, after several amendments, in 1998, it was renamed in Jeanne Clery’s honor.

Under the Clery Act, for the first time in history, institutions of higher education receiving federal financial aid must collect, classify report and disclose annually, campus crime statistics and campus security policies. Prior to the law’s enactment in 1990, institutions of higher education were not required to collect, to report or to disclose violent or other crimes occurring on their campuses to anyone. Since enactment it has been assailed with complaints of bureaucratic red tape, allegations of ambiguity in reporting requirements and lack of efficacy in achieving its stated intent by administrators and scholars at institutions of higher education. The Department of Education, until
recently has failed to effective enforce the Clery Act and ensure that institutions were fulfilling their obligations. The media has relentlessly covered violent crime that appears to be increasing on college campuses. Security On Campus, Inc., the watchdog victim advocate has faithfully pursued their goal of improving campus safety by offering training to institutions and through assisting in federal audits.

Institutional resistance to the Clery Act has produced varying levels of compliance. In the aftermath of Virginia Tech, many administrators were prompted to perform internal reviews of their compliance protocols and make changes. The landscape of higher education has been forever changed.

It is time to embrace the compliance requirements of the Clery Act and to even move beyond it to achieve greater campus security. The internal, organized student disciplinary boards and courts adjudicating violations of campus regulations and student conduct definitely exist. It is also obvious that FERPA has been used to deny access to non-educational records concerning crimes committed on campuses. Whether it is actual misinterpretation of the meaning of educational records or intentional denial of information can only be determined on a case by case basis. Legal precedent such as Red & Black Publishing Company v. Board of Regents and The Miami Student v. Miami University reveal the internal nature of student conducts courts and define their unwillingness to release the results of their own proceedings. In some cases, sexual predators have been permitted to remain on campus by administrators, only to commit additional sexual assaults upon other unsuspecting students. The purpose of these courts
and boards should be defined and limited to violations of regulations and student conduct that do not constitute any crime.

The case of inflated sexual assault numbers at Valley University produced great embarrassment for the University, which has since corrected its numbers and has made efforts to properly document all confidential sexual assault reporting. After reviewing the data responsive to the last research question, it is evident in this researcher’s opinion that it is likely that administrators have in the past and currently are manipulating and or hiding crime on campus.

Conclusions

The new role of the modern college and university involves the management of risk in advance of violent criminal events. It is a role which involves many layers that must be given equal consideration. The campus environment must be examined to determine levels of safety, potential risk and or threat, necessity for repair, updating or improvement. On-Campus and off-campus residential housing owned and or controlled by the university must be given exceptional consideration since such areas are often the target of offenders.

Rather than returning to the ideals of In Loco Parentis, the modern university must assist in shaping the lives of their students by educating them on issues of personal safety, mental health, consumption and overuse of alcohol and drugs as well as academic progress and career development. Ultimately, the goal of the modern university should be the creation of a campus culture of responsible personal choices leading to mental and
physical health and personal safety. Through this process, society as a whole will benefit from an educated and physically and mentally healthy citizenry.

*Institutional Treatment of Compliance with the Clery Act*

The lengthy mandates of the Clery Act are easier to grasp when they are condensed into the three categories stated by the DOE (Westat, Ward & Lee, 2005); 1), Policy Disclosure; 2), Records Collection and Retention; and 3), Information Dissemination. These three categories assist in understanding the requirements of the Clery Act. Refer to Table 1 (Appendix G). The manner in which an institution approaches each of the three categories of compliance is directly related to the level of safety on campus. An institution which methodically and accurately checks off each component of compliance may be less likely to face legal challenges when the unthinkable violent criminal event occurs on their campus. Or alternatively, an institution with an efficient ‘timely warning’ policy and threat assessment team may contain a criminal event before it expands. The institution of higher education which treats the mandates of the Clery Act as a baseline and decides to go beyond it will be the institution that is safer and more likely to be chosen for enrollment (Chief Blue, personal communication, 2010). This type of institution will be implementing best practices in compliance. The policy disclosure requirements of the Clery Act are the most important category for institutions of higher education to concentrate on today. Timely warnings are the hottest topic as administrators learn from the lessons of Virginia Tech and Eastern Michigan University. Refer to Appendix H as a list of the policy disclosure requirements that are mandatory for every institution.
The institution which makes obvious efforts to make its campus community aware of the existence of the Clery Act will be both serving and protecting its campus community. The dissemination of the Annual Security Report notification by mail or email does not go far enough to inform the campus community. The three inch by five inch post card mailed to students before October 1, simply notifies them that the Annual Security Report is available at a stated URL. It is up to the student or employee to access the website and review the ASR. Most do not bother to access the website. The institution that takes the extra step to inform and demonstrate campus safety with presentations by campus police and others to incoming freshman, parents and transfer students during orientation programs is implementing best practices in compliance. To reach the goal, participate in the process rather than reviewing the product of a horrific event after it has already occurred on your campus.

The honest and accurate reporting of campus crime data serves the interest of the campus community and protects the reputation of the institution and its financial stability. As indicated in the case study on Valley University, allegations of inflated violent crime statistics and fraudulent use of grant funds have plagued this university. Fines levied on the institution by the Department of Education, criminal prosecution of the parties involved, loss of grant funding and a severe disservice to and loss of trust by the campus community are likely to be what results.

*Policies Established Can Be Amended*

Policy disclosure, the first category of compliance, mandates university administrators; Chiefs of police, Campus Security Authorities and other staff meet,
discuss and collaborate to develop policy disclosure statements for their institution. Once the policy disclosure statements are developed, they can be easily updated annually to reflect improvements and or changes. It is advisable to meet on a more regular basis than once a year to discuss policies disclosed under the Clery Act (Chief Blue, personal communication, 2010). The institution which facilitates collaboration within the campus community has the potential to develop campus policies that go beyond the mandates of Clery and campus borders to make students and campuses safer.

*Threat Assessment and Timely Warning*

Collaboration and discussion is also required to develop a threat or emergency assessment team that can issue a ‘timely warning’. This team may be comprised of the same individuals who created the policy disclosure statements or may be purposefully comprised of faculty having particular expertise in criminal justice, psychology or sociology. The Clery Act does not require an institution to maintain a threat assessment team nor does it speak to the composition of one. The Clery Act requires a policy disclosure for issuance of a ‘timely warning’, and that institutions issue a ‘timely warning’ when there is an ongoing threat to the campus community. It is left to the discretion of the institution as to how to treat the issuance of the ‘timely warning’. If the institution has an effective ‘timely warning’ policy and has practiced its implementation, it is likely that institution will be able to protect its campus community.

When violent campus crime occurs it receives unrelenting media attention. Students and parents will focus on well publicized events and decide against enrolling at that institution. Administrators must be proactive, thinking outside the boundaries of
academia. They must support and respect the efforts of campus law enforcement officials to police the campus and encourage the collaboration of all departments.

When S. Daniel Carter of Security On Campus, Inc. was asked what he believed had been achieved by the Clery Act, he stated: There's been success. Over a recent ten year period, the US Department of Justice says campuses have reported a nine percent drop in violent crime and a 30 percent drop in property crime (Carter, personal communication, 2008).

Carter pointed to another indicator of change; a five percent increase in campus police pay, adjusted for inflation. He stated it showed that "the Clery Act really has led to colleges and universities to take campus security and protecting their students more seriously than they did 20 years ago".

Recommendations

Collaborate

The collaboration of campus police, campus security authorities and multi-disciplinary faculty and staff is necessary to fully realize the compliance mandates of the Clery Act. Inter-departmental cooperation and communication must be consistent and combined with training. Collaboration includes building and growing a relationship with local law enforcement agencies to facilitate a complete understanding of crime occurring in the areas surrounding the campus. The borders of the campus should not confine the development of a relationship with and monitoring of the surrounding community.
Provide Initial and Annual Training to University Employees

Knowledge of the components and purpose of the Clery Act is essential; however, it is just the first step. All members of the campus community should know what the Clery Act is and what it requires and where they can access the information collected for it. The second reasonable step is educating one’s faculty and employees designated as Campus Security Authorities on their responsibilities under the Clery Act. Initial training upon hiring followed by annual training should be mandatory. Institutions should also consider sending employees responsible for preparation of the Annual Security Report to the annual regional training offered by Security On Campus, Inc. The cost of training seminars, hotel and travel is relatively small in comparison to fines that can be levied by the DOE ($27,500 per violation) or sums paid out in legal settlements.

Development Threat Assessment Teams

The lessons learned from the mass shooting at Virginia Tech remind us that when an emergency occurs there is no time to convene a policy committee. Therefore, an institution must have a ‘timely warning’ or emergency notification policy that has specific steps for implementation. Administrators or individuals responsible for issuing the ‘timely warning’ or emergency notification must be designated and trained in advance of the emergency. Mock emergency situations should be used to evaluate individual performance and opportunity for improvement.
Seek Outside Services Related to Training and Auditing

Security On Campus, Inc. provides compliance training at least four times per year at different locations across the United States. The cost is reasonable in comparison with the cost of potential liability for non-compliance. The training provides up-to-date information and the opportunity for assessment. Another avenue of ensuring that an institution is in compliance is through an independent, external auditor trained in Clery Act compliance. The area of external compliance auditor is a growing field.

Develop Emergency Notification Systems

The financial cost of emergency notification systems can be enormous and unfeasible for smaller universities and colleges. There are options that do not have a high price tag that offer a good measure of notification. The institutions studied for this thesis all used multiple layered notification systems. Due to the age of technology, the common factor was email, text and cell phone message alerts. All three institutions had personal announcement systems that would transmit public notification across the campus and inside buildings.

Develop Memoranda of Understanding with Local Law Enforcement

The three institutions studied all had executed a Memorandum of Understanding (MOU) with several local law enforcement agencies. Although this is a step in the correct direction, a MOU is a just piece of paper if a truly reciprocal relationship is not built upon it. Campus police and local law enforcement must work together to police the campus and surrounding areas. Institutions can no longer consider themselves separate from the rest of society. The exchange of information and ideas between campus police and local
law enforcement will lead to increased safety on campus and will aid in the investigation and prosecution of crime.

Conduct Cross Training for Emergency Management with Local Law Enforcement

Following the tragedies at Virginia Tech and Northern Illinois University, law enforcement has made strides to train campus police in what to do when there is an active shooter on campus. Some institutions have the ability to completely lock down a campus while others do not. It is also difficult to determine in advance of a lock down whether or not more students and faculty will be killed if they are locked down with the active shooter. The fact remains that training in emergency management is available through local law enforcement and the FBI. It is left to the discretion of the institution’s administration whether or not the training happens.

All three of the institutions studied for this thesis have participated in at least one emergency cross training program with local law enforcement. City University and University of the West conduct annual emergency cross training.

Freshman and Transfer Student Orientation: Focus on Clery Act and Campus Safety

Freshman orientation is one of the easiest opportunities an institution has to teach their new, youthful and older transfer students on how campus security operates. Campus law enforcement should offer presentations that detail what to do in the event of an emergency and how to report crimes. The Clery Act should be described in detail and a copy of the most recent ASR should be provided to each student and parent attending. Emphasis should be placed on the timely reporting of any crime observed by students and what to do in the event of an emergency on campus.
Education of and Outreach to High School Counselors

The process of college choice decision-making begins at the high school level, in the office of the high school counselor. Accordingly, high school counselors should be educated on the Annual Security Report and where to access it in order to provide students with information that will allow them information to make informed college choice decisions. Written information should be provided to all college going, graduating seniors advising them where they can access the U.S. Department of Education’s website that provides the Annual Security report for all institutions of higher education. The high school counselor is an impartial figure that can assist students in obtaining this important campus information.

Increase Sexual Assault Awareness and Victim Assistance Programs

Sexual assault is one of the most commonly occurring crimes on campus. Institutions must go beyond the creation of policy on sexual assault and actually mandate the creation of programs that increase awareness for males and females. Victim assistance programs must be developed and or improved to provide comprehensive services to students. Sexual assaults can lead to depression, suicide and withdrawal from the institution. Counseling and individual case management and follow through must be offered to all victims to avoid losing a student and to protect other students from repeat offenders.

Increase Mental Health Awareness and Programs

The subject of mental health awareness and mental health programs is so large and developing it could cover many books, articles, theses and dissertations. Even though
this researcher does not have a thorough background in this area is it obvious that more needs to be done by IHEs to provide larger programs and more proficient services. Many of the recent campus murders have been committed by individuals with prior mental health issues (Virginia Tech and Northern Illinois University) which were ignored or slipped through the proper care protocol.

* LIABILITY FOR THE SUICIDAL OR MENTALLY ILL STUDENT *

A duty not yet imposed on universities, but one that is looming on the horizon in the aftermath of the Virginia Tech massacre and Northern Illinois University is the duty to control the violent and or mentally ill student. Based upon a theory of the special relationship between the student and the university, when the student resides in on-campus housing, and the university has knowledge of violent tendencies or mental health issues, IHEs may soon be held to have a duty to act to prevent harm to the student and could be held liable in the future for failure to do so.

An example is easily found in a confidential settlement reached between the parties in *Shin v. Massachusetts Institute of Technology* (2005) (WL1869101)(Mass. Super. June 27, 2005). Massachusetts Institute of Technology (MIT) may have avoided a verdict against them for negligence based upon their failure to foresee student Elizabeth Shin would likely hurt herself without appropriate supervision. Elizabeth Shin had pre-existing mental health issues prior to matriculating at MIT. Shin’s mental health issues became pronounced as she entered her sophomore year. Shin made numerous suicide threats to MIT employees and fellow students and engaged in regular cutting of her body. MIT offered a variety of responses to assist Shin which proved unsuccessful. Shin
eventually followed through with her threats and set herself on fire in her dormitory room. She died shortly thereafter (Stuart, 2008).

Shin’s parents filed a multiple count lawsuit against MIT for negligence, gross negligence, wrongful death and conscious pain and suffering. On a Motion for Summary Judgment filed by MIT, Shin’s parents won by successfully presenting triable issues of fact. Rather than go to trial, MIT settled with Shin’s parents for an undisclosed amount. Shin’s parents originally claimed damages totaling $27.65 million (Stuart, 2008).

The *Shin* decision has a chilling effect because of the logical progression of potential liability from this suicidal student case to further institutional liability for students who become victims’ as a result of the suicidal student’s actions. The massacre at Virginia Tech is a profound example.

*Environmental Assessment and Design*

Enough cannot be said about the proper maintenance and management of an institution’s property. The environment or property of the institution must be analyzed to determine the necessity for repairs, additional lighting, landscape modification or trimming of overgrown foliage. If the institution maintains its property in a manner that is consistent with regular review and assessment, it will be less likely to be the subject of a lawsuit or the scene of a crime.
November 11, 2008

To: Who it May Concern:
From: Rosemary Ann Blanchard

RE: Revision to Mardi Walters' Human Subject Protocol

This will confirm that Mardi Walters has met with me and has made the modifications required to her human subject protocol and letter seeking informed consent. It now conforms with the requirements stated in the Approval with Revision letter.
Human Subjects Approval Review Form

Amended to reflect revisions required by committee
Department of Educational Leadership & Policy Studies
Committee for the Protection of Human Subjects

(Submit one copy of this form with one copy of the IRB (Institutional Review Board Form)
(Submit all student, parent consent forms and instrument, i.e., survey or questionnaire

Project/Thesis Title: The Jeanne Clery Act: An Institutional Comparison of Compliance at University and University of

Student Researcher: Martha M. Walters

Student’s email address: marth766@sbcglobal.net

Faculty Chair name: Dr. Rosemary Blanchard

Faculty Chair Signature: [Signature]

(Faculty signature indicates that your sponsor has read and approved these protocols)

i. Does this research involve human subjects?
   X Yes No (If no, STOP. You do not need approval.)

1. Is this for a class? X Yes (500A) project ___ No (500A) thesis
   Semester Fall Year 2008

ii. Have you attached copies of the Institutional Review Board (IRB) forms __ NA Yes No (If no, STOP. Only complete packets will be considered.) Revision only, else not required by current EDLP form

2. Does this project use members of any protected class? (This includes minors, prisoners, pregnant women, fetuses, elderly, patients of hospitals or mental facilities, or any person legally unable to give consent.)
   ___ Yes X No

3. Is this project exempt according to university standards? (Exempt research is in an established course on the effectiveness of instructional techniques; observational research of adults that does not allow individual participants to be identified; a review of pre-existing anonymous records or surveys; an evaluation of a public service program.)
   ___ Yes X No

4. Does this research pose any physical or psychological harm to the subjects? (Note: Studies that use deception are considered by IRB rules to pose psychological harm.)
   ___ Yes X No. If yes, please explain

5. Does this research pose any physical or psychological harm to the researcher?
   ___ Yes X No
   If yes, please explain

Department: Human Subjects Committee Use Only

This project/thesis is __ Approved ___ Not approved ___ Referred to HSC ___ Approved with these revisions:

Signature of Grad coordinator: ___________________ Date: ____________
Institutional Review Board Form (IRB) -
Human Subjects Approval Request
Department of Educational Leadership & Policy Studies

(Submit one copy of this form and any attachments, such as parent/student consent forms, and instruments (survey or questionnaire) to the EDLP Department, Eureka Hall 437)

Note: If possible please TYPE your responses or ATTACH your responses to this form.

Project Title: The Jeanne Clery Act: An Institutional Comparison of Compliance at _____ University and University of _____

Name(s) and affiliation(s) of Researchers: Martha M. Walters, B.A., graduate student, Sacramento State University.

Mailing address (or Department and CSUS mail code): 13975 La Barr Pines Drive, Grass Valley, CA 95949. Educational Leadership & Policy Studies - Department of Education.

Telephone and e-mail address for researcher: (530) 272-4742 (home) or (530) 575-0394 (cell) and email: mwalt876@csuglobal.net

Anticipated starting date: November 1, 2008.

Name of faculty sponsor (for student research): Dr. Rosemary Blanchard

Name of culminating experience chair (for thesis or project): Dr. Rosemary Blanchard

E-mail address of sponsor: rbinchrd@csus.edu

6. Who will participate in this research as subjects (e.g., how many people, from what source, using what criteria for inclusion or exclusion)? How will their participation be recruited (e.g., what inducements, if any, will be offered)?

*Chief of Police, Director of Safety, These individuals are responsible for filing annual Clery Act compliance reports for their educational institution. I have contacted them and requested their participation in my research and they have agreed. Research will be comprised of personal interviews with prepared questions.

*S. Daniel Carter, Senior VP, Security on Campus: This non-profit company established by the Clery family helped enact this landmark law. Mr. Carter is responsible for education and training on the compliance portions of the act. I have contacted him and
requested a personal interview and he has agreed. I will also attend the Clery Compliance training seminar he will conduct, on Nov. 10-11, 2008, in Lexington, KY.

7. How will informed consent be obtained from the subjects? Attach a copy of the consent form you will use. If a signed written consent will not be obtained, explain what you will do instead and why. (See CPHS Policy Manual, Appendix B, for examples of consent forms and a list of requirements. Policy manual can be found at: http://www.csus.edu/nsp/HumanSubjects.htm.)

I will obtain written informed consent from each participant in advance of each interview. I have attached an exemplar for review.

8. How will the subjects’ rights to privacy and safety be protected? (See Level of Risk in policy manual.)

The level of risk for this research is ‘no-risk.’ The subjects willingly participate and have indicated they will sign Consent to Participate form. If the subjects do not want their names released I have agreed to do so to protect privacy.

9. Summarize the study’s purpose, design, and procedures. (Do not attach lengthy grant proposals, etc.)

Purpose:
The landmark federal law known as the Jeanne Ann Clery Act was enacted in 1990, after she was found raped and murdered in her residence hall at Lehigh University in Pennsylvania. Jeannie Clery, a freshman student in her second semester, had chosen Lehigh over other colleges because she believed crime on its campus was minimal. Subsequent to this tragic crime, it was discovered Lehigh University had concealed the existence of several prior violent crimes occurring on their campus from students, parents, and employees. Prior to this Act no uniform campus crime reporting law existed in their state.

Although the Clery Act has existed since 1991 and provides stiff penalties for non-compliance, colleges and universities are complying with reporting requirements at varying levels. Enforcement of the Clery Act by the Department of Education has proven minimal. Since 1991, the Department of Education has failed to launch and prosecute more than three enforcement proceedings for non-compliance.

This thesis seeks to: 1) understand how college and university administrators and other personnel perceive and act upon compliance requirements under the Act; and 2) Why the DOE has failed so miserably to enforce the requirements of the Act.

Design: Data will be obtained through scheduled qualitative interviews with the Chief of Police, and relevant Clery compliance personnel at [name redacted] and [name redacted]. Subjects have been contacted and have agreed to participate.
S. Daniel Carter, Senior VP of Security on Campus will be personally interviewed on the history of the Clery Act and compliance requirements under it.

Clergy Compliance Seminar: This researcher will attend a Clergy Compliance seminar taught by Mr. Carter on Nov. 10-11, 2008. This seminar is sponsored by the U.S. Department of Education for the sole purpose of providing training to administrators at educational institutions on compliance requirements of the Clery Act.

This researcher will review prior Clergy compliance reports filed by both [redacted] and [redacted] to determine levels of compliance. Further, this researcher will review relevant scholarly articles, journals, books, theses and dissertations on the Clery Act and campus security and campus crime reporting.

Procedures:
Data obtained from subjects will be transcribed into written format and coded for re-occurring themes. Previously filed Clergy compliance reports and State of California audits of [redacted] and [redacted] will be analyzed and compared with requirements of the Act.

9. Describe the content of any tests, questionnaires, interviews, etc. in the research. Attach copies of the questions. What risk of discomfort or harm, if any, is involved in their use?

No tests will be conducted by this researcher. Qualitative personal interviews will be conducted with pre-determined questions designed to focus on compliance. An exemplar of questions is attached hereto.

There is no risk of discomfort or harm associated with the prospective interviews.

10. Describe any physical procedures in the research. What risk of discomfort or harm, if any, is involved in their use?

This researcher will not conduct and physical procedures in this research.

11. Describe any equipment or instruments and any drugs or pharmaceuticals that will be used in the research. What risk of discomfort or harm, if any, is involved in their use?

The only equipment this researcher anticipates using is a tape recorder to record personal interviews. No drugs or pharmaceuticals will be used in this research.

12. Taking all aspects of this research into consideration, do you consider the study to be "exempt", "no risk", "minimal risk", or "at risk"? Explain why. (See Level of Risk in policy manual.) This researcher believes that this research poses "no risk," to participants because it involves only qualitative interviews with establish educational institution professionals.
Questions may be directed to the Graduate Coordinator through the Department of Educational Leadership & Policy Studies 916 278 5388 or the Office of Research and Sponsored Projects.
Consent to Participate in Research
(Exemplar)

(Purpose of the research) You are being asked to participate in research which will be conducted by Martha Walters, a graduate student in Educational Leadership & Policy Studies at California State University, Sacramento. The purpose of the study is to determine the nature and extent of policies and procedures in place at your university in light of the annual reporting requirements of the Jeanne Clery Act. The information obtained will be analyzed and compared to companion research obtained from the University of

(Benefits) You may not personally benefit from participating in this research. However, the results of my research may provide insight to various components of the Clery Act and will be provided, at your request, upon completion.

(Risks) The research to be conducted will consist of personal interviews, questionnaires and or observations of campus security personal, administrators and individuals working for Security on Campus and pose no risk to personal safety or mental health. No unforeseeable risks are anticipated.

(Subjects) The approximate number of subjects to be interviewed is four. Chief of Police at the University of California, S. Daniel Carter, Senior VP of Security on Campus and his administrative assistant. The anticipated duration of each interview is approximately thirty to forty-five minutes.

(Confidentiality) If you request your participation in this study be kept confidential, I will do so. However, the results of the study as a whole will be shared with Dr. Rosemary Blancherd, my mentor professor at

(Compensation) You will receive no compensation for participating in this research.

(Costs) This research will not involve any costs to research subjects.

(Contact information) If you have any questions about this research, you may contact Dr. Rosemary Blancherd (916) 278-7690 or by e-mail at rblancherd@csus.edu or you may contact researcher Martha Walters at (530) 575-0394 or by e-mail at mardi76@sbcglobal.net.

Participation in this research is entirely voluntary. You may decline to be a participant in this study without any consequences. Your signature below indicates that you have read this page and agree to participate in the research. Thank you for your assistance in this matter.
Exemplar

Via email

Chief and Director
6000 J Street
Sacramento, CA 95819-0092

Re: EDLP 288 Primary Research for the Jeanne Clery Act

Dear Chief

I am a graduate student in Educational Leadership at Sacramento State. As my e-mail to you states, I am conducting research pertaining to the Jeanne Clery Act. Specifically, I am focusing my research on the nature and extent of efforts made by [redacted] to comply with the annual reporting requirements of the Act. It is my understanding, from Tony Lucas, a member of my EDLP Cohort that you are responsible for collecting the data necessary to assist in filling the annual compliance report with the federal government. I have prepared a set of questions I would like to ask you, however, please point out any factors I have over looked or those you feel strongly about in one manner or another. Before we begin, please accept my appreciation should you decide to allow me to interview you on this important subject and consume your valuable time.

Questions:

1. How does the campus establish/identify jurisdiction for reporting of crimes on campus. In other words, how are the areas reported or the boundaries established? All inside the campus but what about the perimeter?

2. How is policy relative to JCA established by your institution? (System wide or campus wide?) Could you describe policy development process and the individuals who participate in this process?

Follow-up: Does you have any suggestions and or ideas for improvement?

3. Do you collaborate with local law enforcement in preparation/assessment of compliance with JCA? If so, how is this accomplished?
4. How do you decide what crimes to include in the annual Clery Act report? By this question I am interested in ascertaining how you report for crimes that have more than one component? (i.e. a student is injured by another student on campus while consuming alcohol (assault/battery, liquor violation). Are they reported in three separate categories or as one event?

5. How do you publish, educate or inform students and staff regarding the JCA? How often does this occur and in what manner (publication, writing, email)?

6. What is your personal opinion of the JCA and annual compliance requirements? (Is it sufficient, accurate, needs improvement, over reaching, burdensome?)

7. What are some of the challenges you face in adhering to the provisions of the JCA?

Follow-up: Do you have any recommendations to assist your department in handling these challenges?

8. What is the nature and amount of your budget allocated to comply with the JCA? (Is it sufficient, lacking, needs improvement?)

9. What are your procedures to inform students of crimes that pose an imminent threat on campus? Do you believe additional measures could be implemented to increase effectiveness in this area? If so what are they?

10. Can you tell me why the Winter Break Crime Prevention program was developed and who participated in its development?

11. Do you have a JCA Handbook or compliance manual?

12. Do you offer your staff mandatory or optional training and or educational materials regarding the JCA?

13. Does have a specific policy or procedures for reporting of sexual assaults or sexual misconduct on campus? Could you describe that policy for me?

14. Do you publish Safety Report annually? What factors were behind the preparation of this report and when was it first prepared?
I have attached a Consent to Participate in research form for your signature if you decide to participate. You can return it by email if you have an electronic signature or I can pick it up at your office prior to December 1, 2008.

Again, thank you for your assistance in this matter.

Very truly yours,

[Signature]

Martha M. Walters
APPENDIX B

Clery Act Compliance Checklist for University of the West

SUBJECT: UNIVERSITY OF THE WEST – PRIVATE, 4 YEAR,
RESEARCH INSTITUTION, DOCTORAL GRANTING, URBAN

I. Development, Disclosure and Implementation of Security Policies

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. Your institution is required, per its Title IV Program Participation Agreement, to have a campus security policy. Your institution’s policy statements must accurately reflect how the policies are currently implemented.

D. Do you have:

1. An individual or office designated to ensure that your institution’s security policies are actively implemented as prescribed? ..............................................

RESPONSE: Yes, the Chief of Police who also holds the title of Director of Public Safety.

II. Campus Security Authorities

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. In addition to campus police or security personnel, if applicable, your institution must identify other individuals or offices with significant responsibility for student and campus activities. Alleged crimes reported to these authorities are then
reported by these authorities to campus police or security, to local police, or to someone
designated by the institution to collect such reports.

D. Do you have:

1. Designated campus security authorities who understand their functions and
   responsibilities? ..................................................................................................

   RESPONSE: A complete list of the offices who are designated Campus Security
   Authorities with contact information is provided.

2. A person or office responsible for overseeing campus security authorities and
   ensuring the collection of crime reports? .......................................................

   RESPONSE: University of the West’s Chief of Police/Director of Public Safety
   receives reports of crime for inclusion in the ASR.

III. Timely Warnings (Chapter 5)

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. Your institution must alert the campus community of any Clery Act crimes that
   are reported to campus security authorities or local police and are considered
   to represent a serious or continuing threat to students and employees.

D. Do you have:

1. A written timely warning policy? .................................................................

   RESPONSE: Yes. Any event that in the judgment of the Director of Public
   Safety constitutes a serious threat to the campus community will result in the issuance of
   a ‘timely warning.’
2. An individual or office responsible for issuing timely warnings? ....................... 

**RESPONSE:** Yes. Chief of Police/Director of Public Safety and their threat assessment team. 

3. One or more methods of disseminating timely warnings?..................................... 

**RESPONSE:** Yes. Timely warning will be distributed to the campus community using a system to send mass messages to students, faculty and staff during emergencies. Messages are sent by multiple methods (email, telephone, cell phone and text messages). If the event warrants it the University will contact the media and issue area wide releases. 

4. Communication with local police requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings? ................................................................. 

**RESPONSE:** Yes, University of the West cooperates with state and local police agencies and issues campus crime bulletins to these agencies and local media. 

**IV. The Daily Crime Log** 

A. Mandatory for all institutions that maintain a campus police or security department. 

B. On-going basis throughout the year. 

C. Your institution must disclose all alleged criminal incidents, including non-

_Clergy Act_ crimes, reported to the campus police or security department. 

D. Do you have: 

1. A hard copy or electronic crime log that records criminal incidents by the date reported, which includes:
a) The nature of the crime? ......................................................................................

b) The date and time the crime occurred? ..........................................................

c) The general location of the crime? .................................................................

d) The disposition of the complaint, if known? ..................................................

2. Public access to the log? .....................................................................................

3. An individual or individuals responsible for maintaining the log on a daily basis?


V. Statistics From Local Police

A. Mandatory for all institutions.

B. Periodic basis throughout the year.

C. Your institution must make a good-faith effort to collect crime statistics for all
   Clery Act crimes committed in applicable geographic locations from all police
   agencies with jurisdiction for your institution.

D. Do you have:

   1. An individual or office responsible for requesting crime statistics from local
      and state police? ............................................................................................

RESPONSE: Yes, the Chief of Police sends annual written requests for crime
statistics from local and state law enforcement. Copies of the letters sent are maintained
in the annual Clery Act file.

   2. Documentation of your institution’s efforts to obtain the statistics and
documentation of any noncompliance on behalf of the police? ...................................
RESPONSE: Yes. If the crime statistics are not provided a follow-up letter is sent and a copy is maintained in the file for documentation purposes.

3. Statistics from all the appropriate police agencies with jurisdiction for your institution?

RESPONSE: Usually, receipt of data requested from local law enforcement agencies is timely.

VI. Report to ED Via the Web-based Data Collection (Chapter 11)

A. Mandatory for all institutions.

B. Annually each fall per letter from ED.

C. Your institution is required to submit the crime statistics portion of the annual security report via the ED Web site each year.

D. Do you have:

1. An individual or office designated to enter and submit the statistics?............

RESPONSE: The 2009 Annual Security Report does not mention an individual designated to enter and submit the statistics. Personal interview revealed that the secretary to the Chief of Police enters the data on the website.

VII. Annual Security Report (Chapters 7 – 10)

A. Mandatory for all institutions.

B. Publish and distribute annually by Oct. 1 to all enrolled students and all employees. Provide notice, as appropriate, to all prospective students and employees.

C. This report has two main parts:
1. Disclosure of crime statistics (by Clery Act geographic locations and by year reported).

a) Do you have:

(1) An individual or office responsible for collecting all crime reports from campus security authorities and local police for inclusion in the annual security report?

RESPONSE: The Chief of Police is charged with the responsibility of receiving all crime reports from Campus Security Authorities and for including them in the Annual Security Report.

(2) Crime statistics for:

Offenses

(a) Murder and Non-Negligent Manslaughter

(b) Negligent Manslaughter

(c) Forcible Sex Offenses

(d) Non-Forcible Sex Offenses

(e) Robbery

(f) Aggravated Assault

(g) Burglary

(h) Motor Vehicle Theft

(i) Arson

(j) Hate Crimes

RESPONSE: Yes, all categories are reported on the Annual Security Report.
Arrests

(k) Weapons Possession

(l) Drug Law

(m) Liquor Law

RESPONSE: Yes, all categories are reported on the Annual Security Report.

Referrals

(n) Weapons Possession

(o) Drug Law

(p) Liquor Law

RESPONSE: Yes, all categories are reported on the Annual Security Report.

2. Disclosure of Policy Statements

(a) Do you have statements addressing:

(1) Procedures for reporting crimes and other emergencies, specifically including:

(a) Timely Warnings?

RESPONSE: University of the West has a written policy statement for ‘timely warning,’ and has an established procedure to quickly convene a team to discuss and issue the need to provide a ‘timely warning.’

(b) Reporting crimes on a voluntary, confidential basis?

RESPONSE: University of the West’s 2009 Annual Security Report does not mention reporting crimes confidentially.

(c) Preparing the annual security report?
RESPONSE: University of the West indicates the manner in which it collects data for inclusion in the ASR and the Chief of Police prepares the ASR.

(d) Titles of persons or organizations to which crimes should be reported?…..

RESPONSE: Yes, Valley University provides the titles and contact numbers for person to which crime should be reported.

(2) Policies concerning the security of, and access to, campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities? .................................................................

RESPONSE: University of the West’s 2009 Annual Security Report did not contain a policy concerning access to campus facilities, including residences.

(3) Policies concerning campus law enforcement, specifically including:

(a) Enforcement authority of security personnel? ............................................

RESPONSE: The Department of Public Safety was granted police officer powers through a memorandum of understanding with the city wherein it is located.

(b) Working relationship with state and local police agencies? ......................

RESPONSE: Yes. Because the Chief of Police is a former employee of the local police department he has a well developed relationship with them. The Department of Public Safety collaborates with local law enforcement in many areas that serve the campus well.

(c) Arrest authority of security personnel? ......................................................

RESPONSE: University of the West’s police officers have full arrest authority.

(4) Policies and procedures encouraging accurate and prompt reporting of all
RESPONSE: Yes. University of the West encourages the prompt reporting of all criminal events not just *Clery Act* crimes.

(5) Policy encouraging pastoral and professional counselors, if allowed by institution, to inform clients of voluntary, confidential crime reporting procedures?

RESPONSE: University of the West’s 2009 Annual Security Report does not contain a statement concerning pastoral and professional counselors to inform clients of confidential reporting.

a) Types of Programs?

b) Frequency of Programs?

RESPONSE: University of the West has numerous crime prevention programs available. Adopt a Cop provides an assigned police office to residence halls that will become familiar with residents. Another crime prevention program is the Personal Safety and Sexual Assault Prevention Program.

(7) Programs to inform students and employees about crime prevention?

RESPONSE: The programs identified in response to no. 6 are also responsive to this question.

(8) Policy concerning monitoring and recording student off-campus criminal activity through local police, including student organizations with off-campus housing?
RESPONSE: University of the West has written agreements with city, county and state police agencies and share crime statistics and other related criminal incident information.

(9) Alcohol policy? .............................................................................................................

RESPONSE: Yes. Students violating this police are subject to disciplinary action and may be referred for criminal prosecution.

(10) Drug policy? .............................................................................................................

RESPONSE: Yes. Students violating this police are subject to disciplinary action and may be referred for criminal prosecution.

(11) Description of drug or alcohol abuse education programs (may cross-reference HEA materials)? ..............................................................................

RESPONSE: Yes. University of the West has numerous substance abuse, education and prevention programs available on campus. Hotlines are available 24 hours per day.

(12) Sexual assault programs to prevent sexual offenses and procedures if an offense occurs, specifically including:

(a) Description of relevant educational programs? ..........................................................

RESPONSE: The Personal Safety and Sexual Assault Prevention Program and Alcohol and Drug Prevention Programs are educational programs presently available.

(b) Procedures students should follow if sexually assaulted, specifically including:
(i) Procedures regarding whom to contact? ....................................................

(ii) Importance of preserving evidence? ........................................................

(iii) To whom the offense should be reported? ................................................

**RESPONSE:** Yes. Procedures for handling sexual assaults cases are clearly defined and supported by advocates.

(13) Information on a student’s option to notify law enforcement authorities, specifically including:

(a) Campus and local police? ...........................................................................

**RESPONSE:** Yes.

(b) Statement that institution will assist the student with notification, if desired? ........................................................................................................

**RESPONSE:** Yes.

(14) Notification to students of on-and-off campus sex offender victim services?

**RESPONSE:** Yes.

(15) Notification that institution will assist victim with changes in academic and living arrangements if desired and if available? ........................................

**RESPONSE:** Yes.

(16) Procedures for disciplinary action for alleged sex offenses, including a clear statement that:

(a) Accuser and accused are entitled to same opportunities to have others present during a disciplinary proceeding? ..............................

**RESPONSE:** Yes
(b) Accuser and accused must be informed of outcome of any institutional disciplinary proceeding alleging a sex offense? .................................................

RESPONSE: Yes.

(17) Sanctions the institution may impose following a final determination of a sex offense disciplinary proceeding?..............................................................

RESPONSE: Yes.

(18) Statement advising campus community where law enforcement agency information provided by state concerning registered sex offenders may be obtained?........................................................................................................

RESPONSE: Yes.
I. Development, Disclosure and Implementation of Security Policies

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. Your institution is required, per its Title IV Program Participation Agreement, to have a campus security policy. Your institution’s policy statements must accurately reflect how the policies are currently implemented.

D. Do you have:

1. An individual or office designated to ensure that your institution’s security policies are actively implemented as prescribed?

**RESPONSE:** Yes, the Chief or Police who also holds the title of Director of Public Safety.

II. Campus Security Authorities

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. In addition to campus police or security personnel, if applicable, your institution must identify other individuals or offices with significant responsibility for student and campus activities. Alleged crimes reported to
these authorities are then reported by these authorities to campus police or security, to local police, or to someone designated by the institution to collect such reports.

D. Do you have:

1. Designated campus security authorities who understand their functions and responsibilities? .................................................................

**RESPONSE:** Yes. Training occurs on a regular basis. In 2009, City University’s Campus Security Authorities participated in a Clery Act training program conducted by the University of Delaware.

2. A person or office responsible for overseeing campus security authorities and ensuring the collection of crime reports? ...........................................

**RESPONSE:** Yes, the Chief or Police who is also Director of Public Safety.

III. Timely Warnings (Chapter 5)

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. Your institution must alert the campus community of any Clery Act crimes that are reported to campus security authorities or local police and are considered to represent a serious or continuing threat to students and employees.

D. Do you have:

1. A written timely warning policy? .............................................................

**RESPONSE:** Yes. Timely warning will be distributed to the campus community using various methods of communication. City University recently implemented an
integrated Emergency Notification System (ENS) which is used to distribute emergency messages during major critical incidents on campus. Students, faculty and staff will receive emergency messages on their campus email accounts and texts messages. The system can also ring campus telephones in specific buildings during critical incidents.

2. An individual or office responsible for issuing timely warnings? ……………

**RESPONSE:** Yes. Sacramento State Police and Department of Public Affairs will determine the most effective method to distribute the timely warning.

3. One or more methods of disseminating timely warnings? ………………………

**RESPONSE:** Yes. City University can provide notification through ENS, student email accounts, text messages and the University’s campus wide announcement system.

4. Communication with local police requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings? ………

**RESPONSE:** Yes, City University cooperates with state and local police agencies which results in the University’s awareness of crimes committed beyond campus borders.

**IV. The Daily Crime Log** (Chapter 6)

A. Mandatory for all institutions that maintain a campus police or security department.

B. On-going basis throughout the year.
C. Your institution must disclose all alleged criminal incidents, including non-
*Clery Act* crimes, reported to the campus police or security department.

D. Do you have:

1. A hard copy or electronic crime log that records criminal incidents by the date
   reported and includes:
   
   a) The nature of the crime? .................................................................
   
   b) The date and time the crime occurred? ...........................................
   
   c) The general location of the crime? .................................................
   
   d) The disposition of the complaint, if known? .................................

2. Public access to the log? .................................................................

3. An individual or individuals responsible for maintaining the log on a daily
   basis?

   **RESPONSE:** Yes, the Daily Crime Log is located at the Department of Public Safety
   and is available for review during normal business hours Monday through Friday 8:00
   a.m. to 5:00 p.m. The Daily Crime Log is not mentioned in the Annual Security

**V. Statistics From Local Police (Chapter 4)**

A. Mandatory for all institutions.

B. Periodic basis throughout the year.

C. Your institution must make a good-faith effort to collect crime statistics for all
   *Clery Act* crimes committed in applicable geographic locations from all police
   agencies with jurisdiction for your institution.
D. Do you have:

1. An individual or office responsible for requesting crime statistics from local and state police? …………………………………………………………………………………………………………

   **RESPONSE:** Yes, the Chief of Police and Director of Public Safety annually requests crime statistics, in writing, from local and state law enforcement. Copies of the letters sent are maintained in the annual *Clery Act* file.

2. Documentation of your institution’s efforts to obtain the statistics and documentation of any noncompliance on behalf of the police? ………………………………………

   **RESPONSE:** Yes. If the crime statistics are not provided a follow-up letter is sent and a copy is maintained in the file for documentation purposes.

3. Statistics from *all* the appropriate police agencies with jurisdiction for your institution?

   **RESPONSE:** Yes. Receipt of the requested data and cooperation from local police agencies is often problematic.

**VI. Report to ED via the Web-based Data Collection** (Chapter 11)

A. Mandatory for all institutions.

B. Annually each fall per letter from ED.

C. Your institution is required to submit the crime statistics portion of the annual security report via the ED Web site each year.

D. Do you have:

1. An individual or office designated to enter and submit the statistics? …………
RESPONSE: Yes, the secretary to the Chief of Police annually accesses the DOE website and enters the data.

VII. Annual Security Report (Chapters 7 – 10)

A. Mandatory for all institutions.

B. Publish and distribute annually by Oct. 1 to all enrolled students and all employees. Provide notice, as appropriate, to all prospective students and employees.

C. This report has two main parts:

1. Disclosure of crime statistics (by Clery Act geographic locations and by year reported).

   a) Do you have:

      (1) An individual or office responsible for collecting all crime reports from campus security authorities and local police for inclusion in the annual security report?

RESPONSE: Yes, the Chief of Police and Director of Public Safety requests each campus security authority immediately notify his department after receiving a report of a Clery Act crime.

      (2) Crime statistics for:

      Offenses

      a) Murder and Non-Negligent Manslaughter ..............................................

      b) Negligent Manslaughter ...........................................................................

      c) Forcible Sex Offenses..............................................................................
d) Non-Forcible Sex Offenses .................................................................

e) Robbery ..............................................................................................

f) Aggravated Assault ..............................................................................

g) Burglary ..............................................................................................

h) Motor Vehicle Theft ............................................................................

i) Arson ...................................................................................................

j) Hate Crimes ...........................................................................................

RESPONSE: Yes. City University also reports the crimes of vandalism and larceny on their Annual Security Reports.

Arrests

(k) Weapons Possession ...........................................................................

(l) Drug Law ............................................................................................

(m) Liquor Law ...........................................................................................

RESPONSE: Yes.

Referrals

(n) Weapons Possession ............................................................................

(o) Drug Law ............................................................................................

(p) Liquor Law ............................................................................................

RESPONSE: Yes.

2. Disclosure of Policy Statements

(a) Do you have statements addressing:

(1) Procedures for reporting crimes and other emergencies, specifically including:
(a) Timely warnings? ........................................................................................................

**RESPONSE:** Yes. (See page 8 under Crime Alert Bulletins)

(b) Reporting crimes on a voluntary, confidential basis?...........................................

**RESPONSE:** City University encourages the voluntary timely reporting of crimes occurring on campus. Crime information can also be forwarded anonymously at the request of the victim to local police agencies (P. 5).

(c) Preparing the annual security report? ........................................................................

**RESPONSE:** Yes, in conjunction with university legal counsel, the Chief of Police/Director of Public Safety prepares the Annual Security Report. The preparation of the report occurs over a period of several months and is reviewed before filing for accuracy.

(d) Titles of persons or organizations to which crimes should be reported? ......

**RESPONSE:** A list of the campus security authorities is not provided in the Annual Security Report, however, students, staff and visitors are encouraged to timely report any crime on campus to the Department of Public Safety.

(2) Policies concerning the security of, and access to, campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities? ..........................................................................................................

**RESPONSE:** Yes. A daily event schedule of on-campus activities is provided to Facilities Services and buildings are either locked or unlocked on the basis of that schedule. Facilities Services maintains City University’s buildings and grounds and inspects them on a regular basis to ensure repairs are conducted on a timely basis.
Lighting surveys are conducted regularly and improvements made based upon them.

The Residence Halls have a policy that all exterior doors be locked at all times. Resident are issued a key card for access and any guests must be accompanied by a resident.

(3) Policies concerning campus law enforcement, specifically including:

(a) Enforcement authority of security personnel? .............................................

**RESPONSE:** All officers are fully certified by the State of California and have full arrest powers.

(b) Working relationship with state and local police agencies? .......................  

**RESPONSE:** City University cooperates with all state and local law enforcement agencies and cross trains with them to prepare for on campus emergencies.

(c) Arrest authority of security personnel? ....................................................

**RESPONSE:** All officers are fully certified by the State of California and have full arrest powers.

(4) Policies and procedures encouraging accurate and prompt reporting of all crimes to campus police and local police? ...........................................................

**RESPONSE:** City University encourages the ‘prompt’ reporting of any incident that compromises the safety, health or rights of campus community members to the Department of Public Safety if on campus or local law enforcement if off-campus.

(5) Policy encouraging pastoral and professional counselors, if allowed by institution, to inform clients of voluntary, confidential crime reporting procedures?.................................................................
RESPONSE: City University’s Annual Security Report for 2009 did not mention confidential crime reporting.

(6) Programs to inform students and employees about campus safety procedures and to encourage students and employees to be responsible for themselves and others with regard to safety, specifically including:

(a) Types of programs? .................................................................

(b) Frequency of programs? ..........................................................

RESPONSE: Yes. The Campus Safety & Environmental Health Committee is charged with the task of making recommendations to the President regarding policy changes and other action pertaining to campus safety and environmental health issues. City University also has a Crime Alert Program that assists in locating suspects or information regarding crime. Personal Safety Training is offered by City University’s Police Department and is available for personal safety demonstrations. The Safe Rides Program is designed to assist students who have been drinking alcohol by returning them to their residences. Public Safety Escorts and Night Shuttles to outlying parking structures are available on request. Emergency telephone are available throughout campus and Crime Alert Bulletins are posted around campus to warn of recent criminal events.

(7) Programs to inform students and employees about crime prevention? .........

RESPONSE: Yes. Personal Safety Training is offered by City University’s Police Department and is available, upon request, for personal safety demonstrations.
(8) Policy concerning monitoring and recording student off-campus criminal activity through local police, including student organizations with off-campus housing? .................................................................

**RESPONSE:** Yes, City University and local law enforcement agencies regularly communicate regarding crimes occurring outside campus borders. Local law enforcement are the primary responders for off campus student organizations.

(9) Alcohol policy? ........................................................................................................

**RESPONSE:** Yes.

(10) Drug policy? ........................................................................................................

**RESPONSE:** Yes.

(11) Description of drug or alcohol abuse education programs (may cross-reference HEA materials)? ..............................................................................

**RESPONSE:** Yes.

(12) Sexual assault programs to prevent sexual offenses and procedures if an offense occurs, specifically including:

(a) Description of relevant educational programs? .................................

**RESPONSE:** Yes. City University has developed a Sexual Assault Response Network Team that offers support and services for victims of sexual assault. Procedures for the reporting of sexual assaults are clearly outlined.

(b) Procedures students should follow if sexually assaulted, specifically including:
(i) Procedures regarding whom to contact? .................................

(ii) Importance of preserving evidence? .................................

(iii) To whom the offense should be reported? ..............................

**RESPONSE:** Yes. City University has developed a Sexual Assault Response Network Team that offers support and services for victims of sexual assault.

Procedures for the reporting of sexual assaults are clearly outlined.

(13) Information on a student’s option to notify law enforcement authorities, specifically including:

(a) Campus and local police?.........................................................

**RESPONSE:** Yes.

(b) Statement that institution will assist the student with notification, if desired? .................................................................

**RESPONSE:** Yes.

(14) Notification to students of on-and-off campus sex offender victim services?

**RESPONSE:** City University requires sexual offenders to register with local law enforcement if they are living on campus, enrolled as a student or employed by the university. City University notifies students that public access to Megan’s Law information is no longer available on a walk in basis.

(15) Notification that institution will assist victim with changes in academic and living arrangements if desired and if available? .................................

**RESPONSE:** Yes. City University will assist the victim in changing academic and living situations if so required and if such changes are reasonably available.
(16) Procedures for disciplinary action for alleged sex offenses, including a clear statement that:

(a) Accuser and accused are entitled to same opportunities to have others present during a disciplinary proceeding? .............................................

RESPONSE: Yes. City University advises that accuser and accused are entitled to the same opportunity to have others present during a campus disciplinary proceeding.

(b) Accuser and accused must be informed of outcome of any institutional disciplinary proceeding alleging a sex offense? ......................................

RESPONSE: Yes. Both the accuser and accused shall be informed of the outcome of a campus disciplinary proceeding.

(17) Sanctions the institution may impose following a final determination of a sex offense disciplinary proceeding?...............................................................

RESPONSE: Yes.

(18) Statement advising campus community where law enforcement agency information provided by state concerning registered sex offenders may be obtained?.................................................................

RESPONSE: Yes.
APPENDIX D

Clery Act Compliance Checklist for Valley University

SUBJECT: VALLEY UNIVERSITY – PUBLIC, 4 YEAR, RESEARCH INSTITUTION, DOCTORAL GRANTING, RURAL

I. Development, Disclosure and Implementation of Security Policies

A. Mandatory for all institutions.

B. On-going basis throughout the year.

C. Your institution is required, per its Title IV Program Participation Agreement, to have a campus security policy. Your institution’s policy statements must accurately reflect how the policies are currently implemented.

D. Do you have:

1. An individual or office designated to ensure that your institution’s security policies are actively implemented as prescribed? .........................

RESPONSE: Yes, the Office of the Chief consists of the Chief of Police, one captain and a management services officer. These three individuals work together to ensure security policies are implemented with the Chief serving as the ultimately responsible individual.

II. Campus Security Authorities

A. Mandatory for all institutions.

B. On-going basis throughout the year.
C. In addition to campus police or security personnel, if applicable, your institution must identify other individuals or offices with significant responsibility for student and campus activities. Alleged crimes reported to these authorities are then reported by these authorities to campus police or security, to local police, or to someone designated by the institution to collect such reports.

D. Do you have:

1. Designated campus security authorities who understand their functions and responsibilities? ......................................................................................................................................................

**RESPONSE:** Valley University’s 2009 Annual Security Report does not specify the names and contact information for Campus Security Authorities. Through researcher’s personal interviews with Valley University employees, she did determine they do have a list and the individuals on it are trained annually.

2. A person or office responsible for overseeing campus security authorities and ensuring the collection of crime reports? ........................................................................................................

**RESPONSE:** Valley University’s 2009 Annual Security Report does not specify the individual who is responsible for overseeing Campus Security Authorities. Through personal interviews the researcher determined the Chief or Police is designated to receive crime reports.

III. **Timely Warnings** (Chapter 5)

A. Mandatory for all institutions.

B. On-going basis throughout the year.
C. Your institution must alert the campus community of any *Clery Act* crimes that are reported to campus security authorities or local police and are considered to represent a serious or continuing threat to students and employees.

D. Do you have:

1. A written timely warning policy? .................................................................

   **RESPONSE:** Valley University’s 2009 Annual Security Report does not specify an exact ‘timely warning’ policy, however the ASR does discuss their emergency management system and crime alert bulletins.

2. An individual or office responsible for issuing timely warnings? .................

   **RESPONSE:** Yes. Valley University has a comprehensive emergency management program under the guidance of a full time emergency planner. The emergency planner consults with the Chief of Police and other Campus Security Authorities in the issuance of a ‘timely warning.’

3. One or more methods of disseminating timely warnings? .........................

   **RESPONSE:** Yes. Timely warning will be distributed to the campus community using a system to send mass messages to student, faculty and staff during emergencies. Messages are sent by multiple methods (email, telephone, cell phone and text messages) to contact information listed in the campus directory as well as to confidential contact information.

   Valley University also posts emergency related information on their homepage website, Facebook, the Emergency Status Line and with local news media.
4. Communication with local police requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings?

……………………………………………………………………………………

**RESPONSE:** Yes, Valley University cooperates with state and local police agencies and issues campus crime bulletins to these agencies and local media.

**IV. The Daily Crime Log**

A. Mandatory for all institutions that maintain a campus police or security department.

B. On-going basis throughout the year.

C. Your institution must disclose all alleged criminal incidents, including non-

*Clery Act* crimes, reported to the campus police or security department.

D. Do you have:

1. A hard copy or electronic crime log that records criminal incidents by the date reported, and which includes:

   a) The nature of the crime? ……………………………………………………………

   b) The date and time the crime occurred? ……………………………………….

   c) The general location of the crime? ……………………………………………

   d) The disposition of the complaint, if known? ………………………………..

2. Public access to the log? ………………………………………………………

3. An individual or individuals responsible for maintaining the log on a daily basis? ………………………………………………………………………
RESPONSE: Yes. Although Valley University had named their Daily Crime Log the Daily Police Log. The Daily Police Log is located in the Valley University Police Department. Prior Police Logs dating back 90 days are located on a university website. The 2009 Annual Security Report does not mention what the Daily Police Log includes (such as nature of crime, date, location).

V. Statistics From Local Police

A. Mandatory for all institutions.

B. Periodic basis throughout the year.

C. Your institution must make a good-faith effort to collect crime statistics for all Clery Act crimes committed in applicable geographic locations from all police agencies with jurisdiction for your institution.

D. Do you have:

1. An individual or office responsible for requesting crime statistics from local and state police? …………………………………………………………………………

RESPONSE: Yes, the Chief of Police send annual written requests for crime statistics from local and state law enforcement. Copies of the letters sent are maintained in the annual Clery Act file.

2. Documentation of your institution’s efforts to obtain the statistics and documentation of any noncompliance on behalf of the police? ……………………

RESPONSE: Yes. If the crime statistics are not provided a follow-up letter is sent and a copy is maintained in the file for documentation purposes.
3. Statistics from *all* the appropriate police agencies with jurisdiction for your institution?

**RESPONSE:** Usually. According to personal interviews conducted by this researcher obtaining local crime statistics is sometimes problematic.

**VI. Report to ED Via the Web-based Data Collection** *(Chapter 11)*

A. Mandatory for all institutions.

B. Annually each fall per letter from ED.

C. Your institution is required to submit the crime statistics portion of the annual security report via the ED Web site each year.

D. Do you have:

1. An individual or office designated to enter and submit the statistics? …………

**RESPONSE:** The 2009 Annual Security Report does not mention an individual designated to enter and submit the statistics. Personal interview did not reveal an answer to this question.

**VII. Annual Security Report** *(Chapters 7 – 10)*

A. Mandatory for all institutions.

B. Publish and distribute annually by Oct. 1 to all enrolled students and all employees. Provide notice, as appropriate, to all prospective students and employees.

C. This report has two main parts:

1. Disclosure of crime statistics (by *Clery Act* geographic locations and by year reported).

   a) Do you have:
(1) An individual or office responsible for collecting all crime reports from campus security authorities and local police for inclusion in the annual security report?

**RESPONSE:** The Chiefs of Police are charged with the responsibility of receiving all crime reports from Campus Security Authorities and including them in the Annual Security Report.

(2) Crime statistics for:

**Offenses**

(a) Murder and Non-Negligent Manslaughter

(b) Negligent Manslaughter

(c) Forcible Sex Offenses

(d) Non-Forcible Sex Offenses

(e) Robbery

(f) Aggravated Assault

(g) Burglary

(h) Motor Vehicle Theft

(i) Arson

(j) Hate Crimes

**RESPONSE:** Yes, all categories are reported on the Annual Security Report.

**Arrests**

(k) Weapons Possession

(l) Drug Law

(m) Liquor Law
RESPONSE: Yes, all categories are reported on the Annual Security Report.

Referrals

(n) Weapons Possession .................................................................
(o) Drug Law ..................................................................................
(p) Liquor Law ................................................................................

RESPONSE: Yes, all categories are reported on the Annual Security Report.

2. Disclosure of Policy Statements

(a) Do you have statements addressing:

(1) Procedures for reporting crimes and other emergencies, specifically including:
   (a) Timely warnings? .................................................................

RESPONSE: Valley University’s 2009 Annual Security Report does not contain a specific ‘timely warning’ policy statement. The ASR does discuss the issuance of a ‘timely warning’ and how it will be delivered.

   (b) Reporting crimes on a voluntary, confidential basis? ......................

RESPONSE: Yes, Valley University has a confidential reporting policy for sexual assaults. The confidential reports may be made to the Campus Violence Prevention Program.

   (c) Preparing the annual security report? ...........................................

RESPONSE: Valley University’s 2009 Annual Security Report does not contain a specific policy concerning the preparation of the Annual Security Report, however, their ASR does mention how they collect statistics for inclusion in the report.

   (d) Titles of persons or organizations to which crimes should be reported? .......
RESPONSE: Valley University’s 2009 Annual Security Report does not contain a list of titles or organizations to which crimes should be reported. Their ASR encourages timely reporting of incidents of crime to campus police.

(2) Policies concerning the security of, and access to, campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities?

RESPONSE: To supplement the efforts of campus police, Valley University uses several committees and programs to evaluate existing practices and to make recommendations. Because of the nature and size of Valley University many of their buildings are open 24 hours a day. They advise students, employees and visitors to be alert and aware of surroundings especially at night. Annually Valley University conducts campus ‘safety walks,’ wherein students and faculty participate to pinpoint safety issues.

(3) Policies concerning campus law enforcement, specifically including:

(a) Enforcement authority of security personnel?

RESPONSE: Valley University employs 50 duly sworn peace officers with full arrest powers, who patrol the campus 24 hours a day. Approximately 150 students are trained to perform security related functions on campus.

(b) Working relationship with state and local police agencies?

RESPONSE: Yes, Valley University has written agreements with city, county and state police agencies.

(c) Arrest authority of security personnel?
RESPONSE: Valley University’s police officers have full arrest authority.

(4) Policies and procedures encouraging accurate and prompt reporting of all crimes to campus police and local police? .........................................................

RESPONSE: Valley University encourages the prompt reporting of criminal events.

(5) Policy encouraging pastoral and professional counselors, if allowed by institution, to inform clients of voluntary, confidential crime reporting procedures? ........................................................................................................

RESPONSE: Valley University’s 2009 Annual Security Report does not contain a statement concerning pastoral and professional counselors to inform clients of confidential reporting. Valley University does permit confidential reporting if sexual assaults occur, and to encourage students and employees to be responsible for themselves and others with regard to safety, specifically including:

(a) Types of programs? .................................................................

(b) Frequency of programs? ..........................................................

RESPONSE: Valley University has a unit called the Crime Prevention Unit that conducts workshops and training sessions annually and that publishes and distributes brochures regarding campus safety and how to avoid becoming a victim of crime. Another program is the Campus Violence Prevention Program which provides services to the campus community with an emphasis on prevention, education and training. Valley University also has a policy of no weapons on campus and specifies that any weapon violation is a prosecutable felony.

(7) Programs to inform students and employees about crime prevention?.............
**RESPONSE:** The programs identified in response to no. 6 are also responsive to this question.

(8) Policy concerning monitoring and recording student off-campus criminal activity through local police, including student organizations with off-campus housing?

..........................................................................................................................

**RESPONSE:** Valley University has written agreements with city, county and state police agencies and share crime statistics and other related criminal incident information.

(9) Alcohol policy? ..................................................................................................

**RESPONSE:** Yes. Students violating this policy are subject to disciplinary action and may be referred for criminal prosecution.

(10) Drug policy? ..................................................................................................

**RESPONSE:** Yes. Students violating this policy are subject to disciplinary action and may be referred for criminal prosecution.

(11) Description of drug or alcohol abuse education programs (may cross-reference HEA materials)? .................................................................

**RESPONSE:** Yes. Valley University has numerous substance abuse, education and prevention programs available on campus. Hotlines are available 24 hours per day.

(12) Sexual assault programs to prevent sexual offenses and procedures if an offense occurs, specifically including:

(a) Description of relevant educational programs? .................................
RESPONSE: ADAPT or the Alcohol & Drug Abuse Prevention & Treatment program provides organized campus wide outreach and prevention programs with peer counselors and aid to employees.

(b) Procedures students should follow if sexually assaulted, specifically including:

(i) Procedures regarding whom to contact? ………………………………………

(ii) Importance of preserving evidence? …………………………………………..

(iii) To whom the offense should be reported? ………………………………..

RESPONSE: Yes. Procedures for handling sexual assaults cases are clearly defined and supported by advocates from the Campus Violence Prevention Program.

(13) Information on a student’s option to notify law enforcement authorities, specifically including:

(a) Campus and local police? ……………………………………………………

RESPONSE: Yes.

(b) Statement that institution will assist the student with notification, if desired? ………………………………………………………………………

RESPONSE: Yes.

(14) Notification to students of on-and-off campus sex offender victim services?

RESPONSE: Yes.

(15) Notification that institution will assist victim with changes in academic and living arrangements if desired and if available? ………………………

RESPONSE: Yes.
(16) Procedures for disciplinary action for alleged sex offenses, including a clear statement that:

(a) Accuser and accused are entitled to same opportunities to have others present during a disciplinary proceeding? ..............................

RESPONSE: Yes

(b) Accuser and accused must be informed of outcome of any institutional disciplinary proceeding alleging a sex offense? ...............................  

RESPONSE: Yes.

(17) Sanctions the institution may impose following a final determination of a sex offense disciplinary proceeding? .................................

RESPONSE: Yes.

(18) Statement advising campus community where law enforcement agency information provided by state concerning registered sex offenders may be obtained? .................................................................

RESPONSE: Yes.
Due to the low incidence of hate crimes, the DOE recommends a narrative or descriptive format for reporting. Statistics must be reported for the three most recent calendar years, by geographic location and category of prejudice. Arrests and referrals for disciplinary action for weapons, drug or liquor law violations are not categorized as Hate Crimes.

Example 1:

**Hate Crimes Valley University**

2004: One on-campus robbery characterized by religious bias.

2003: One non-campus assault characterized by ethnicity/national origin basis.

2002: No hate crimes reported this calendar year.

Example 2:

**Hate Crimes Valley University**

There were no reported hate crimes for the years 2002, 2003 or 2004.

In compliance with the ‘Timely Warning’ provisions of the federal Jeanne Clery Act, University of the West Department of Campus Safety are giving notice of a disturbing act of violence reported to have occurred outside the University Library South Park entrance.

**Reported Offense:** A reported assault and battery is reported to have occurred at 10:45 p.m. on April 23, 2010. The South Park entrance to University Library is located on Millman Lane near the University’s power plant. A female student exiting the South Park entrance to the library was approached by two individuals who demanded her backpack and money. The perpetrators grabbed the student’s backpack and forced her to fall to the ground sustaining injuries.

**Suspects:** The victim described the perpetrators as two white male individuals, described as college age, 18-25. The first suspect is described as Caucasian, 5’11” in height and approximately 145 lbs, wearing a green hooded sweat shirt and dark pants. The second suspect is described as Hispanic, approximately 6’3” in height and 200 lbs, wearing black pants and a black hooded sweatshirt.
This warning is provided to alert the campus community of this violent crime and to request that students, faculty and visitors be observant of their surroundings while on campus, especially at night.

If you have any information that might be helpful in this investigation, contact University Police at (919) 564-8678, or in person at the Department of Public Safety. If you wish, you can report information confidentially at

http://www.UniversityoftheWest.edu/publicsafety.org
APPENDIX G

Compliance with the Clery Act

Table 1

- Policy Disclosure Statements
- Records Collection and Retention of Data
- Information Dissemination
APPENDIX H

POLICY DISCLOSURE REQUIREMENTS

1. TIMELY WARNING
2. DISCLOSURE OF CAMPUS CRIME STATISTICS
3. REPORTING OF CRIMINAL OFFENSES
4. AVAILABILITY OF CONFIDENTIAL CRIME REPORTING
5. ACCESS TO UNIVERSITY FACILITIES AND SECURITY ON CAMPUS
6. CAMPUS POLICE AUTHORITY AND ARREST POWERS
7. PROCEDURES TO REPORT A CRIME OR EMERGENCY
8. SECURITY AWARENESS PROGRAMS
9. CRIME PREVENTION PROGRAMS
10. CRIMINAL ACTIVITY OFF-CAMPUS
11. ALCOHOLIC BEVERAGES ON CAMPUS
12. ILLEGAL DRUGS
13. ALCOHOL AND SUBSTANCE ABUSE PROGRAMS
14. SEXUAL OFFENSE AWARENESS AND EDUCATIONAL PROGRAMS
15. SEXUAL ASSAULT PREVENTION AND RESPONSE BY INSTITUTION
16. SEXUAL OFFENDER REGISTRATION POLICY

REFERENCES


Dixon v. Alabama State Board of Education, 284 F. 2d 150 5th Cir. (1961)


Jesik v. Maricopa County Community College District, 611 P.2d 547 (Ariz. 1980).


