

# Bill as Introduced

HB 1400 - AS INTRODUCED

2010 SESSION

10-2467

04/03

HOUSE BILL            **1400**

AN ACT                requiring all colleges and universities to report crimes to the local law enforcement agency.

SPONSORS:            Rep. Emerson, Ches 7; Rep. W. Smith, Rock 18; Sen. Roberge, Dist 9; Sen. Carson, Dist 14

COMMITTEE:          Education

---

ANALYSIS

This bill requires all colleges and universities in the state to report crimes occurring on campus property to local law enforcement officials.

-----

Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT                requiring all colleges and universities to report crimes to the local law enforcement agency.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 New Section; Postsecondary Education Commission; Reporting Crimes. Amend RSA 188-D by  
2 inserting after section 9-b the following new section:

3            188-D:9-c Reporting Crimes. Each nonpublic educational institution approved or accredited by  
4 the postsecondary education commission that has no sworn law enforcement personnel shall  
5 immediately report any crime occurring on campus property to the local law enforcement agency.  
6 The institution and local law enforcement officials shall enter into a memorandum of understanding  
7 outlining the procedure for reporting crimes on campus property.

8            2 New Section; Community College System of New Hampshire; Reporting Crimes. Amend  
9 RSA 188-F by inserting after section 21 the following new section:

10           188-F:21-a Reporting Crimes. Each institution within the community college system that has  
11 no sworn law enforcement personnel shall immediately report any crime occurring on campus  
12 property to the local law enforcement agency. The institution and local law enforcement officials  
13 shall enter into a memorandum of understanding outlining the procedure for reporting crimes on  
14 campus property.

15           3 New Section; University System of New Hampshire. Amend RSA 187-A by inserting after  
16 section 16 the following new section:

17           187-A:16-a Reporting Crimes. Each institution within the university system that has no sworn  
18 law enforcement personnel shall immediately report any crime occurring on campus property to the  
19 local law enforcement agency. The institution and local law enforcement officials shall enter into a  
20 memorandum of understanding outlining the procedure for reporting crimes on campus property.

21           4 Effective Date. This act shall take effect 60 days after its passage.

HB 1400 - AS AMENDED BY THE HOUSE

10Mar2010... 0727h

2010 SESSION

10-2467  
04/03

HOUSE BILL            **1400**

AN ACT                requiring all colleges and universities to report crimes to the local law enforcement agency.

SPONSORS:            Rep. Emerson, Ches 7; Rep. W. Smith, Rock 18; Sen. Roberge, Dist 9; Sen. Carson, Dist 14

COMMITTEE:          Education

---

AMENDED ANALYSIS

This bill provides that all colleges and universities in the state shall immediately report crimes occurring on campus property to local law enforcement officials, or they shall enter into a memorandum of understanding with the local law enforcement agency as to the procedure for reporting crimes on campus property.

-----

Explanation:        Matter added to current law appears in *bold italics*.  
                      Matter removed from current law appears [~~in brackets and struck through~~].  
                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1400 – AS AMENDED BY THE HOUSE

10Mar2010... 0727h

10-2467  
04/03

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT            requiring all colleges and universities to report crimes to the local law enforcement agency.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 New Section; Postsecondary Education Commission; Reporting Crimes. Amend RSA 188-D by  
2 inserting after section 9-b the following new section:

3            188-D:9-c Reporting Crimes.

4            I. Absent a memorandum of understanding, every nonpublic postsecondary educational  
5 institution that employs or contracts unsworn law enforcement personnel shall immediately report  
6 any crime occurring on campus property to the local law enforcement agency.

7            II. Any memorandum of understanding executed under this section shall reflect the  
8 agreement between the nonpublic postsecondary educational institution and the local law  
9 enforcement agency as to what constitutes an "immediate report" and the extent to which offenses  
10 listed in group A of the National Incident Based Reporting System (NIBRS), as defined by the  
11 Federal Bureau of Investigation, shall be covered by the immediate reporting requirement. The  
12 nonpublic postsecondary educational institution and the local law enforcement agency shall have the  
13 discretion to determine which crimes outside of NIBRS group A offenses shall be covered by the  
14 immediate reporting requirement.

15            III. Every nonpublic postsecondary institution in the state shall annually inform students of  
16 the provisions of this section by including information about this section in the student handbook,  
17 student code of conduct, or other similar online or printed material provided to students.

18            2 New Section; Community College System of New Hampshire; Reporting Crimes. Amend  
19 RSA 188-F by inserting after section 21 the following new section:

20            188-F:21-a Reporting Crimes.

21            I. Absent a memorandum of understanding, every institution within the community college  
22 system that employs or contracts unsworn law enforcement personnel shall immediately report any  
23 crime occurring on campus property to the local law enforcement agency.

24            II. Any memorandum of understanding executed under this section shall reflect the  
25 agreement between the community college system institution and the local law enforcement agency  
26 as to what constitutes an "immediate report" and the extent to which offenses listed in group A of the  
27 National Incident Based Reporting System (NIBRS), as defined by the Federal Bureau of  
28 Investigation, shall be covered by the immediate reporting requirement. The community college  
29 system institution and the local law enforcement agency shall have the discretion to determine

HB 1400 - AS AMENDED BY THE HOUSE

- Page 2 -

1 which crimes outside of NIBRS group A offenses shall be covered by the immediate reporting  
2 requirement.

3 III. Every community college system institution in the state shall annually inform students  
4 of the provisions of this section by including information about this section in the student handbook,  
5 student code of conduct, or other similar online or printed material provided to students.

6 3 New Section; University System of New Hampshire; Reporting Crimes. Amend RSA 187-A by  
7 inserting after section 16 the following new section:

8 187-A:16-a Reporting Crimes.

9 I. Absent a memorandum of understanding, every institution within the university system  
10 that employs or contracts unsworn law enforcement personnel shall immediately report any crime  
11 occurring on campus property to the local law enforcement agency.

12 II. Any memorandum of understanding executed under this section shall reflect the  
13 agreement between the university system institution and the local law enforcement agency as to  
14 what constitutes an "immediate report" and the extent to which offenses listed in group A of the  
15 National Incident Based Reporting System (NIBRS), as defined by the Federal Bureau of  
16 Investigation, shall be covered by the immediate reporting requirement. The university system  
17 institution and the local law enforcement agency shall have the discretion to determine which crimes  
18 outside of NIBRS group A offenses shall be covered by the immediate reporting requirement.

19 III. Every university system institution in the state shall annually inform students of the  
20 provisions of this section by including information about this section in the student handbook,  
21 student code of conduct, or other similar online or printed material provided to students.

22 4 Applicability. Every memorandum of understanding required by this act shall be executed no  
23 later than January 1, 2011.

24 5 Effective Date. This act shall take effect 60 days after its passage.

# Amendments

Sen. Roberge, Dist. 9  
Sen. Carson, Dist. 14  
Rep. Emerson, Ches. 7  
April 20, 2010  
2010-1475s  
04/01



Amendment to HB 1400

1 Amend RSA 188-D:9-c, I as inserted by section 1 of the bill by replacing it with the following:

2

3 I. Absent a memorandum of understanding, every nonpublic postsecondary educational  
4 institution that employs or contracts unsworn law enforcement personnel shall immediately report  
5 any crime occurring on campus property to the local law enforcement agency unless the victim is:

6 (a) Eighteen years of age or older;

7 (b) Has been a victim of a sexual assault offense or abuse as defined in RSA 173-B:1; and

8 (c) Objects to the release of any information to the local law enforcement agency.

9

10 Amend RSA 188-F:21-a, I as inserted by section 2 of the bill by replacing it with the following:

11

12 I. Absent a memorandum of understanding, every institution within the community college  
13 system that employs or contracts unsworn law enforcement personnel shall immediately report any  
14 crime occurring on campus property to the local law enforcement agency unless the victim is:

15 (a) Eighteen years of age or older;

16 (b) Has been a victim of a sexual assault offense or abuse as defined in RSA 173-B:1; and

17 (c) Objects to the release of any information to the local law enforcement agency.

18

19 Amend RSA 187-A:16-a, I as inserted by section 3 of the bill by replacing it with the following:

20

21 I. Absent a memorandum of understanding, every institution within the university system  
22 that employs or contracts unsworn law enforcement personnel shall immediately report any crime  
23 occurring on campus property to the local law enforcement agency unless the victim is:

24 (a) Eighteen years of age or older;

25 (b) Has been a victim of a sexual assault offense or abuse as defined in RSA 173-B:1; and

26 (c) Objects to the release of any information to the local law enforcement agency.



# Committee Minutes

**SENATE CALENDAR NOTICE  
EDUCATION**

- ✓ Senator Molly Kelly Chairman
- ✓ Senator Amanda Merrill V Chairman
- Senator Martha Fuller Clark
- ✓ Senator Bette Lasky
- ✓ Senator Peter Bragdon
- Senator Robert Letourneau

10:19 -  
11:43

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: April 1, 2010**

**HEARINGS**

**Tuesday**

**4/20/2010**

EDUCATION

LOB 103

10:15 AM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

**Comments:** HB 1400 WAS PREVIOUSLY SCHEDULED FOR 4/6/10

10:15 AM HB1400 requiring all colleges and universities to report crimes to the local law enforcement agency.

**Sponsors:**

**HB1400**

Rep. Susan Emerson

Rep. William Smith

Sen. Sheila Roberge

Sen. Sharon Carson

Donna Nelson 271-4151

Sen. Molly Kelly

Chairman

# Education Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Gene Martin, *Legislative Aide*

**RE:** Hearing report on **HB 1400** – *AN ACT requiring all colleges and universities to report crimes to the local law enforcement agency.*

**HEARING DATE:** April 20, 2010

**MEMBERS OF THE COMMITTEE PRESENT:** Senator Kelly, Senator Merrill, Senator Lasky, Senator Letourneau, Senator Bragdon

**MEMBERS OF THE COMMITTEE ABSENT:** Senator Fuller Clark

---

**Sponsor(s):** Rep. Emerson, Ches 7; Rep. W. Smith, Rock 18; Sen. Roberge, Dist 9; Sen. Carson, Dist 14

**What the bill does:** This bill provides that all colleges and universities in the state shall immediately report crimes occurring on campus property to local law enforcement officials, or they shall enter into a memorandum of understanding with the local law enforcement agency as to the procedure for reporting crimes on campus property.

**Who supports the bill:** Rep. Emerson; Rep. O'Neil; Nick Giaccone, Hanover PD; Sen. Roberge; Rep. Ladd; Rep. Griffin; Rep. Vita; Rep. Day; Rep W. Smith; Elizabeth Sergeant, Chief of Police Association..

**Who opposes the bill:** Judy Tomlinson, FPU; Sen. D'Allesandro; Debby Scire, CCONH; Jim Earle, FPU; Stuart Mitchell, FPU; Tom Horgan, NHCUC; Jack Wozmals, FPU; Michael McLaughlin, FPU, Rep Ingbretson.

### Summary of testimony received:

**Rep. Emerson** as the prime sponsor testified in support of the bill. She stated that this bill asks for a MOU when there is currently is not one. This would not affect campus that has sworn law enforcement officers. Rep. Emerson stated that she put the bill in on behalf of the Chief of Police in town. There have been many issues with the campus not reporting crimes to the police and the burglaries during the ice storm were the final straw. The crimes were reported two weeks after the crimes took place. There were also two rapes that were not reported. The town selectmen took no position on

this legislation. Rep. Emerson offered an amendment about enumerating the rights of a victim.

**Senator Kelly:** Can you speak to your amendment?

**Rep. Emerson:** Amendment makes sure the rights are spelled out, the federal law lays them out but this affirms that in our law.

**Rep. Ladd** testified in support of the bill. They worked with the county attorney, house criminal safety committee, and other law enforcement stakeholders. He believes a law is a law. He stated that campuses are required to report their 3 year statistics due to the Clery Act. He believes that there is a concern that colleges are not reporting to local law enforcement because they don't want to make their schools look bad. Rep. Ladd stated that many of the local law enforcement officers do not want to be involved in the alcohol situations; they are more concerned with the serious crimes. Rep. Ladd cited that only 5% of crimes are reported.

**Senator Merrill:** Can you speak to the "any crime on campus" language?

**Rep. Ladd:** If you don't have a MOU, then section 1 language applies.

**Senator Lasky:** On line 6, where is the definition for "any crime"?

**Rep. Ladd:** I believe it's in the federal and state law.

**Senator Bragdon:** Can you restate that 5% figure you cited?

**Rep. Ladd:** 5% of campus crimes were reported.

**Senator Bragdon:** Of the 95% did the college know about it?

**Rep. Ladd:** I don't know

**Senator Bragdon:** If a law is a law, then why don't they want to deal with alcohol issues on campus?

**Rep. Ladd:** In a MOU the terms can be set, i.e. if the damage is less than \$1000.

**Rep. Emerson** stated there is a double standard for students that live on campus versus off campus.

**Senator Kelly:** This applies if?

**Rep. Emerson:** If you don't have sworn LEOs and don't have a MOU

**Senator Merrill:** But when they don't have MOUs?

**Rep. Emerson:** The first section would apply

**Senator Letourneau:** Those were national stats are there NH ones?

**Rep. Emerson:** They are not consistent.

**Senator Bragdon:** If I'm 20 years old and I work in a factory and something gets stolen from me at work, I am the one that reports it not my employer, why is this different?

**Rep. Emerson:** No answer

**Senator D'Allesandro** testified in opposition of the bill. He stated that he has been in the education business for a long time and there is schism between town/gown relations. There is no reason to create legislation because of the rifts. Senator D'Allesandro said that he was just at the investiture of the president of Franklin Pierce University and the selectmen spoke of the how cordial the new relationship is. The law is currently in place and the new president of FPU is working to create a MOU with the town of Rindge. He doesn't believe this is needed. The management of the institution belongs with the administration of that school.

**Senator Letourneau:** Are a number of schools in Manchester, are they affected?

**Senator D'Allesandro:** No, I haven't heard of any issues.

**Senator Roberge** testified in support of the bill. She said she can understand why the colleges wouldn't want this coming to light, but the focus should be about safety.

**Rep. Ingbretson** testified in opposition of the bill. After to speaking to Rep. Ladd he was concerned that they only spoke to law enforcement officers. He believes that this bill gives police a club to get the MOU they want because if there is no MOU it goes back to all reporting.

**Judy Tomlinson** testified on behalf of FPU President **Dr. James Birge** who is opposition of the bill. As a new president he acknowledges the poor town/gown relationship and he has set a high priority to have a strong working relationship. They are currently drafting a reasonable and mutually acceptable document between FPU and the Town Police. We do call the Rindge Police when a serious crime has been committed and we encourage students to do the same. The proposed legislation is already addressed under federal law through the Clery Act and it would be duplicative and unnecessary.

**Attorney Michael McLaughlin** testified in opposition on behalf of FPU. He stated that the issue that wasn't reported for 2 weeks happened during the ice storm in which FPU was closed and students were sent home. Nobody was around to report items stolen; there was just evidence of vandalism. Mr. McLaughlin believes this bill has serious legal problems. It's hooked to the wrong place. Section I would apply to an institution which is a business and if it was in the criminal statues, it would have to apply to all businesses, instead of being attached to the Post-Secondary Education Commission. The crime doesn't belong to the entity it belongs to the victims. The other important thing to note is there will be a discrepancy with what is reported in the 3 year stats and what the police gets. An individual that was raped might go to support services and they count that crime and if the person doesn't

want to go to the police then they will not be notified. For example, there were 22 reported to Dartmouth and only 3 to Hanover. He is also unsure about "reporting any crime" language. In conclusion, he believes the House spend a lot of work and effort something that is not needed.

**Hanover Chief Nick Giaccone** testified in support of the bill. He stated that crimes are against the state and safety of it. He is trying to list the options that are available. Chief Giaccone believes if they are reported they could see patterns of crimes. He referenced that the SAFE Act does the same for grade schools and RSA 193:D has similarities.

**Senator Kelly:** It seems to be different campus to campus?

**Chief Giaccone:** Yes, but this will set guidelines for the crimes.

**Senator Merrill:** What are the issues with the MOU between Dartmouth and Hanover?

**Chief Giaccone:** We have sent them a draft and are waiting to hear back, I guess with the budget issues they have been busy.

**Tom Horgan of NHCUC** testified in opposition of the bill. He said that the safety of the students is the utmost concern and although the motivation behind the bill is good it is being driven by local issues between to campuses and their host communities. The other schools work closely. When people say police are not informed about alcohol issues that sends a bad message because they are still called in cases. This legislation is unfair to colleges because there is a natural tension between a town and a college. But the relationship is the most important part, and so far we have had a volunteer system of getting MOUs. It's best not to legislate.

**Jack Wozmals** testified in opposition of the bill. He lives in Keene and serves on board of trustees of FPU, so he has different views on town/gown relationships. He asked if you remove alcohol and rape which is done by this amendment because the advocates did want to take away a victim's rights. The legislation is not a way to fix these problems. This would require someone to report a crime and there are only 3 situations where you must report a crime against another person: 1) children 2) elderly and disabled 3) untimely deaths. Why would we require a 3<sup>rd</sup> party to report a crime and not the victim. He does believe there is a bad relationship with FPU and the town; he has had three meetings in just this year.

**Tom Horgan of NHCUC** returned to respond to a question.

**Senator Kelly:** What do you believe is the responsibility of colleges and universities?

**Tim Horgan:** First the safety of the students and second the rights of students, we are not interested in hiding crimes.

**Fiscal Impact:** N/A

**Future Action:** The committee took the bill under advisement.

epm  
File: HB1400  
April 23, 2010





Rindge Police were informed that there had been burglaries on campus, and that was two weeks after the fact. The crime scene was cleaned up. The damages to the property were restored, painted doors replaced, locks, doorframes, and there was not any evidence that the Rindge Police could gather to even try and prosecute anyone for the burglary.

Then there were three rapes on campus. The police in Rindge were notified when Monadnock Hospital called to report the rapes.

On the Education and Criminal Justice Committee, we on the Education and Criminal Justice Committee have worked very hard on this bill. There were several subcommittees that met. The vote on Education was 19-1. And then when the bill came before the House, it was 248 in favor and 92 against.

Madam Chair, the selectmen of Rindge took no position on this bill. They don't support it and they don't not support it.

I have an amendment that I would like to submit and, it's amendment number 1475s. And, let's see, where's, you'll pass them out to everybody? There were some concerns with the New Hampshire Coalition of Domestic and Sexual Violence. The concerns were addressed in this amendment and so that's why there's an amendment.

Madam Chair, I know you're pressed for time. Oh, and there's a lot of State Reps and Senators that would like to testify for this. I'm gonna cut my testimony short.

Tom Colantuono was the US Attorney and for eight years I believe. And Tom gave, sent a letter to me. I've got it today and, in my committee. Tom was called in to investigate some hate crimes that had happened at Franklin Pierce, and he was also called into Grafton County. The county attorney called him in for some rapes at Dartmouth that were not reported.

One of those papers, well I don't know, I underlined the one that was bolded. Let me just look. Well, I photocopied, his statement but they're, let's see. Well, it just says during the investigation, they became aware of sexual assaults that had not been reported, but here's Tom's letter. So I would like Representative Ladd to take over. He has to get back up to Education in 207, so that's why he's with me.

Senator Molly Kelly, D. 10: I understand. Okay, I did have just one question for you though, before you go, on the amendment. Could you just speak to the amendment? Again, I'm sorry. What has actually changed? What does the amendment refer to? This is the first we've seen it, so just...

Representative Emerson: The amendment just makes sure that, if you are over, federal law says if you are over eighteen years old and you are raped, you do not have to report it. You do not have to press charges. And this just reconfirms the woman's right. So it's, if you're over eighteen it is not mandatory that a rape be reported to the police.

Senator Molly Kelly, D. 10: Okay, thank you. Representative Ladd.

Representative Ladd: Good morning, Senator Kelly and members of the Senate Education Committee. For the record, my name is Rick Ladd. I am Representative from Grafton 5.

I was on the subcommittee which dealt with HB 1400 within the House Education Committee. We also had Representative Shurtleff as a member on that committee. So, we involved both Criminal Justice and Education, seeing that we thought we had more than just education policy. We were also dealing on the criminal side. I do have some supportive material for what I am saying which might, I might pass out now. You might be able to follow as I briefly go down through.

**Due to the volume of materials submitted by Representative Ladd, those documents are not attached to this transcript, but are available in the original bill file.**

Senator Emerson gave a brief rundown of some of the colleges we have in the State and how they address it. Plymouth State also has a police force where they are police officers, sworn officers on that campus. So PSU would be among those as she had mentioned.

The subcommittee looked carefully at this bill, and we gathered information of course from the public, also from the County Attorney for Grafton County. Another deputy attorney, we went and checked with chief of police in Hanover, the town prosecutor for Plymouth, who works very closely with Plymouth State. Those were a few that we did contact, but we had numerous others. There is a need. How crime and activities such as this are addressed on campuses varies determining, dependent upon the type of law enforcement you have on that campus. Some have non-sworn security folks ensuring security occurs on the campus. Others have the law enforcement officers. It varies.

Campus incidents are often processed in accordance with internal college policy. And that's where we have policy. If you have like a Venn diagram, two of, and in the center you have, on one side you have college policy and the

other side you have law, and they overlap. That's the area where they overlap where we have to discern what prevails.

And back in 1986, there was a girl, Jeanne Clery at Lehigh University who was raped and murdered and the result of that was the Clery Act, 1990. And through that Act, and that's a national level Act, through that Act, colleges, universities are to report their three-year statistics, and they're also to do this to the U.S. Department of Education. And the types of activity they report; criminal offenses on campus, and there's some listed there, criminal homicide, sex offenses, forceful, non-forceful robbery, you can read the remainder there. Logs are kept by police or security departments. If memorandums of understandings exist the report should contain this information, but it should be noted that memorandum of understanding according to the Clery Act are not mandatory. You don't have to do it.

When I went and looked at the reporting that these colleges and universities do report to the Department of Education, I looked at one of the, and I'm trying not to be specific to any one campus in this state or one college university in this state. We're dealing with a State issue, and one of which, and it also goes beyond that. Just on the news last night in Vermont there was, they reported a Sunni campus which had a rape on it, which was not dealt with appropriately.

At this particular college I'm looking at, in 2008, there were 22 sex offenses which were forcible. When I talked with the chief of that particular community, the chief was unaware of a huge, huge amount of those sexual offenses. The Chief is here today and he will be able to respond further. There is a concern that the colleges are handling some of these issues, many of these issues, themselves.

I have two comments which I want, that were given to us in written comment from parents. The first comment is one perspective. A college campus needs to be a place where students are free to make some initial errors in judgment without the threat of getting a police record. If I knew that my son or daughter would automatically be subject to local law enforcement for actions on campus, I would think twice about sending them to that institution. Second comment, "We believe a college might be inclined to be less than forthcoming about crimes that might occur on its campus and how that might result in the desire to self investigate those crimes, to keep the reported crimes to a minimum, but that does not protect students or visitors to that campus and should not be allowed. Educational institutions should not be allowed to interject themselves in the midst of a, midst of a potential criminal situation or investigation.

ad

Senator Emerson referenced the investigation which occurred down in Franklin Pierce. There are pictures attached to your packet of that. When we communicated, showed these pictures to the County Attorney in Grafton, Mrs. Saffo indicated that's not vandalism. That's burglary. That should have been handled in a different venue, a different manner.

The issue also occurs many times over in dealing with rape. US Department of Justice and the report of results from the College of Human Studies reported that fewer than five percent of completed and attempted rapes were reported to law enforcement officials that occurred on college campuses. That is a very, very harmful statistic that we need to deal with.

Also in your pack you'll find a sample of memorandum of understanding that could be used. I won't mention the name of the college, although it does mention it within it. This has not been signed. This is still under discussion between that particular town and that college.

One thing I want to emphasize, that the memorandum of understanding, although it deals with these felony crimes, there is much room and the reason for a memorandum is for the local authority and that college to discuss, to what degree do you deal with some of the issues which are quote, "traditional" to the, drugs, alcohol? I assure you many of the local law enforcement agencies don't want to get into alcohol on campus. They want to deal with the activity which is, that I referenced earlier, some of those harder crimes which are spoken to and addressed underneath the national based reporting system categories group "A."

And so, that concludes my testimony. I will conclude it by saying that a law is a law is the law. That's quoting one of our chiefs of police from a community in this state. When I spoke with him he said, "A law is a law, law." It applies to everybody in the state of New Hampshire. We don't have a unique situation where on a campus one element is addressed differently according to the judicial affairs of that campus or how the code of conduct is administered. It is a law which we have statutorily in our state and all students and all people should be addressed in the same manner. Thank you very much.

Senator Molly Kelly, D. 10: Thank you. Thank you. Any questions?  
Senator Merrill.

Senator Amanda Merrill, D. 21: Thank you, Madam Chair. Good morning, Representatives.

Representative Ladd: Good morning.

Representative Emerson: Good morning.

Senator Amanda Merrill, D. 21: I'm looking at the bill as amended by the House. And it starts off by saying absent an MOU every not, well there are three sections that have the same language basically. But every whatever institution shall immediately report any crime occurring on campus. So it sounds as though that's, "any crime" is a broader term than is covered by what has to be reported under the Clery Act. Is that right?

Representative Ladd: Well, excuse me, Senator, and if you have the same, I'm looking at line seven of the amended version from the House on page one. Any memorandum of understanding executed under the section shall reflect the agreement between the nonpublic post-secondary educational institution and the law, local law enforcement agency as to what constitutes an immediate report. And so we're dealing with that, that the Group "A" National Incident Based Reporting System and the definitions as established by the FBI. And it's only for those campuses which have unsworn law enforcement security.

Senator Amanda Merrill, D. 21: Follow-up?

Senator Molly Kelly, D. 10: Mhm.

Senator Amanda Merrill, D. 21: But if you don't have an MOU, then the first paragraph applies.

Representative Emerson: Right.

Representative Ladd: That's correct. That's...

Representative Emerson: That's correct.

Representative Ladd: ...correct.

Senator Amanda Merrill, D. 21: And do, follow-up? And we have the, I guess the draft MOU that Dartmouth is looking at. Do other, any of the other schools have MOUs?

Representative Ladd: For example, Plymouth State, Senator, has a process. I don't believe they have a formal MOU at this time, but they have a process where they communicate weekly with the prosecutor in the town of Plymouth. That police force on campus with the town police force, so there's regular communications going back and forth. There are some agreements

between Keene and the campus there where they have worked out a contractual arrangement adjusting how they're going to handle their crime.

Senator Amanda Merrill, D. 21: But not an MOU. Okay.

Senator Molly Kelly, D. 10: Senator Lasky.

Senator Bette R. Lasky, D. 13: Thank you, Madam Chair. Good morning.

Representative Emerson: Good morning.

Senator Bette R. Lasky, D. 13: In regards to Senator Merrill's question. Have you, on line six, have you defined any crime? Is that defined anywhere?

Representative Emerson: It is. It's defined by the federal government, the FBI.

Senator Bette R. Lasky, D. 13: Okay. Is that referred to in the statute anywhere?

Representative Ladd: It's referred to on line twenty-five, group (a).

Representative Emerson: And that's-

Senator Bette R. Lasky, D. 13: Go ahead. I'm okay, I'm fine.

Senator Molly Kelly, D. 10: It's all right, so did you get...

Senator Bette R. Lasky, D. 13: So it's defined. Okay. Thank you.

Representative Emerson: It is defined.

Senator Molly Kelly, D. 10: Senator, Bragdon.

Senator Peter E. Bragdon, D. 11: Thank you, Madam Chairman. Thank you, Representatives. Representative Ladd, you indicated that, I think, only five percent of rapes occur on college campuses are reported to the police, I think. Is that an established stat somewhere?

Representative Ladd: Pardon me?

Senator Peter E. Bragdon, D. 11: Five percent of sexual assaults on college campuses are reported to police. You said something about five percent in your testimony.

Representative Ladd: That comes from the US Department of Justice.

Senator Peter E. Bragdon, D. 11: Yeah, well, could you say what that was again, please?

Representative Ladd: In the report of results from the College of Women's Studies. College women's studies, they did a report on women in colleges, universities. And it was...

Senator Peter E. Bragdon, D. 11: And I'm sorry. Can you just repeat the whole stat? Five percent of what happens to what?

Representative Ladd: What I gathered from that figure, five percent of completed and attempted rapes were reported. And that parallels what we're, I don't know if it's the percentage necessarily parallels, but it's a very low number that are actually commuted to law enforcement within our state. The one fact I gave you there were the Clery Act. The Department of Education lists the reports which I have one of them right here. I will pass that to you so you can look at it. You can see that 22 occurred in 2008. When the Chief comes forward behind me here, he's going to say, "I had very few of those reported to me, probably less than twenty percent."

Senator Peter E. Bragdon, D. 11: And if I can follow up on that?

Senator Molly Kelly, D. 10: Yes.

Senator Peter E. Bragdon, D. 11: Do you know, of the 95% that were not reported, do you know how many of them the college actually knew about? In other words, are we assuming that, if these attempts or actual assaults happened, that the college knows about it? Or do we not even know that?

Representative Ladd: Senator, I don't have that information.

Senator Peter E. Bragdon, D. 11: Okay, thank you. Another question, if I may?

Senator Molly Kelly, D. 10: Yes.

Senator Peter E. Bragdon, D. 11: It was stated that a law is a law. But it was also stated that, or at least it was implied that, if the police are called and reported on something about alcohol, they're kind of going to ignore that. So how do we reconcile saying, "A law is a law is a law," by saying,

as

“Okay you have to report it, but we’re really not going to pay any attention to the ones we don’t want to pay attention to.”

Representative Ladd: In addressing the memorandum of understanding there’s, there’s no ownership on the part of the towns trying to say, “Hey, we want to take this over.” You would put down a limit, like anything under \$1,000 wouldn’t be, and vandalism, would not be an issue that the local police would engage in.

Alcohol, the memorandum of understanding can address. Do we engage or do we not engage? That’s the reason for the memorandum, to establish that so there’s a defined understanding between the college and the local authority.

Senator Peter E. Bragdon, D. 11: Thank you. Thank you for that answer. And one more question. I see that we’re restricting this to every nonpublic post-secondary education institution. And I know you gave an example of three public institutions. I think UNH, Plymouth and Keene. Seems to me there are a number of other public post-secondary institutions around here. How come we’re not exempting them? Or how come we are exempting them from this?

Representative Ladd: I don’t think we’re trying to exempt...

Representative Emerson: No, we’re not.

Representative Ladd: ...any. It’s any college or university, public or private, that employs non-sworn security people. Those are the college campuses which we are addressing. There are a number of colleges which are, have that have been granted the ability to locate in the State, of which some of you wouldn’t be aware of, Cornell, for example. The Post-Secondary Education Commission has an agreement with Cornell, if they wanted to work in this state. There are many, you’re right, and it would be only those which employ unsworn. It’s not after private or public.

Senator Peter E. Bragdon, D. 11: But if I may follow up on line four of the bill as amended by the House. It says, “Absent an MOU, every nonpublic post-secondary education” shall do all this stuff. It doesn’t, if I...

Representative Emerson: We probably should...

Senator Peter E. Bragdon, D. 11: ... it really exempts any public post-secondary education.

Representative Emerson: We probably should add that, I would say.



Senator Molly Kelly, D. 10: Yeah, I think...

Representative Ladd: Yeah.

Senator Molly Kelly, D. 10: Can I just...

Senator Peter E. Bragdon, D. 11: Thank you.

Senator Molly Kelly, D. 10: Senator Merrill has a clarification.

Senator Amanda Merrill, D. 21: I believe that there's parallel language further down the bill for the...

Senator Peter E. Bragdon, D. 11: Oh.

Senator Amanda Merrill, D. 21: ...community colleges and the university systems.

Senator Peter E. Bragdon, D. 11: I'm sorry.

Representative Emerson: And, I would like to add the grade school and junior high and high school all have memorandum of understanding with the local police. In each, Rindge goes to Jaffrey for the middle school and the high school, and it's all done with the memorandum of understanding, and the grade schools, too.

There isn't a double standard here, and if you live on campus you are judged with the campus security and they have their own tribunal. If you do the same thing and you live in town, you are judged in the district court or by the police. So, I know some children that go to Franklin Pierce, and they don't think that's fair.

Senator Molly Kelly, D. 10: I do have just one question. It's more to clarify what I believe that you have said. Is that this particular bill, 1400, is referring to those colleges or universities that do not have sworn in law enforcement on the campus and do not have a memorandum of understanding? No.

Representative Ladd: No, no.

Senator Molly Kelly, D. 10: Okay. Would you clarify that?

Representative Ladd: I will clarify that. Though there, if you have a law enforcement agency on campus, UNH Durham, there's no need for one seeing that they are sworn officers to handle their crimes. They do not have to report to the town. We encourage them to work cooperatively together.

Senator Molly Kelly, D. 10: Okay.

Representative Ladd: Same thing with Plymouth State, so there's no need. Although they have the interactions between the two at Plymouth to communicate weekly, weekly.

Senator Molly Kelly, D. 10: However, there are universities and colleges today that do have memorandums of understanding.

Representative Ladd: Yes.

Senator Molly Kelly, D. 10: So they, this, they've already taken care what you're asking them to do.

Representative Emerson: Right.

Representative Ladd: That's correct.

Senator Molly Kelly, D. 10: Correct.

Representative Emerson: And we do not care what's in the memorandum. It's up to them, just so they have something.

Senator Molly Kelly, D. 10: Okay, Senator Merrill.

Senator Molly Kelly, D. 10: Thank you, Madam Chair. But just to follow up, if there, in fact there is language in here that addresses situations where the parties don't come up with a MOU. And that's...

Representative Emerson: That's correct.

Senator Amanda Merrill, D. 21: Okay. So it's not just addressing what happens with an MOU.

Representative Emerson: Right.

Senator Molly Kelly, D. 10: Senator Ladd, or Representative.

Representative Ladd: Senator, one of the pieces of advice that we were given by the attorney from Grafton County, is that you'll notice that there's no enforcement within this bill, not to go that direction at this time. Work cooperatively with each other. Try to get this accomplished. Try to get it done. If it doesn't, that's the next step, but to work cooperatively with folks is the way it's preferred. That comes from the attorney who's dealt with some of the egregious issues at Dartmouth.

Senator Molly Kelly, D. 10: Thank you. Senator Letourneau.

Senator Robert J. Letourneau, D. 19: Thank you. I just wanted to ask you a question on the statistics that you were giving the Committee. Those are national statistics...

Representative Ladd: Yes.

Senator Bette R. Lasky, D. 13: ...not New Hampshire statistics?

Representative Ladd: Correct, Senator.

Senator Robert J. Letourneau, D. 19: Correct. Do we have New Hampshire statistics?

Representative Ladd: I haven't seen them, Senator.

Representative Emerson: Couldn't find it.

Representative Ladd: The Department of Education does receive these statistics according to the Clery Act. However, those statistics, they're not consistent from college to college. So, I don't think you can absolutely rely on those either.

Senator Robert J. Letourneau, D. 19: Thank you.

Senator Molly Kelly, D. 10: Senator Bragdon.

Senator Peter E. Bragdon, D. 11: Thank you, Madam Chair. One question came to mind. If I was, you know, an eighteen, nineteen, twenty-year-old college age person, but instead of going to college, I was working for a factory and somebody stole something of mine. It's not my employer's responsibility to report that to police. It's mine. So the question was, "How you differentiate that?" Because you're really taking it away from the victim to report the crime.

But secondly, it says the college has to report every crime that occurs on campus, and I would think there's a large percentage of time that the college doesn't know that the crime occurred because it hasn't been reported to them. So, I don't see anything in here that gives that exemption for them. If they don't know about it, they shouldn't be responsible for reporting it. So how do you respond to that?

Representative Ladd: I would think that, you know, that we do have folks behind us that are the chiefs in some of these communities who'll better handle that...

Senator Peter E. Bragdon, D. 11: Okay.

Representative Ladd: ...question, Senator.

Senator Peter E. Bragdon, D. 11: Thank you.

Senator Molly Kelly, D. 10: Thank you. Any further questions?

Representative Emerson: Thank you.

Representative Ladd: Thank you very much.

Senator Molly Kelly, D. 10: I'm going to call Senator D'Allesandro. He would like to speak and is opposed.

Senator Lou D'Allesandro, D. 20: Thank you, Madam Chairman, and distinguished members of the Committee. For the record, I am Senator Lou D'Allesandro. I represent District 20, that's Manchester, wards 3, 4, 10, 11, and the town of Goffstown. I appear before you in opposition to this piece of legislation. I'll be brief and I hope succinct.

I've been in the education business all of my life, both at the secondary and the post-secondary level. As a matter of fact, I was an employee for ten years at Franklin Pierce University, which was then Franklin Pierce College. Any time you get a schism between the town and the entity, sometimes that spills out and causes rancor among those involved. That's a particular situation. It seems to me that you don't have to create legislation to deal with every one of these particular situations.

I was at the investiture Saturday of the new president of Franklin Pierce University, Dr. Birge. Selectmen spoke at the investiture about the cordial relationship that exists between Dr. Birge and the community. It seems to me, new person on campus, new deal. That cordiality seems to be pervasive

in terms of Rindge and Franklin Pierce University. The institution itself has a mechanism in place for dealing with conduct on the campus. There's a judicial review board.

The constabulary from Rindge is invited in at the beginning of each semester to talk to the students, to give them the rules, regulations and so forth and so on, as it relates to the interface between the institution and the university. And those town-gown relationships, you would like to be, you know, at a very high level, because for the community of Rindge, the College presents a magnificent economic opportunity, and a cordial relationship, I think, should be established. As pointed out by the previous speakers, there is law in place where you have to report to the Department of Education crimes. If indeed there were a crime that required activity by the Rindge police, I'm sure that the people at Franklin Pierce would be more, more than appropriate to bring the Franklin, to bring the Rindge Police involved in the incident.

To the best of my knowledge, the new President is working with the local government to create a memorandum of understanding, and given time, given his ability to become more acclimated to the situation, that will probably transpire. But, as a college administrator, I don't think this is, I don't believe this is needed. We have federal law in place. We have State laws in place, and I think the management of the institution really belongs to those who are responsible for managing the institution.

So with that, Madam Chair, I thank you very much for taking the time to listen to my testimony. I appreciate the opportunity to be here. Thank you.

Senator Molly Kelly, D. 10: Thank you. We do have a couple questions if you have a minute. Senator Letourneau.

Senator Robert J. Letourneau, D. 19: Thank you. Thank you, Senator D'Allesandro, for taking my question. There are a number of college campuses that are located in Manchester.

Senator Lou D'Allesandro, D. 20: Yes.

Senator Robert J. Letourneau, D. 19: Do we know how this would affect the working relationship, say, at Hesser, or several of the others that are down there in the mill yard?

Senator Lou D'Allesandro, D. 20: Well we have, we have Hesser which is, which is right at the old, you know, Foster Grant Building, which is off of Queen City Avenue. We have St. Anselm, which has sworn security officers on campus, and for the record, I do teach at St. Anselm College. We have

Southern New Hampshire University, which I believe has sworn officers on campus. We have the University of New Hampshire, Manchester, which is down in the mill yard, and we have the New Hampshire Institute of Art, which is right in the center of, right in the center of town in Manchester. So, we have a number of institutions. And I'm, I've not heard of any problematic situations that have come up between the City of Manchester Police Department or the Town of Goffstown Police Department, and those entities that are involved in post-secondary education.

Senator Robert J. Letourneau, D. 19: I was just trying to find out how this particular piece of legislation might cause or help, which either way, with how the effect would be amongst those colleges. Have you had any conversations with any of them?

Senator Lou D'Allesandro, D. 20: I haven't...

Senator Robert J. Letourneau, D. 19: Okay.

Senator Lou D'Allesandro, D. 20: ...Senator Letourneau.

Senator Robert J. Letourneau, D. 19: Fair enough.

Senator Lou D'Allesandro, D. 20: Thank you.

Senator Robert J. Letourneau, D. 19: Thank you.

Senator Molly Kelly, D. 10: Senator, do you know if the colleges you just mentioned, and those you're familiar with in Manchester that have, do not have sworn police officers there, if they have a memorandum of understanding?

Senator Robert J. Letourneau, D. 19: Yeah, I'm not sure.

Senator Molly Kelly, D. 10: You're not sure?

Senator Lou D'Allesandro, D. 20: I'll try to find out.

Senator Molly Kelly, D. 10: Yeah.

Senator Lou D'Allesandro, D. 20: But, to the best of my knowledge, with the Institute being right downtown, I'm not sure that they have sworn. But I think St. Anselm does. I think Southern New Hampshire University, Southern New Hampshire University does. We also have the technical college. Heck I don't know the new name of Manchester Community

Vocational Technical School, but it's still there. So, I'm not sure, but I'll find out and I'll get back to you.

Senator Molly Kelly, D. 10: Thank you.

Senator Lou D'Allesandro, D. 20: You're welcome.

Senator Molly Kelly, D. 10: Any other questions? Thank you very much.

Senator Lou D'Allesandro, D. 20: Thank you, Madam Chair. Have a great American day everybody.

Senator Molly Kelly, D. 10: We'll give it a good American try. Senator Roberge.

Senator Sheila Roberge, D. 9: Thank you Madam Chair. I'm Senator Roberge, representing District 9 in the New Hampshire Senate. And I come in strong favor of this bill. I think it's probably, as much as anything, a financial issue to the schools. If some of these, if these offenses were reported, it would affect possibly the fundraising for some of these schools. It certainly would affect probably a parent's opinion before they send their child to one of these schools.

So, I think that this is, schools, I can understand why they don't want these crimes, they certainly don't want them committed on the campus, but if in fact they are, and when they are, they certainly don't want them brought to light. I think that the main cause probably is to prevent them, but if they can't prevent them, then they just don't report them. So, from my standpoint, I think that's where we should be coming from, to protect the people on the campus, both the students and the visitors, and I think that's the emphasis that should be put on this. And the more reporting and the more sunshine we can put on this, I think the better.

Senator Molly Kelly, D. 10: Any questions for Senator Roberge? Thank you. Representative, let's see, Paul, I cannot read this writing. Is that l-u-g-b-r-e? Is that an "e"? Oh, "i"? Okay. Oh, he just stepped out. And he stepped in.

Representative Ingbretson: Wouldn't you know. Thank you. I'm Representative Paul Ingbretson, also by the way from Grafton 5, along with Representative Ladd. We don't actually agree on this one very much. I'm speaking in opposition, just because there's five, I have four or five cautionary points, related to this bill.

ai)

If I could read my own writing, first of all, I've spoken with Representative Ladd and my impression was that his conversations were if not entirely, virtually entirely with policemen. This bill has been brought in by policemen, by the law enforcement, and so I think that's cautionary point number one. I have spoken with the one college that's going to be affected, which I believe is Dartmouth College, and boy, they said the same things back that they heard from the police. So it's an interesting situation. Meaning that they discussed who is dragging their feet on the memorandums and all that sort of stuff, and it seemed to be a two-way street. So, that if they had people here to testify it'd be very good for you all to pursue that.

Number two, I don't know if this is true but I've heard, and maybe somebody needs to establish it in the room, it was my impression that UNH and Franklin Pierce are merging. Would that make a difference? Oh that's not the case? Oh okay, then I'll walk away from that, because if that were the case it would apply to one institution.

Senator Molly Kelly, D. 10: Yeah, it's not the case.

Representative Ingbretson: Okay. Now, number three. This memorandum, this shift, well let me go back. Let me shift that, the place of that one. What this bill does is it gives policemen a club. They're supposed to be in a negotiation. You'd think it would be evenhanded, but it actually gives them a club. They actually can negotiate a memorandum to exactly the point they want it, period. Or it goes back to total reporting, which is a long, far cry from what we've been doing in this state for a very long time, so I think forty years or more.

Next, if the effect on other schools, all those other schools, would be that the policemen in those areas could then do exactly the same thing. The law enforcement in towns in those areas could do exactly the same thing and have that upper hand again, and that's the question of, whether we want that to happen. I'm not saying they're trying to make it go any particular way. It might just continue to be just what it's been, but it's just a cautionary point.

And the last cautionary point, and this is, this to me, is extremely serious. As a member of the Executive Committee in the county a couple years ago, we got statistics regarding prison population, and in a five-year period, the last reporting I've seen ended in that five-year period. But we increased seventeen to twenty-one-year old incarceration in our prisons in Grafton County, from twenty people to 320 people in a five-year period; a 1,600% increase, which unnerves me when it comes to bringing more power to the policemen and to the law enforcement.



And that's all I have to say. It's just my cautionary tale. I hope you'll consider everything when you do this and think about whether we need a status quo.

Senator Molly Kelly, D. 10: Thank you.

Representative Ingretson: Thank you, very much.

Senator Molly Kelly, D. 10: Any questions? Thank you very much. Judy Tomlinson?

Attorney Michael McLaughlin: Madam Chair, I'm also with Franklin Pierce and it's just a matter of time if we testify together.

Senator Molly Kelly, D. 10: Would you like to come together?

Attorney McLaughlin: Yes.

Ms. Tomlinson: Absolutely.

Senator Molly Kelly, D. 10: Okay.

Ms. Tomlinson: Good morning. President Birge, our new President at the University could not be here today. So, he has asked me and my name is Judy Tomlinson. I work for Franklin Pierce University. One of my roles is to serve as the government relations officer for the University.

President Birge has asked me to actually read his testimony in since he could not be here. I hope that is alright. I also provided each of you a copy at your place so you can go along as I read through.

**Please see Attachment #1- Dr. James Birge typewritten testimony**

Thank you.

Senator Molly Kelly, D. 10: Thank you. Any questions? Yes.

Senator Peter E. Bragdon, D. 11: Thank you, Madam Chair. Thank you for your testimony. In an earlier testimony, it was indicated that the Rindge Police were not informed of a burglary until two weeks after the fact.

Ms. Tomlinson: Yeah, and I think that is, and I'm pretty sure that is addressed in your packet of information. It has to do with the 2008 ice storm, and in your packet that I left each of the Senators...

aD

Senator Peter E. Bragdon, D. 11: I didn't bring it with me, so.

Ms. Tomlinson: A memorandum I wrote up, yeah, there's actually a time frame that actually lists what the process was and I can go through that with you.

Attorney McGlaughlin: And I think I can add to that...

Senator Molly Kelly, D. 10: You want, you need to introduce yourself.

Attorney Mclaughlin: Oh. I'm Attorney Michael Mcglaughlin on behalf of Franklin Pierce University. Interestingly enough, the origin of this legislation is similar to the, you know, the search for WMDs in the Gulf of Tonkin. There was an ice storm. Power went out. Everyone was sent home. Campus police found some broken doors. There was nobody around, nobody to report that there had been any pieces, or any items of value taken.

And suddenly, when they came back after the ice storm, when campus reopened, in order to protect their insurance claims, they needed to file a police report. So the campus acted as, on the best information they had available, this was vandalism to the college dormitories. It's been portrayed as some nefarious scheme to avoid reporting the crime, which it never was.

The photographs which have been put in today to the Committee are photographs which were taken by campus security, and the allegation or the undertone is should, had the Rindge police been notified of the loss of a laptop or a bicycle or a breakage in the college, they would have rushed out like CSI and dusted the place down. I think that's something that's completely a myth. It was an ice storm, no electricity. Campus was evacuated because of the situation, and suddenly this became the point that Chief Sielicki chose to then take his action against the college.

More importantly, it was done during the time of another administration. President Haggerty and the relationships weren't that strong. That has changed. If you have any further questions on that testimony, I will stop, because I have other issues that I will discuss while I am testifying.

Senator Molly Kelly, D. 10: Does anybody have a question for Miss Tomlinson? Okay. Go right ahead.

Attorney Mclaughlin: Good morning, Madam Chairman and members of the Committee. Again, I am Michael Mclaughlin, Attorney of Concord New Hampshire, representing Franklin Pierce University. The House worked

very hard on the bill, but they worked hard on a bill that I think has no connection with the law it's hooked to.

Section 188-D of the New Hampshire law is the Post-Secondary Education Commission. That law, the declaration of purpose, is to protect New Hampshire students who get a valid degree, and the most effective use of the resources of the colleges to provide degree-granting authority. It came into existence in 1972 because of federal law, which is federal law 92.318 which was put in effect so that the federal loan programs would be giving money to colleges and universities that actually were accredited and giving degrees. The declaration of purpose in 188-D:9 says nothing about law enforcement, absolutely no connection to any type of law enforcement activity or any relations with a private university or private college and a local governmental entity.

The most objection I have is to section one of the law which covers the nonpublic institutions. This is basically talking about criminal activity. If this were where it should have been, which is in the Criminal Justice Committees, it would have to apply to all businesses.

A private university or college is a business. Because it has a license from the State or it's accredited by the State gives it no more ability to be controlled than a restaurant which gets a license from the State, a hazardous waste materials handler, who gets a license from the State or an insurance agent, who gets a license from the State. None of those private businesses are then forced into an agreement with a governmental agency. They pay their taxes, they have their relations, and they exist.

So the, to connect this piece of legislation, which I don't denigrate the intent. But it's in, A, in the wrong place. It has no purpose to be in section 188 and no nexus or connection to the private universities.

The second issue that I think is always confusing, and Senator Bragdon pointed out earlier, crime is not something that belongs to the entity, it belongs to the person. If you are assaulted or beaten up at IBM, and Mr. Smith beat up Mr. Jones, IBM is not involved. They might be involved in a human relations world where they don't want two employees fighting, but the job of reporting that crime is to the victim. And it gets very, very sensitive when you talk about victims of sexual assault. And one of the great red hearings here is the 22 sex crimes at Dartmouth and the three that were reported to Hanover. Victims of sexual assault go to the campus support network and report it because they want to get services. They, and then campus may ask them, "Do you want to go to the police?" And they say, "No."

The Clery Report takes those reported crimes, and they're anonymous. So when you take that 22 reported sexual assaults at campus "X," and the two reported to local police, they have no relationship whatsoever, because the Clery Act is anonymous. The victim of the sexual crime wants some counseling or some remediation, but they don't want to go to the police, and what we seem to confuse here is that we're dragging the institution in to suddenly become the overlord of what gets reported to the police, and this really has an interesting connotation because just, it's not how it works in the real world.

And more importantly, Franklin Pierce has hundreds and hundreds of interactions with the Rindge police every year. It's not as if we have a wall around the campus and nothing's ever reported, significant contact. The bill as itself, it's, it just, it's, the drafting is suspect. "Immediately report any crime." A crime is a conclusion of an analysis of a certain set of facts.

What they are asking in the first paragraph, you know, reporting crime, to me, what is a crime? Somebody comes running out of a building bleeding from a blow to the head. What is that? That's a guy that might have hit his head on the door, might have been hit with a baseball bat. If he comes to campus security and says, "Joe Smith hit me," is that a crime? That's not a crime, because Joe Smith may have been protecting himself. We have no, I don't know what reporting any crime means.

Secondarily, there's no standards in here for any MOU. You could have an MOU in Rindge that's completely different from the MOU in Keene, that's different from one in Manchester, and it depends on how much, as was testified earlier by Representative Ingretson, how much the police want to squeeze out of that university or that college. A wonderful relationship might be, "Call us if you need us." A bad one might enumerate 50 or 60 different incidents.

Secondarily, if you look at the first paragraph, if I was, I would advise Franklin Pierce, "Don't enter into one 'till you have to. Just call them every day. Call them every single time a fight breaks or a laptop gets stolen, call them. See how they like that."

Up goes the cost to the university. Up goes the cost to the town, because that's what they're asking. There's no penalties involved and there's no connection. As far as I can see, there's really no purpose. I mean, the House went, they've made a tremendous amount of effort. But I think the effort was ill placed, and I think the bill is unnecessary. And that would, concludes my discussions on House Bill 1400.

Senator Molly Kelly, D. 10: Do you have any questions?

Senator Bette R. Lasky, D. 13: It's all those college kids.

Senator Molly Kelly, D. 10: The music.

Attorney Mclaughlin: I think there might be a noise ordinance we can pull them in on.

Senator Molly Kelly, D. 10: Bob Dylan right there, huh?

Attorney Mclaughlin: Thank you.

Ms. Tomlinson: Thank you.

Senator Molly Kelly, D. 10: Thank you. We have next on our list here is Nick Gioccone from the Hanover Police.

Hanover Police Chief Nick Giaccone: Thank you, and thank you for listening to me today. Probably it's unfair when we have other people that go before someone. Then they can come up and rebut what they've said.

Crime in New Hampshire, crime is committed against the peace and dignity of the State. It's not, as we think it is, against the individual. The police are empowered to investigate crimes and at times, and I'm saying at times, will bring charges even though there may be a reluctant witness or victim.

When it comes to sexual assaults, the State has already carved out an exception, and it's also going to be carved out here in the proposed language for this particular statute. It is true that there are times when the college will report the 22 sexual assaults in the town of Hanover, or we'll just have a handful. And it is true that plenty of times there are students who would prefer the judicial process of the college versus the town police.

We are trying to encourage, through the memorandum of understanding, the options that are available, not requiring sexual assault victims to make the report, but to be aware of what their options are. We're actually even considering putting a video together to, with the college, showing the students what their options are. We have historically taken in anonymous sexual assault rape kits that come to us routinely from the hospital. We never inquire as to the circumstances of those particular kits.

We at the police department, under anonymous complaints would like to know the circumstances, the facts. You know, what happened? Patterns do

develop. Sometimes it could be a serial rapist on campus. Again, those I think, are important considerations that the police should know and that the community should be aware of.

There was also a comment that there's no other requirement regarding reporting. Safe School Act, 193-D makes it quite clear and uses the words "memorandum of understanding" in it, and again that is for the grade school up to the high school. The language of this particular statute mirrors that, and I think the community should take a look at 193-D and see the similarities.

During my first testimony, I did read into the record an email that I had received from a parent regarding a situation that had occurred to their daughter. This was in October of '07, and the daughter was visiting a friend at Dartmouth who was a freshmen, Dartmouth, male student, and she had come up for the weekend. While here, she was raped and then she went home to tell her parents, and I want to read you their letter, and I'll leave copies with the Committee.

We are strong proponents of the legislation as submitted, whereas we personally are involved in a situation which found the investigation of the crime involving our daughter compromised. Our daughter was sexually assaulted while visiting a friend at Dartmouth College. Based on the advice of local law enforcement officials, and I want to qualify that, which is why I want to read it. The local law officials they are referring to are the police in their home town in Maine, and the suggestion was that they reach out to the campus safety office to talk to them about reporting the crime.

While we were assured that the proper authority would be notified and would subsequently return our call, the College instead, via the Dean, notified, the Dean on call, opted to directly go to the accused, who then made himself unavailable for questioning. The investigator being the police, that were engaged, were never able to speak to the accused and get his side of the story. To this day we do not know why the Dean felt her actions were appropriate, but since the leaders of our educational institutions are potentially conflicted about the protection of their student body, and the protection of the reputation of their hallowed halls, we encourage you to enact this legislation to ensure that the rights of all visitors to a college are equally protected. Educational institutions should not be allowed to interject themselves in the midst of a potential criminal situation or investigation.

We understand that the families of all college bound students are concerned with the safety of the school to which they send their child. We believe a college might be inclined to be less than forthcoming about crimes that might

occur on its campus and how they might result in the desire to self-investigate those crimes to keep the reported crimes to a minimum, but that does not protect students and visitors to the campus and should not be allowed. Sincerely submitted by David and Stefanie LaRose.

I want to keep my comments short and I would be willing to entertain questions that the Committee members might have.

Senator Molly Kelly, D. 10: Senator Lasky.

Senator Bette R. Lasky, D. 13: Thank you, Madam Chair. I'm sorry, Sir. I didn't get your name and who you represent.

Chief Giaccone: My name is Nick Giaccone, and I am the Chief of Police Town of Hanover.

Senator Bette R. Lasky, D. 13: I apologize. I must have missed it.

Chief Giaccone: Okay.

Senator Bette R. Lasky, D. 13: Thank you.

Chief Giaccone: And I have been there for thirty-six years.

Senator Bette R. Lasky, D. 13: Thank you.

Senator Molly Kelly, D. 10: Nick, just a question I have for you, from just hearing the testimony and I know we will be hearing more as well. But, it appears to me that there are some universities, some colleges, and some towns, and communities that work this out without any memorandum of understanding and it's their relationship, and then it sounds like there are some that actually need this to communicate. It seems like it is very different from community to community where the colleges and universities are. How this is handled?

Chief Giaccone: Yes, from listening to the testimony, I think when the Safe School Act was put in effect, it blanketed and it made no questions about what was required by law regarding reporting crimes. The memorandum of understanding that we're trying to hammer out is a work in progress right now. Our draft was submitted back in February and it's now the middle end of April, and we're finally getting a call back that they've got a response to the original draft. The memorandum of understanding, I think, will at least set the guidelines. Just as was said before, we don't want every piddly report

that the college may have. But, I think there are important ones, and they would be enumerated in the appendix of the crimes as listed by the FBI.

I'll give you the most recent example of crime reporting that sometimes you scratch your head on, is just last week, a college administrator at 6:00 p.m. in the evening, still daylight, going to her parked car, sees a car drive in with out-of-state-plates. Two young men get out with a rifle and start shooting at a fraternity. Now, the weapon didn't make any noise, so we're assuming it was probably a pellet gun or a bb gun.

Immediately, she reported it to the college security office. They don't report directly to us. They go down and look the scene over. And then they say, "Hmm, this might involve a nonstudent. I think we should report this to the town police." The town police are called ten minutes after the effect. The offending car is long gone. Even the witness is gone. These are the frustrations that we're dealing with daily. And I think with legislation and an MOU, we can get some of these things hammered out.

Senator Molly Kelly, D. 10: Senator Merrill.

Senator Amanda Merrill, D. 21: Thank you, Madam Chair and thank you for being here, Chief. With regard to the MOU that you're working on in Hanover, without obviously revealing anything confidential, can you describe what the sticking points are so far? Or issues? Or is it just a matter of how quickly or not people get back and forth to each other? Could you talk...

Chief Giaccone: Well...

Senator Amanda Merrill, D. 21: ...a little bit about that? Or is it the particular crimes enumerated that's the issue?

Chief Giaccone: There is a part where the college has been going through its budget process. And there is some sympathy there that the attorneys that would be working on this MOU have been self-consumed with obviously more important issues from their perspective. I have not seen the draft back as to, from what our original is. And in our original, we try to cover the thing that probably is the most sensitive and that's has to do with sexual assaults.

Although what I read to you involved with a sexual assault, it's always been the policy of at least this department and most departments in the State that when it comes to sexual assault, the victim is the driver. They drive the bus. And anywhere along the line that they become uncomfortable with any part of the investigation, we pull the plug. So that's been a, that's been a norm.



Senator Molly Kelly, D. 10: Thank you very much. I have Representative Jim O'Neil, who is in favor, but not wishing to speak. Debby Scire from Community College is opposed, not wishing to speak. Jim Earle from Franklin Pierce University, opposed, not wishing to speak. Stuart Mitchell from Franklin Pierce University opposed, not wishing to speak, and let's see, Representative Nordstrom in favor, not wishing to speak. Representative Day in favor, not wishing to speak. Carol Vita must be a representative as well, I don't think Carol is here. She's in favor not wishing to speak. Mary Griffin in favor, not wishing to speak. Tom Horgan opposed and does wish to speak.

Senator Peter E. Bragdon, D. 11: Wow, somebody.

Senator Molly Kelly, D. 10: We're getting there.

Thomas R. Horgan: Thank you, Senator Kelly and members of the Committee. I'm Tom Horgan, President of the New Hampshire College and University Council, which is a consortium of the public and private colleges and universities in the State of New Hampshire, and appear on behalf of the College and University Council in opposition to House Bill 1400.

The safety of students on college campuses is a priority of every institution and every administrator in New Hampshire and across the country. It's a concern of students and parents, and one of the great attractivenesses of New Hampshire is our safety record in New Hampshire, one of the safest states, if not the safest state, in the nation in which to live and to go to school.

I think the motivation behind House Bill 1400 is good, and the concern that students are not being protected is, you know, a concern that obviously the sponsors have. But it's, I think, at best, House Bill 1400 is a very confusing piece of legislation that primarily is being driven by two local police chiefs in Rindge and Hanover who have local issues with their local institutions. Both those institutions have new presidents who are in place who are trying to work through a pretty difficult economic situation, but are both committed to strong town-gown relationships. And I think much better public policy is served by allowing those local relationships to develop through the normal course of action, rather than for the State to intervene with a piece of legislation.

Just sitting here this morning I, just trying to come up with the list of colleges that are impacted by this legislation who don't have sworn officers, and simply, from my own memory, would be Rivier College in Nashua, Daniel Webster College in Nashua, Franklin Pierce University in Rindge, St. Anselm's College in Manchester, Southern New Hampshire University in

Manchester and Goffstown, New Hampshire Institute of Art in Manchester, Hesser College in Manchester, Thomas Moore College in Merrimack, Magdalen College in Warner, Lebanon College in Lebanon, Colby Sawyer College in New London, New England College in Henniker, possibly Keene State because it doesn't have sworn officers, but I think they are in the process or close to having an MOU.

There's a large range of institutions across the state who work closely with their local town-gown officials, who are concerned about this issue and who have good relationships, and frankly I think you don't see here this morning a lot of representatives from those multiple municipalities who are saying this is a problem that needs to be addressed. The legislation, you know, outlines, or the testimony this morning talks about what would be in that MOU and what expectations are for those MOUs. You know, statements made about what's the law is the law. Statements said that, you know, well, but of course not alcohol abuse, would be, you know, Senator Bragdon pointed that question out.

Well, if you have a student who's underage, who's intoxicated, that's going to be outlined as not being something in an MOU that's going to be a public document that's going to be shared with the community, that's, "Don't worry, if you use alcohol, we're not going to call the police on you." When in fact, many times students are, local police are called when students are involved in the abuse and illegal use of alcohol.

So, and those are local decisions, and yes, it's not a perfect world. Decisions aren't often always made with all the information. But, the reality is the colleges and universities do the best that they can in, with the situation as it appears. When further information becomes available and the police need to be called, the police, I think, are called. And to suggest that the institutions are trying to harbor criminals or hide crimes that are being committed on our college campuses, I think is patently unfair to the institutions. And so, on behalf of the College and University Council and our member institutions, we understand the concern of this legislation, but we certainly would encourage you to vote the legislation inexpedient to legislate.

Senator Molly Kelly, D. 10: I do just have one question, just again, just trying to clarify a little bit your testimony. So is it, is your testimony, or what you're trying to articulate here, let's see if I have this clear, is that there really is not a problem, statewide? There may be problems with one or two universities or colleges.

Mr. Horgan: It's, you know Senator, there's a natural tension that exists between a college campus and a local community. You have young people

who are living and trying to get an education on a local campus. Sometimes they don't behave as we would all like them to behave, and that creates problems. At what point do the police need to become involved? At what point can you handle those situations on your own campus? You could probably talk to every police chief in the State of New Hampshire who would say, "There have been occasions on that campus when I wish they would have called us sooner. They should have called us sooner, a mistake was made."

But I think, on the whole, hopefully, I think police chiefs would say, "We have a good working relationship with our local campuses. We work with them closely. We're called up there more often than we'd like to be called up because something, you know, needs to be dealt with."

And so there is a good relationship. Town-gown relationships are generally strong. College presidents I have talked to have not heard from their local chiefs of police saying this is an issue and that they want it to be addressed. And, in general, and obviously you can always point to individual situations, but in general, the relationship between the colleges and the local police across the State of New Hampshire is strong. And they're working together to address difficult issues.

Senator Molly Kelly, D. 10: So it sounds to me like you're saying that the core of this and what's important is the relationship.

Mr. Horgan: Absolutely.

Senator Molly Kelly, D. 10: And does legislation help or hurt the relationship?

Mr. Horgan: Right.

Senator Molly Kelly, D. 10: ...is probably a question. As well as, "Would it be harmful to have a memorandum of understanding? Or is that helpful?" Because we're talking about a relationship, is what it sounds like, and every culture and every community is a little bit different.

Mr. Horgan: Right. And right now we have a voluntary system. If you want to have a memorandum of understanding between the police and the local campus, they can have one. Some of them, many of them do. Others of them haven't found it necessary.

But to mandate that they have one and then to have it relatively unclear as to what exactly would be in there, and then to say, "If you can't come to consensus, as to what is in there, and that then you are in violation of the law

W

because you can't come to consensus." Is alcohol in or is it out? You can't come to consensus, so now you're going to revert back to every illegal act needs to be reported.

It's tough, it's difficult, it's complicated, and it's not easily legislated. And I would say it's best not legislated. It's best left to the local police department and the local campus to resolve.

Senator Molly Kelly, D. 10: Thank you. Any other questions? Thank you. So, Jack Wozmak is opposed and does wish to speak.

Jack Wozmak: Thank you, Senator Kelly and members of the Committee. My name is Jack Wozmak, I live in Keene. I happen to live in a college neighborhood, so I'm surrounded by students and all of sometimes their lovely behavior, but sometimes it's actually very wonderful behavior. I also happen to be on the Board of Trustees of Franklin Pierce University, so I have some interest in that regard, in terms of the relations that the Board of Trustees expects that the college, the university will have with the town and the agencies.

As a general matter, I just want to underscore some of what was said before without repeating it. The relationship between all colleges and students, as a matter of law, across the country is uniformly one of contract. It's an arm's length contractual relationship. The university agrees to accept tuition and provide an education, and the student agrees to pay it and abide by certain rules. In the housing setting, it more closely resembles one of landlord and tenant. It's a contractual relationship.

The difficulty that I have with this isn't that there's a lot of interest in encouraging institutions to develop MOUs. It's the guillotine of mandatory reporting on the third party when they're not even a victim, obviously. You've already heard about the shortage of details and the circumstances under which this proposed legislation would take place. Even at the outset, while all of the testimony offered by Representative Ladd and others circled around rape and acts of violence against women, even rape victim advocates themselves are against this, and it's been amended to exclude that.

According to what I heard Representative Ladd say the, mostly law enforcement doesn't even care about alcohol. So, we've taken off alcohol, which of course is very plentiful, and we've taken off rape because people find that offensive, because it removes the rights of the victims and puts it into a third party. I'm not exactly sure what's left, other than the message that we certainly want to encourage institutions to develop working relationships with the towns, and I think uniformly you've heard that that happens. It's a

aw

work in progress and a lot of institutions. You're always going to have rough spots, but I'm not certain that legislation is the way to fix it.

When we take and make a person, as a matter of law, responsible for reporting crimes, you've put that person in a very small category. In the State of New Hampshire, we have broadly three categories where people like you and me are required to report what might be a crime against other people. You have your general child protection laws, which might be 169-C or 193-B. We do that because children are innocent. They're defenseless and they can't advocate for themselves. We do it for the elderly and the disabled through RSA 151 and others, because they're disabled. They're not competent. They need us to advocate for them, and so those of us that have involvement with them are required to report. And then we go and we have mandatory reporting for untimely deaths, under RSA 611-B.

Those are the only categories where we, as interactive human beings, are required to report actions that take place against other people. So here we have a law that potentially is going to take and make a mandatory reporting agent, the university, against people who are of age, who are adults, and who have the legal right to make those decisions about whether they report crimes or not, and I think it is a very slippery slope. We are very careful about making mandatory reporters as a matter of law.

If we really wanted to hit it head-on, maybe the law should require the victim to report all crimes. I mean, why have a third party report the crime? Go right to the victim and say, "You must report all crime, and if you don't, we'll find someone who will. It's the person standing next to you, the person you might be in a contract with, maybe your landlord, maybe the school, maybe your employer." I think that the extent that it goes to is misguided.

If mandatory reporting takes place, you still have the issue of whether you have a voluntary or a cooperative victim. And we know, just from the testimony of the Chief, that if you don't have a cooperative witness or victim, they usually drop the prosecution. So I'm not, I'm still not sure what mandatory reporting is going to accomplish other than a lot of work. It's not going to take sexual assaults any closer to prosecution. It's not going to deal with alcohol because there's too many of them. It's not going to help you with an uncooperative victim or a victim that doesn't want to come forward. Not quite sure it does.

The other issue that, and the discussion that we've had in Cheshire County is, if you make the security officers and college people agents of the police by requiring that they report, you have tremendous Constitutional implications in terms of search, seizure, investigation, Miranda rights and the like. So I

would ask some other county attorneys in the counties that you come from what they think of that. We've had that issue and that discussion in Cheshire County. So, that's just something to be careful about.

In terms of testimony about the progress of the MOU, particularly as to Franklin Pierce University, I can tell you that I personally have participated in at least three meetings on this issue. And in fact, we've had a meeting with Assistant Attorney General Bud Fitch to work on the MOU specifically between Franklin Pierce University and the Town of Rindge. Just this year alone, I've had two conversations with the Chief, assuring him that progress is being made.

We have a brand new president. He's got a lot on his plate. He just got formally inaugurated this weekend. So, I'm just not sure that legislation is the way to force a relationship to develop that has the level of open dialogue and candor and time that's needed to form a relationship. Subject to any questions, I'll conclude.

Senator Molly Kelly, D. 10: Any questions? Thank you very much. Representative Smith is in favor, but not wishing to speak, and is there anyone else here who has not had the opportunity to speak who wished to speak? Are you on the list?

Elizabeth Sargent: Senator Kelly, no I just didn't get to sign in. I just do want to be on the record, Elizabeth Sargent.

Senator Molly Kelly, D. 10: Then would you come forward and...

Ms. Sargent: Sure, yep.

Senator Amanda Merrill, D. 21: Could I just clarify? I think Representative Smith is Representative Will Smith, since there are numerous Representative Smiths.

Senator Molly Kelly, D. 10: Okay.

Ms. Sargent: Good afternoon, Madam Chair and members of the Committee. My name is Elizabeth Sargent. I work for the Sheehan Phinney Capitol Group and I'm here representing New Hampshire Association of Chiefs of Police.

After this bill was introduced they did have a large discussion about it and they asked me to please make sure that they're on the record that they're in support of the bill. Thank you.

alD

Senator Molly Kelly, D. 10: Okay. Thank you. Is there anyone else? I do have one question for you, Tom Horgan, if you wouldn't mind.

Mr. Horgan: Sure.

Senator Molly Kelly, D. 10: We've had a lot of discussion this morning, and testimony about responsibility and kind of gone back and forth. We've just heard maybe it's a contract relationship. Others feel that, you know, because they are college students, it rises to a different threshold of responsibility, responsibility between the school, the university and the town or the city. I just had a question for you. What do you think is the responsibility of a college or a university in, when it does come to crime?

Tom Horgan: Well, I'd like to think more about it, but my initial reaction would be, the number one priority of any institution is going to be the safety of their students. They're concerned about whether or not, you know, is that student in some way, physically going to be harmed?

Secondly, I guess I would say is probably the rights of the student. If something's been stolen from me, how is the institution going to help ensure my rights? And that could go anywhere from saying to my roommate, "Return the piece of property that you stole from him," to calling the police and helping me go through the legal process. I mean, so the safety of my students, the rights of my students, and making sure that we have an environment that is, you know, supportive of students and of the learning environment.

But the last thing, I would say, that the institutions are interested in, is in protecting, or hiding, or not being open about the fact that there is some illegal activity that has occurred on the campus. It just, you know, campuses are not thrilled if some bad thing happens on their campus and it gets in the paper. But that, their first initial reaction is not to, "How are we keeping this hidden?"

I would say that their first reaction is, "How do we make sure our students are safe? How are we making sure that we're protecting the rights of the students? And how are we having a community that is supportive?"

Senator Molly Kelly, D. 10: Senator Lasky.

Senator Bette R. Lasky, D. 13: Thank you, Madam Chair. Good morning. I'm assuming that you have a handle, and I'm sure you don't know exactly,

all

but I'm assuming most of the universities have a freshmen orientation program.

Tom Horgan: Absolutely.

Senator Bette R. Lasky, D. 13: Every, every year?

Tom Horgan: Absolutely, yeah.

Senator Bette R. Lasky, D. 13: And I'm also assuming, question mark, that they deal with the subject of safety...

Tom Horgan: Absolutely.

Senator Bette R. Lasky, D. 13: ...in all aspects.

Tom Horgan: Absolutely.

Senator Bette R. Lasky, D. 13: So that each student is particularly notified of the school's policy, and whether or not there is a memo of understanding relationship with the town and police...

Tom Horgan: Right. Well and...

Senator Bette R. Lasky, D. 13: ...and who to contact in all instances.

Tom Horgan: ...and a code of conduct. You know, there's a strong code of conduct on every college campus and a government structure that is in place, that if, you know, if you're not going to be a valuable member of this community, if you're going to violate certain principles of behavior, there are consequences, and those consequences are part of the contract that's handed to the student in their student handbook, and does lay out in detail what that governance structure is like. But, the institution also has a responsibility as a member of the community to be responsible.

Senator Bette R. Lasky, D. 13: And Madam, just something, thank you, I wanted to bring up. I know this isn't your jurisdiction, but it occurred to me that this does not deal, and does anything deal with the private secondary schools that we have in our state, which we have a lot. Are they governed in any way by, do you know?

Tom Horgan: I don't know, not, yeah not...

Senator Bette R. Lasky, D. 13: I know it's not in front of you but it...



arj

Tom Horgan: ...and they wouldn't be by this legislation.

Senator Bette R. Lasky, D. 13: No, I understand that.

Tom Horgan: Right, so.

Senator Bette R. Lasky, D. 13: But, okay. Thank you.

Senator Molly Kelly, D. 10: Any other questions? Thank you.

Tom Horgan: Great.

Senator Bette R. Lasky, D. 13: There's as much an issue there as there is...

Tom Horgan: Thank you.

Senator Molly Kelly, D. 10: If there is no one else here who wishes...

Attorney Mcglaughlin: Madam Chair, one more point. Again, for the record, Attorney Mike Mcglaughlin.

I failed to mention earlier that the Clery Act is a, the reason the federal government can get the crime reports from colleges is the Clery Act, is a baseline for getting federal student loans. For instance, a totally independent closed campus gets no federal money, doesn't fall under Clery Act, and that was the nexus of that. So when we're talking about reporting crimes at the State level, there's no nexus to make them do it.

Senator Molly Kelly, D. 10: Thank you.

Attorney Mcglaughlin: Thank you.

Senator Molly Kelly, D. 10: Okay. No one else wishing to speak? I am going to close House Bill 1400.

Hearing concluded at 11:43 a.m.

Respectfully submitted,



Addie Shankle

alt

Senate Committee Secretary  
4/20/2010

1 Attachment

Attachment #1

FranklinPierce  
UNIVERSITY

Office of the President

Testimony  
HB1400

Dr. James Birge  
President  
Franklin Pierce University

Tuesday, April 20, 2010

As the President of Franklin Pierce University located in Rindge, NH, let me begin by thanking Senator Kelly and members of the Education Committee for hosting the public hearing. This written testimony is in opposition to this bill.

Franklin Pierce University is a private, regionally accredited university grounded in the liberal arts with a focus on personal attention and high-quality instruction. The University consists of the College at Rindge and the College of Graduate and Professional Studies. We have nearly 2,500 students in our undergraduate and graduate programs with campuses located throughout the state in Rindge, Concord, Lebanon, Manchester and Portsmouth.

Communities that host colleges and universities within their town borders reap educational, cultural and financial benefits from the presence of a vibrant intellectual University institution such as ours. Similarly, the students and employees of universities receive a great deal of neighborly and logistical support from the residents and management of the communities in which they study and work, such as the Town of Rindge.

There are, of course times when natural tensions arise due to real or perceived differences between Universities and their host communities. Franklin Pierce and the town of Rindge is no exception.

Last June, as the newly hired president of Franklin Pierce, I set as a high priority the reestablishment of a strong working relationship between the University and the town. During the past several months the Town and the University have pursued and engaged in an effort to improve our relationship by establishing a Town/Gown team of town and university representatives who meet monthly to discuss relevant topics. I am an active member of this team and we have made much good progress. Indeed, I have been upbeat that our police and fire incidences for the 2009 fall semester were at their lowest level in seven years. This reflects positively on our students, on the Rindge

community, and on our efforts to overcome our differences. In fact, the local police and fire chiefs have both commented to me how pleased they are that calls to campus are significantly lower this academic year.

All the more puzzling then, that this legislation has been introduced. In fact, Franklin Pierce University and the Town of Rindge Police Department have been in discussions about creating an MOU to guide our interactions. Although I have worked at five other colleges and universities without an MOU, I do not object to drafting a reasonable and mutually acceptable document between the University and the Town Police. Yet with this legislation, the State of New Hampshire is targeting higher education institutions. No other organizational entity in the state is mandated to have such a relationship with local police – no elementary schools are required to have such an MOU, no businesses, no state organizations – not even prisons are mandated to have such an MOU with local police.

Under current law, law enforcement always has the power to investigate and prosecute any situation where a serious failure to report a crime has occurred. In this situation it would be left to the prosecutor and <sup>the</sup> court system to determine if, in fact, consequences should follow. The current system strikes the proper balance of interests in this regard.

Moreover, and to the point of this legislation and my testimony, we do call the Rindge Police when a serious crime has been committed. We encourage <sup>our</sup> students to do the same when they know a crime has been, or is about to be committed. Additionally, it is not uncommon for the local police to appear on campus when our safety officials are responding to a call. Clearly the practice has been that the local Police are called and do appear on campus when they are needed.

The proposed legislation is already addressed under federal law through the Clery Act; it is both duplicative and unnecessary. State law can not supersede or supplant federal regulations. HB1400 creates an irreconcilable conflict between state law and federal regulations.

Lastly, I am concerned about the cost impact of this legislation, how it will financially impact our University and the town. Annually, our University pays almost \$500,000 in property tax payments to the Town of the Rindge. The cost impact of this legislation is unknown; this must be studied prior to enactment given the economic hardship this places on our local communities and institutions of higher learning.

I look forward to reaching a mutually satisfactory agreement with the Town and the local police chief, I do not see HB1400 adding anything to this ongoing process and ask that you vote the bill "Inexpedient to Legislate".

Again, I want to thank the Committee for the opportunity to address this vitally important matter.

# Speakers

# SENATE EDUCATION COMMITTEE

Date: 4/20/2010

Time: 10:15

Public Hearing on HB 1400

HB 1400 - requiring all colleges and universities to report crimes to the local law enforcement agency.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Jim O'Neil	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judy Tomlinson	Franklin Pierce
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NICK GIACCONE	HANOVER POLICE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<del>Tom Horgan</del>	<del>NH State</del>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Debby Scire	CCNH
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Jim Earle	Franklin Pierce
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stuart H. Mitchell	Franklin Pierce
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Auson Emerson	St. Rep
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep Rick Watson	Mer. Dist 12
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MICHAEL McLAUGHLIN	FRANKLIN PIERCE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<sup>Rep</sup> Judy Day	Rock 13
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Carol Vira	STAFFORD 3
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mary E. Shuffin	Rochingham 4
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rick Ladd	Rep Grattor #5
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Tom Horgan	NH CUC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Jack Wozniak	PPU
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Senator D'Allesandro	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Senator Sheila Kulongoski	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		



# Testimony



## HB 1400

---

Good Morning Madam Chairman. And Committee Members

- For the record my name is Rep. Susan Emerson and I represent Cheshire County Dist. 7
- 
- Today I come before you with HB1400. This Bill is asking for a Memorandum of Understanding between the Colleges and Universities and the Local Police where there is NOT a Sworn Law Enforcement Agency on Campus.
- 
- This would NOT affect The University of New Hampshire because they have their own Sworn Law Enforcement Department. Nor would this affect Keene State because they have a contract with the Keene Police Department. And Keene State pays for a Liaison Officer whose office in on the Campus.

- My Police Chief Mike Silikie asks me to put this bill in. Chief Silikie and our County Attorney Peter Head had been trying since 2004 to get a Memorandum of Understanding with Franklin Pierce University. And nothing has happened.

- 

- THE ICING ON THE CAKE WAS WHEN

- 

- 

- There had been over 10 Burglaries on campus and it wasn't until the Parents wanted to make insurance claims that they called the Rindge Police to find out our police knew nothing about this and it had been over 2 weeks, and this was really after the fact The crime scenes were Cleaned Up, and All Damages Repaired There wasn't much the Police could do at that point.

- 

-

- Then there were 3 Rapes on campus...The Rindge Police were first notified of this by the local Hospital
- 
- We on the Education and Criminal Justice Committee have worked very hard on this Bill .There were several subcommittees that lasted over 4 Hours each. The Vote in the Education Committee was 19 to 1. Then when the Bill came before the House the Vote was 248 to 92.
- 
- Madam Chair
- I have an amendment I would like to submit. It's Amendment # -----
- 
- 
- There were some concerns with the New Hampshire Collocation of Domestic and Sexual Violence. The concerns were addressed in this amendment.
- 
- 
- Madam Chairman I know you are pressed for time and there are several Senators and State Reps from

Education, Judiciary, and Criminal Justice Committees that would like to speak. So I will end my testimony and if you have questions I will be happy to answer them for you.

- 
- Thank You
- Susan Emerson

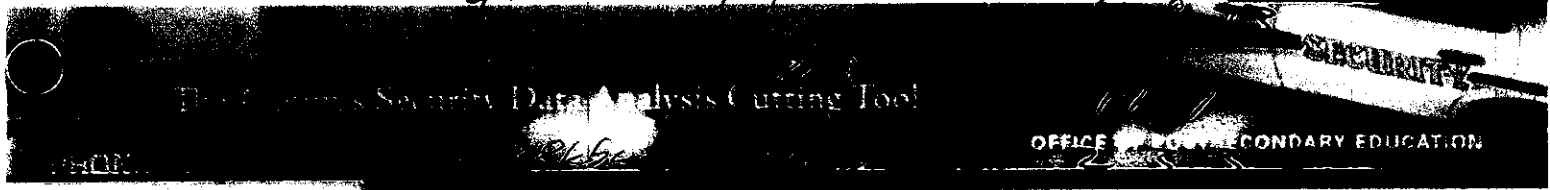
Harvard 26,496 18 15 15

Princeton 10,192 9 8

Submission (6)

U.S. DEPARTMENT OF EDUCATION

HOME GLOSSARY HELP



St Lawrence 2325 4

1 wait ts...

Brown 8318 3 9 4

1. INSTITUTION / CAMPUS 2. SELECT CAMPUS 3. VIEW DATA New Search

Step 1. Institution/Campus Search (Redefine Search Criteria) 11 6 9

Step 2. Select Campus (Search Result)

Step 3. View Data Cornell 20,273 4 0 1 (5,848) Dartmouth

Dartmouth College Bates 1774 0 0 0 OPE ID: 00257300

Hanover, NH 03755-3529 +trace 6 448 4 33

For more information about this institution, visit [www.dartmouth.edu](http://www.dartmouth.edu) Lehigh 6690 2 0 3

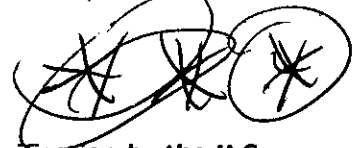
Campus: Main Campus Peppardine 7614 0 0 0

General Information  
Main Street  
HANOVER, NH 03755-3529

Security Officer Information  
Security Office: Harry Kinne  
Title: Director of Safety and Security, College Proctor  
5 Rope Ferry Road  
HANOVER, NH 03755  
Phone: 603-646-4000

Residence Hall  
This campus provides On-Campus housing.  
Residence hall's statistics are a subset of On-Campus statistics.

Local Police Crime Statistics  
Local statistics are included with the campus's statistics.



The crime data reported by the institutions have not been subjected to independent verification by the U.S. Department of Education. Therefore, the Department cannot vouch for the accuracy of the data reported here.

Criminal Offenses - Description

Criminal offense	Total criminal offenses on campus		
	2006	2007	2008
a. <u>Murder/Non-negligent manslaughter</u>	0	0	0
b. <u>Negligent manslaughter</u>	0	0	0
c. <u>Sex offenses - Forcible</u>	13	18	22
d. <u>Sex offenses - Non-forcible</u> (Exclude only incest and statutory rape)	0	0	0
e. <u>Robbery</u>	0	0	0
f. <u>Aggravated assault</u>	0	0	0
g. <u>Burglary</u>	46	42	20
h. <u>Motor vehicle theft</u>	3	1	1
i. <u>Arson</u>	0	0	1

**Caveat:**

Most of the burglaries on campus were committed from unlocked residential rooms. A partial explanation of the reduction over previous years may be attributable to the Department of Safety and Security increasing its educational programs in residential facilities on campus and encouraging students to lock their room doors at all times. Training for Undergraduate Student Advisors emphasizes locking of doors as the best method for preventing thefts, unauthorized entry and burglary.

**Criminal Offenses - Residence Halls**

Criminal offense	Total criminal offenses on campus in residence halls		
	2006	2007	2008
a. <u>Murder/Non-negligent manslaughter</u>	0	0	0
b. <u>Negligent manslaughter</u>	0	0	0
c. <u>Sex offenses - Forcible</u>	12	16	22
d. <u>Sex offenses - Non-forcible (Include only incest and statutory rape)</u>	0	0	0
e. <u>Robbery</u>	0	0	0
f. <u>Aggravated assault</u>	0	0	0
g. <u>Burglary</u>	37	29	15
h. <u>Motor vehicle theft</u>	0	0	0
i. <u>Arson</u>	0	0	1

**Caveat:**

**Criminal Offenses - Noncampus**

Criminal offense	Total criminal offenses on noncampus		
	2006	2007	2008
a. <u>Murder/Non-negligent manslaughter</u>	0	0	0
b. <u>Negligent manslaughter</u>	0	0	0
c. <u>Sex offenses - Forcible</u>	0	0	1
d. <u>Sex offenses - Non-Forcible (Include only incest and statutory rape)</u>	0	0	0
e. <u>Robbery</u>	0	0	0
f. <u>Aggravated assault</u>	0	0	0
g. <u>Burglary</u>	0	2	1
h. <u>Motor vehicle theft</u>	0	0	0
i. <u>Arson</u>	0	0	0

**Caveat:**

**Criminal Offenses - Public Property**

Criminal offense	Total criminal offenses on public property		
	2006	2007	2008
a. <u>Murder/Non-negligent manslaughter</u>	0	0	0

b. <u>Negligent manslaughter</u>	0	0	0
c. <u>Sex offenses - Forcible</u>	0	1	0
d. <u>Sex offenses - Non-forcible</u> (include only incest and statutory rape)	0	0	0
e. <u>Robbery</u>	0	0	1
f. <u>Aggravated assault</u>	0	0	0
g. <u>Burglary</u>	0	0	0
h. <u>Motor vehicle theft</u>	0	0	0
i. <u>Arson</u>	0	0	0

**Caveat:**

[OPE Home](#) | [Information for Students](#) | [Attention for Colleges](#) | [Policy](#) | [Student Aid Professionals](#) | [Campus Security](#) | [OPE Program Data](#)

To: Representative Susan Emerson

From: Thomas Colantuono

Re: HB 1400

Date: April 19, 2010

This is in response to your request for background information regarding HB 1400 which you have sponsored. My comments are solely my own personal comments and do not represent the views of my former employer, the U.S. Department of Justice, or my current employer, Bianco Professional Association. Also, I take no position for or against the pending legislation.

During my tenure as the United States Attorney for the District of New Hampshire (December, 2001 to March, 2009) our office had productive relationships with the campus police departments and the chiefs at the University of New Hampshire and Plymouth State University. We also had no issues that I can recall regarding obtaining cooperation from the administrations of most colleges and universities in this state.

I did become aware of two situations where local law enforcement did not receive the type of cooperation they expected to receive from institutions of higher learning in their communities.

The former Grafton County Attorney made me aware of problems between Dartmouth College and the Hanover Police Department. He stated that the College had a practice, if not a policy, of not reporting crimes that occurred on campus, but preferred to deal with incidents through the college disciplinary system. This was especially true for instances of drug crimes and alcohol violations, but also included other types of criminal behavior. He and the local police chief were frustrated by what they perceived to be an attitude that the college campus was a special enclave where state law did not apply and that the college would take care of its own problems outside of our criminal justice system that applies to the rest of our citizens.



Several years ago, I read a newspaper article alleging that racial incidents and possible hate crimes had occurred at Franklin Pierce University in Rindge. As I recall, the story spoke of racist epithets and symbols having been written or drawn on dormitory room doors, and other similar behavior. Because such incidents might possibly have involved violations of the federal civil rights laws which my former office enforced, and because the enforcement of the civil rights laws was a priority of the Justice Department, I contacted the local police chief to learn more about the incidents. I discovered that the chief was having difficulty collecting information about these incidents because of a lack of cooperation from the administration. He complained that this was just the latest in a long history of the University not reporting allegations of criminal behavior on its campus, or not cooperating in criminal investigations.

I asked the chief if he would like to have the F.B.I. look into the alleged incidents, and he responded by sending a letter requesting that our office have the F.B.I. investigate the matters. The supervisory agent of the Bedford office of the F.B.I. gathered information about the alleged incidents and determined that there was nothing that warranted a prosecution by our office under the federal civil rights laws. The agent also learned during the course of the investigation about the ongoing difficult relationship between the administration and the local police department. The agent did receive appropriate cooperation from the University officials, but if he hadn't, we could have commenced a federal grand jury investigation that would have required their cooperation.

During the course of this investigation, we became aware of some very disturbing allegations that several freshmen women had been sexually assaulted at a beginning-of-the-year party on campus earlier that year. It was alleged that the matter was dealt with by the University internally and the victims were discouraged from contacting the police. Since this type of alleged criminal behavior does not fall within federal jurisdiction, our office could not pursue it. And because no victim ever came forward, neither the police nor the County Attorney's Office could ever conduct an investigation or commence a prosecution.

*Thomas Calcutt*  
4/19/10



## STATE OF NEW HAMPSHIRE POSTSECONDARY EDUCATION COMMISSION

Financial Aid | College &amp; University Approvals | Career School Licensing | Veterans State Approvals | Closed School Transcripts | Research/Studies

**TESTIMONY****Kathryn G. Dodge, Ph.D., Executive Director****House Bill 1400 – requiring all colleges and universities to report crimes to the local law enforcement agency.****Senate Education Committee****Tuesday, April 20, 2010**

Good afternoon Chair Kelly and committee members. Thank you for the opportunity to speak on behalf of House Bill 1400. I am Kathryn Dodge, Executive Director of the Postsecondary Education Commission (Commission).

The Commission supports the concept of criminal reporting, but it does not support this bill for practical reasons, as we are not convinced of the necessity. The first practical reason is related to current federal government requirements resulting from the Clery Act. State action, as proposed in HB1400, appears to be a duplicative effort possibly conflicting with the federal act and adding layers of responsibility and reporting that are impractical and not necessary for NH institutions. I am not sure it adds any value for students; it appears it would add administrative and fiscal burdens on institutions.

The second practical reason is in regard to compliance. Commission rules that implement our regulatory responsibilities do not currently address the reporting of crimes. Additionally, the Commission tracks student complaints and follows up on those that directly relate to our rules. We have never received a complaint on this topic and wonder if the intent of the bill might be better served with an institutional as opposed to a state solution.

I want to reinforce our interest in transparency and the concept of reporting crimes, and suggest that this is, perhaps, a well intentioned, but unnecessary approach to the matter.

In short, House Bill 1400 appears impractical and not necessary. For these reasons, the Commission does not support it.

---

**Nick Giaccone**

---

**From:** David LaRose [dlarose@myfairpoint.net]  
**Sent:** Wednesday, January 13, 2010 7:32 AM  
**To:** Nick Giaccone  
**Subject:** Fwd: Proposed Legislation in New Hampshire - LaRose Statement

Good morning Chief. David and I want to thank you for the opportunity to weigh in on what we believe is very valuable legislation. We would appreciate your sharing our statement at the public hearing.

We are strong proponents of the legislation as submitted whereas we personally were involved in a situation which found the investigation of a crime involving our daughter compromised. Our daughter was sexually assaulted while visiting a friend at Dartmouth College. Based upon advice of local law enforcement officials we reached out to the campus safety office to talk to them about reporting a crime. While we were assured that the proper authority would be notified and would subsequently return our call, the College instead, via the Dean notified, opted to go directly to the accused who then made himself unavailable for questioning. The investigator engaged was never able to speak to the accused and his side of the story went untold.

To this day we do not know why the Dean felt that her action was appropriate but since the leaders of our educational institutions are potentially conflicted about the protection of their student body and the protection of the reputation of their hallowed halls we encourage you to enact this legislation to ensure that the rights of all visitors to a college are equally protected. Educational institutions should not be allowed to interject themselves in the midst of a potential criminal situation or investigation.

We understand that the families of all college-bound students are concerned with the safety of the school to which they send their child. We believe a college might be inclined to be less than forthcoming about crimes that might occur on its campus and how that might result in the desire to self-investigate those crimes to keep the reported crimes to a minimum but that does NOT protect students or visitors to that campus and should NOT be allowed!

Sincerely submitted by David and Stefanie LaRose

Begin forwarded message:

**From:** "Nick Giaccone" <policechief@hanovernh.org>  
**Date:** January 11, 2010 4:24:18 PM EST  
**To:** "David LaRose" <dlarose@myfairpoint.net>  
**Subject:** RE: Proposed Legislation in New Hampshire

- HB 1400 Title v Amended language

- How is law enforcement handled on campuses throughout NH?

- Who determines how crime is handled and reported on campuses?

Unless an agreement of some kind is in place for reporting crime with local law enforcement and the institution, "campus incidents are often processed in accordance with internal college

*policy. "U.S. Dept of Justice in the Report of Results from the College Women Studies: Fewer than 5% of completed and attempted rapes were reported to law enforcement officials that*

- Background with Jeanne Cleary Act Annual Rpt to US Dept of Ed on October 1

- o Crime Awareness and Campus Security Act 1990
- o Murder of Jeanne Clery at Lehigh University 1986
- o Amended language in 1998, called Jeanne Clery Act
- o 3 yr statistics reflected in each report
- o Reports: US Department of Education/ students and staff
- o Report includes: criminal homicides, sex offenses (forcible and non forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson and if arrest or disciplinary referral occurs: liquor law violations, drug law violations, and illegal weapons possession.
- o Logs are required to be kept by police or security departments
- o If a MOU exists, the report should contain this information

*occurred on college campuses."*

- Why was this bill brought to our attention?

- o US Department of Education Website (22 - 2008) When the local law enforcement agency in the community was contacted, the department was unaware.
- o Perceived as an "in-house" issue by some.
- o Parent Perspectives (see below)

Comment 1

"A college campus needs to be a place where students are free to make some initial errors in judgment without the threat of getting a police record. If I knew that my son or daughter would automatically be subject to local law enforcement for actions on campus, I would think twice about sending them to that institution."

Comment 2

"We believe a college might be inclined to be less than forthcoming about crimes that might occur on its campus and how that might result in the desire to self-investigate those crimes to keep the reported crimes to a minimum but that does not protect students or visitors to that campus and should not be allowed."

"Educational institutions should not be allowed to interject themselves in the midst of a potential criminal situation or investigation."

- This bill does what?

- o It addresses all post secondary institutions in NH. Absent a MOU, any post secondary institution employing or contracting **un-sworn security must immediately report** any crime occurring on college property to the local law enforcement agency.
- o **The MOU will define** through agreement the extent to which offenses listed in Group A of the National Based Reporting System Categories will be addressed
- o Students **shall be informed annually.**

- Accomplishes?

- The bill does not identify any one institution....it brings consistency through placing law above policy.
- MOU do not have to be rigid – flexibility (alcohol, drugs, theft, vandalism .....degree of crime
- This is not a power grab

- In closing

- **A Law is A Law Is A Law, and that law applies to all.**
- **Victim** becomes more a victim. **Perpetrator** learns to walk
- This bill has the bipartisan support of the education committee with a 19-1 vote, and the support of the **NH Association of Chiefs of Police.**
- This bill sets in motion a working relationship. “the bill is a good first step in a requirement that is long overdue.

MEMORANDUM OF UNDERSTANDING  
Reporting Criminal Offenses within the Town of Hanover

A It is the intention of the Administrators of Dartmouth College and the Town of Hanover Police Department to work in a cooperative effort to provide a safe and healthy environment for area residents, students, employees, and visitors. We intend to do this, in compliance with New Hampshire law.

Administrators of Dartmouth College understand that it is the purview of certified law enforcement to investigate all crimes in the Town of Hanover, and that it cannot interfere with criminal investigations. (See NH RSA 641:5 and RSA 642:3.) It is agreed that all Dartmouth College Department of Safety & Security employees and all Dartmouth College Administrators must immediately report all crimes listed in Appendix A to the highest ranking official available within the Dartmouth College Department of Safety & Security. Dartmouth College Department of Safety & Security, in turn, will ensure that all these crimes be immediately reported to the Town of Hanover Police Department. This initial report can be done by telephone or in person. It shall be followed within 24 hours by a report, in writing.

The initial and subsequent written reports required above shall include

- (a) Identification of the felony that was reported or allegedly committed.
- (b) The name and any addresses, if known, of any victim to the act.
- (c) The name and any addresses, if known, of any person suspected of committing the act.
- (d) The name and any addresses, if known, of any witness to the act.
- (e) All known information connected to the offense, to include date, time and location, as well any other details of the matter.

The written report required above shall be waived by law enforcement officials when there is a law enforcement response at the time of the incident. However, a verbal debriefing of any responding Administrator of Dartmouth College or Dartmouth College Safety & Security representative by the investigating law enforcement official shall occur to ensure that all known information connected to the matter is received. Any future or additional information received by Administrators of Dartmouth College and/or Dartmouth College Department of Safety & Security connected to the matter will be immediately reported to the investigating law enforcement official.

At no time shall a member of the Dartmouth College Administration or its designated employees attempt to interview or interrogate a suspect or witness of the felony crime without the express permission of the Hanover Police Department and/or the Grafton County Attorney's office. If an Administrator of Dartmouth College or any representative of the Dartmouth College Department of Safety & Security believes they have the need to contact a suspect or a witness in a pending or ongoing felony investigation, it will first contact the Town of Hanover Police Department and/or the Grafton County Attorney's Office to receive authorization before doing so.

A victim who expresses a desire to remain anonymous to an Administrator of Dartmouth College or to Dartmouth College Department of Safety & Security will be fully informed of the ramifications of doing so. The Hanover Police Department will provide written material to the Dartmouth College Department of Safety & Security to direct them in this effort. In such instances, the required initial and subsequent reports will still be submitted with the name of the victim noted as "anonymous."

Definitions:

"Administrator of Dartmouth College" means: (Pending)

"Dartmouth College Department of Safety & Security" means: (Pending)

Nothing contained in this memorandum is intended to limit the events that may be reported to the police department or to limit Dartmouth College employees from requesting police assistance on matters not referred to in this memorandum.

DARTMOUTH COLLEGE

By: \_\_\_\_\_  
Administrator

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Dartmouth College  
Department of Safety and Security

\_\_\_\_\_  
Date

HANOVER POLICE DEPARTMENT

By: \_\_\_\_\_  
Nicholas Giaccone, Police Chief

\_\_\_\_\_  
Date



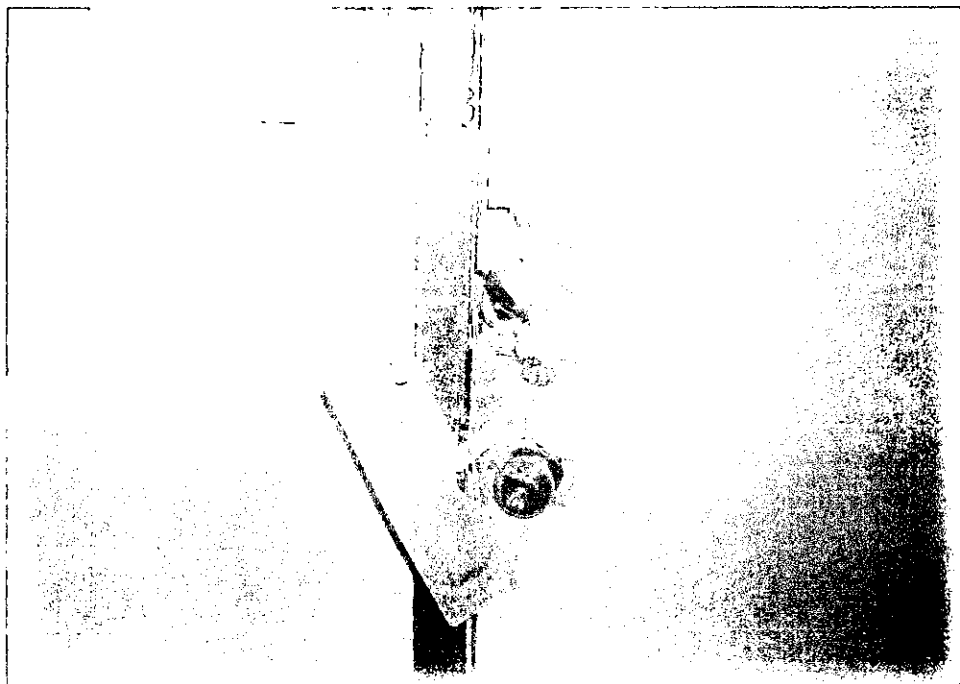
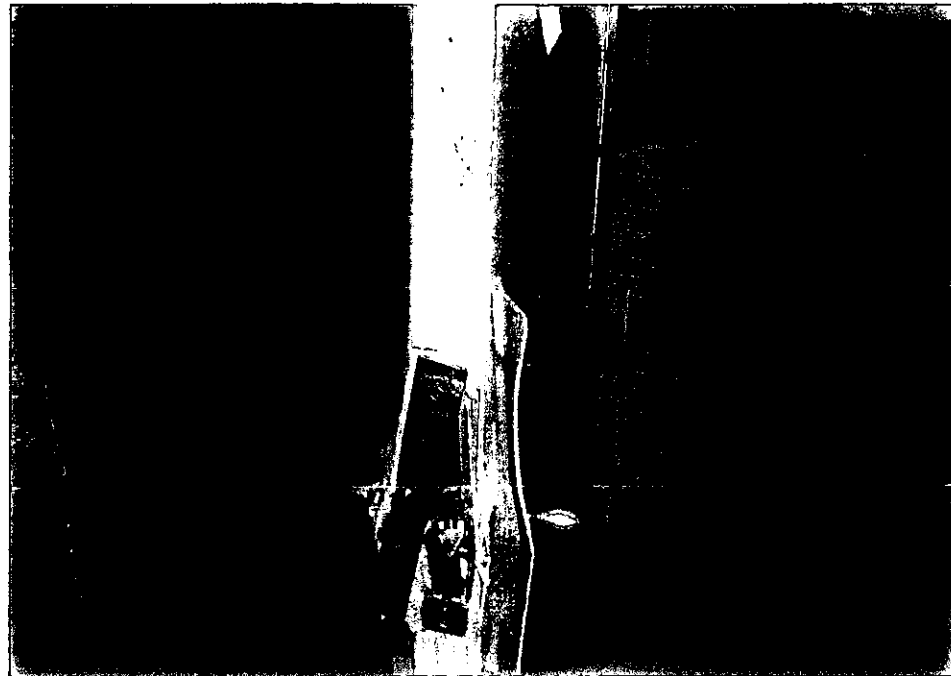
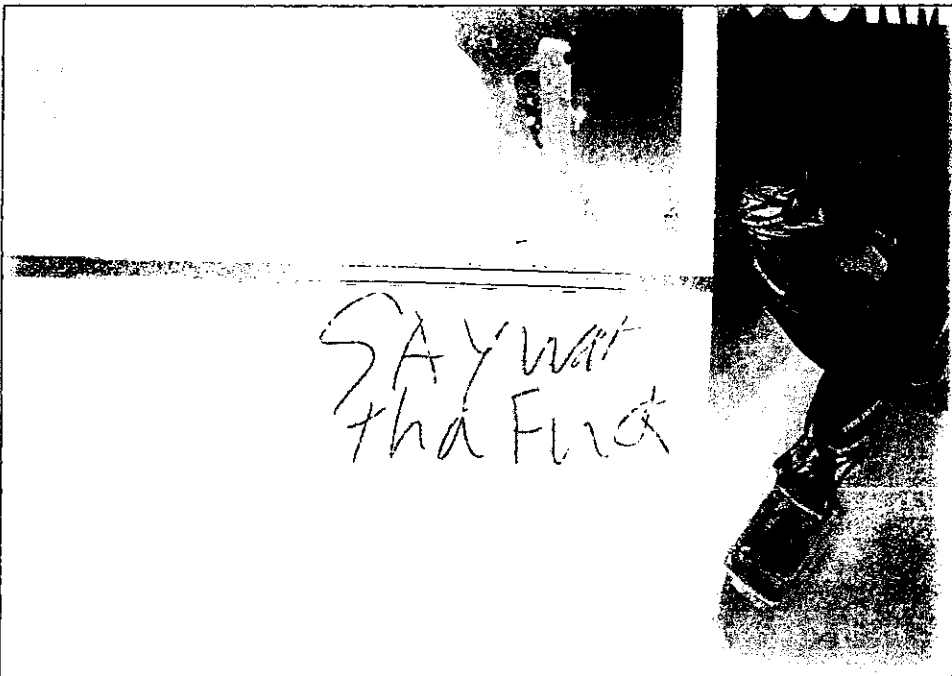
SAY  
WHAT  
THAT  
FUCK



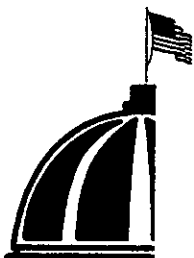


JAY  
WHAT  
THA  
FUCC





12-12-09 to 12-13-09



# Capitol Insights Group

*Specializing in Legislative Analysis and Government Relations*

April 15, 2010

Sen. Molly Kelly-Chair  
Senate Education Committee  
State House  
Concord, New Hampshire 03301

RE: House Bill 1400

Dear Senator Kelly:

I am writing on behalf of my client, Franklin Pierce University (FPU), in opposition to House Bill 1400 (HB1400), an act requiring colleges and universities to report crimes to the local law enforcement agency. The bill is flawed in origin, in its purported authority and in its language. We urge the committee to vote the bill inexpedient to legislate.

The bill is a result of the police chief of the Town of Rindge feeling left out of a crime scene that occurred on the campus during the debilitating ice storm of 2008. The campus was closed and students were sent home because there was no electricity for days on end. Several dorm rooms appeared to have been vandalized during the period the campus was closed. Campus security changed the locks on the rooms, took photographs and secured the areas. Upon returning to campus several of the affected students reported that items had been taken from their rooms. It now appeared the incident was more than vandalism, it was a burglary. The students were all referred to the Rindge Police Department. The police chief felt this was somehow a pattern of behavior and that FPU needed to be brought in line. Without any request being made from town government the police chief solicited Rep. Emerson to craft a bill that would require that colleges and universities enter into "Memorandum of Understandings" (MOU's) with local police departments regarding the reporting of crimes on campus. By the time the bill arrived in the House FPU had a new President, Dr. James Birge, who was, and is, working closely with Town officials to improve the "town/gown" relationships. In fact, things were going so well that Rep. Emerson attempted to withdraw the bill on the day of the hearing!

It should be noted that FPU campus security reports serious crime to the Rindge Police on a regular and recurring basis and has in place a written policy in place. There is no effort to shield violators from the law. Minor violations are handled via the universities internal discipline system. The university is succeeding in its efforts on campus security as there have been significant decreases in violations across campus in the past year.



That is the background of where the bill came from, more important is what authority the bill is based upon. HB1400 seeks to amend RSA 188-D, Postsecondary Education Commission, by adding sections that require colleges and universities to enter into MOU's with local law enforcement agencies and to add information to student handbooks. There is no basis in law for this requirement. RSA 188-D:1 Declaration of Purpose, (attached) outlines the origin of the commission. It has nothing to do with the relationship between a private college or university and a local law enforcement agency.

RSA 188-D:8 Responsibilities of the Commission (attached) enumerates what the Commission is authorized to do, nowhere is there any mention of creating a forced relationship between private colleges and universities and local law enforcement.

RSA 188-D was enacted to enable post-secondary institutions to participate in federal loan programs under Public Law 92-318 and to insure that institutions granting degrees were qualified to do so.

Understanding that the state has the authority to allow a postsecondary institution to grant degrees and therefore be in business there appears to be no connection that allows the leap that HB1400 asks the legislature to make, particularly concerning the content of a student handbook. The private college and university is just that, a private business.

It is important to note that criminal activity remains the responsibility of the victim to report. There is no law that requires a business to report crimes committed by their employees or customers. It is the victim of a crime who controls the matter. If one employee of XYZ, Inc. assaults another employee of XYZ, Inc. it is the victim of the assault, not XYZ, who makes the decision to contact law enforcement.

There will be testimony regarding the so-called Clery Act. This is a federal report on crime on campus required from institutions that participate in federal loan programs. The Clery Act is a comprehensive act requiring colleges and universities to keep and maintain daily crime logs and file an annual report among other duties. Some have seized on what appear to be discrepancies between crimes reported under the Clery Act and crimes reported to local police. There can be no valid comparison, many times the victim of a crime will report it to campus security but refuse to report it to the local authorities. There are many reasons this is done. The college adds the report to its Clery file but there is no local report. This has lead local authorities to allege a "cover-up" by the college or university. (Clery reports do not contain names of victims). The comparison fails to recognize that the victim of the crime has chosen not to participate with the local authorities while the college must report the incident under Clery. Any attempt to make such a comparison produces a false conclusion. In conclusion; the bill is unnecessary, without legal footing and intrusive. HB1400 will do more harm than good and should be voted ITL.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Dufour". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Complete Document

Can Be Viewed

In Bill Folder

**188-D:8 Responsibilities of Commission.**

The commission shall:

**I.** Advise the legislature concerning planning and coordinating higher education, including the granting of degrees.

**II.** Initiate studies of higher education.

**III.** Work with the New Hampshire members of the New England Board of Higher Education and of other interstate agencies, as funding and staff permits.

**IV.** Except as excluded in RSA 292:8-h, evaluate educational institutions seeking to grant degrees and periodically reevaluate those institutions with degree granting authority.

**V.** Classify educational institutions which it has evaluated into categories indicating approval or accreditation, or both. The commission may accept accreditation by a recognized accrediting association in place of its own evaluation. The commission shall accept designation by the Carnegie classification of institutions of higher education 2000 edition, or its successor classification system.

**VI.** Carry out other responsibilities set out in RSA 292:8-b through 8-kk concerning the regulation of educational institutions.

**VII.** Assume responsibilities allocated to it under Public Law 92-318 and other federal programs within its jurisdiction.

**VIII.** Distribute financial aid with the purpose of increasing access to postsecondary education for individuals who have been residents of New Hampshire for at least 12 consecutive months prior to the date of enrollment in any institution under the authority of the postsecondary education commission.

**IX.** Establish and collect reasonable fees related to the performance of its degree-granting and research and studies functions. Such fees shall be deposited into the essential functions fund which shall be administered by the executive director of the postsecondary education commission. Such fund shall be nonlapsing, continually appropriated, and shall be used by the postsecondary education commission for expenses relating to its degree-granting and research and studies functions.

**Source.** 1973, 533:1. 1981, 574:3, eff. Sept. 5, 1981. 2003, 159:3, eff. Aug. 16, 2003. 2005, 60:1, eff. July 22, 2005; 242:2, eff. September 12, 2005. 2006, 28:2, eff. July 1, 2006.

**188-D:1 Declaration of Purpose.**

It is the purpose of this chapter to consolidate and improve the role of the state of New Hampshire in planning for the most effective use of its resources in providing adequate postsecondary education including vocational education for its citizens and to facilitate securing for the students and educational institutions of the state the benefits provided by the congress in Public Law 92-318 Education Amendments of 1972 and other federal programs. For said purpose there shall be established a New Hampshire postsecondary education commission as suggested in section 1202 of said Public Law 92-318. The postsecondary education commission shall be the successor to both the coordinating board of advanced education and accreditation and New Hampshire higher education facilities commission.

**Source.** 1973, 533:1, eff. July 1, 1973.

HB 1400  
Representative  
Ladd  
submission

# **National Incident Based Reporting System (NIBRS) Categories**

---

- 1. Arson**
- 2. Assault Offenses**
- 3. Bribery**
- 4. Burglary/ Breaking & Entering**
- 5. Counterfeiting/Forgery**
- 6. Destruction/Damage/Vandalism**
- 7. Drug/Narcotic Offenses**
- 8. Embezzlement**
- 9. Extortion/Blackmail**
- 10. Fraud Offenses**
- 11. Gambling Offenses**
- 12. Homicide Offenses**
- 13. Kidnapping/Abduction**
- 14. Larceny/Theft Offenses**
- 15. Motor Vehicle Theft**
- 16. Pornography/Obscene Material**
- 17. Prostitution Offenses**
- 18. Robbery**
- 19. Sex Offenses, Forcible**
- 20. Sex Offenses, Non Forcible**
- 21. Stolen Property Offenses**
- 22. Weapon Law Violations**



## CULTURE OF SECRECY

# Campus Sexual Assault Statistics Don't Add Up

## Troubling Discrepancies in Clery Act Numbers

A sexual assault prevention program documented 46 sexual assaults at West Virginia University in a recent academic year. But those 46 incidents didn't show up in the university's annual security report.

A counseling and victim advocacy program at the University of Iowa served 62 students, faculty, and staff who reported being raped or almost raped in the last fiscal year. Those incidents didn't show up, either.

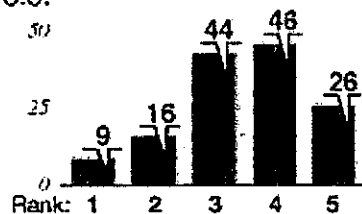
A victim advocate program at Florida State University compiled statistics on 57 sexual offenses both on and off campus in 2008. Only a fraction of those incidents appeared in the school's official crime statistics.

Across the higher education community, such discrepancies are not unusual. A nine-month investigation by The Center for Public Integrity has found that limitations and loopholes in the federal mandatory campus crime reporting law, known as the Clery Act, are causing systematic problems in accurately documenting the total numbers of campus-related sexual assaults. The most troubling of these loopholes involves broadly applied reporting exemptions for counselors who may be covered by confidentiality protections. Confusion over definitions of sexual offenses, as well as the law's comprehensive reporting provisions, have created additional problems. "When you talk to 10 different institutions," explains Marlon Lynch, president of the International Association of Campus Law Enforcement Administrators, "you almost find 10 different ways of reporting under the law."

Available data suggest that, on many campuses, far more sexual offenses are occurring than are reflected in the official Clery numbers. A Center survey of 152 crisis-services programs and clinics on or near college campuses requested incident numbers over the past year: 58 facilities responded with hard statistics. Clery totals from higher education institutions are theoretically supposed to include information from such service providers, but confusion remains over exactly who must report. A comparison of the survey data with the schools' previous five-year average of official Clery totals shows that the clinic numbers are considerably higher, suggesting a systematic problem with Clery data collection.

## Clinics Rate Their Campuses

The Center asked both on- and off-campus clinics and other crisis programs to rank their experience, on a scale of one to five (one is poor; five is excellent), how they would evaluate the response of their local college(s) to student sex-assault victims. The average ranking of the 141 responding clinics was 3.5.



Responses to the Center's survey found that 49 out of those 58 crisis-services programs and clinics recorded higher reports of sexual offenses in a recent one-year period than the average yearly figure submitted by their schools in Clery statistics from 2002 to 2006 — the last five years for which full Clery data are available. At Florida State University, for instance, those 57 sexual assaults logged by the victim advocacy program are more than double the university's average 26 sexual offenses recorded from 2002 to 2006.

Some of the discrepancies are explainable. Many clinics record higher statistics because they serve a broader clientele than the schools' student populations or because some of the incidents occurred elsewhere — particularly off campus. And crisis counselors say they routinely document reports from students who were sexually assaulted on spring break, raped in high school, or molested as children — none of which fall under Clery reporting requirements. But many survey respondents affirmed assertions from critics that

colleges and universities are ducking bad publicity by exploiting weaknesses in the Clery Act and ignoring their clinic numbers, thus keeping official statistics low.

"Clery, in our minds, doesn't do what it was intended to do," says Mary Friedrichs of the Office of Victim Assistance at the University of Colorado at Boulder. The 42 sexual assaults documented by her program in one recent year didn't appear in the university's Clery data because, as certified counselors with confidentiality exemptions, her staff doesn't report them to the campus police. By comparison, CU recorded an average of 14 sexual offenses from 2002 to 2006. Echoing many victim advocates, Friedrichs adds, "We don't think it [the official data] tells a story that is understandable."

## Clery Confusion

The Clery Act requires some 7,500 colleges and universities — nearly 4,000 of which are four-year public and private institutions — to disclose statistics about crime on or near their campuses in annual security reports. Many provisions have evolved since the law passed 19 years ago, but what hasn't changed is Clery's requirement that schools poll a wide range of "campus security authorities" when gathering data. That designation includes a broad array of campus programs, departments, and centers, such as student health centers, women's centers, and even counseling centers. The designation also applies to officials who supervise students — deans, coaches, housing directors, judicial affairs officers, to name a few. Experts on the law say that any center or program set up by an institution to respond to crime victims and to serve their needs should be designated a campus security authority, requiring Clery reporting. Only licensed mental-health and pastoral counselors are explicitly exempt from Clery reporting requirements.

In theory, those stipulations should make for comprehensive crime reporting. At the University of Iowa, a compliance team, led by the public safety department, collects documentation from non-police campus authorities and compiles statistics. According to Associate Dean of Students Tom Baker, who oversaw the process for years, the university distributes an e-mail letter seeking key details on sexual assaults and other crimes reported to campus authorities in a half-dozen offices and programs, including the school's sexual misconduct response coordinator. The law requires schools to solicit information from local police departments, and Iowa's team contacts four of them.

But the data gathering isn't always meticulous. In fact, a 2002 study funded by the U.S. Department of Justice found that "only 36.5 percent of schools reported crime statistics in a manner that was fully consistent with the Clery Act." A Center examination of 10 years worth of complaints filed against institutions under Clery shows that the most common problem is that schools are not properly collecting data. Some submit only reports from law-enforcement officials. In August 2004, Yale University became the subject of a complaint after it was discovered to be doing just that. Five years later, the U.S. Department of Education has yet to finish its review; a department spokesperson declined to comment on the pending inquiry. Evidently, though, the complaint has sparked some changes. Peter Parker, who heads Yale's sexual harassment grievance board, began forwarding sexual assault data to the school's official Clery reporter in 2007. "Before that," he confirms, "nobody had asked us to compile our reports."

Other schools submit inaccurate sexual assault statistics — in some cases inadvertently; in others cases, intentionally. Nearly half of the 25 Clery complaint investigations conducted by the Education Department over the past decade determined that schools were omitting sexual offenses collected by some sources or failing to report them at all. In October 2007, the department fined LaSalle University, in Philadelphia, \$110,000 for not reporting 28 crimes, including a small number of sexual assaults. (The university appealed the decision and then settled for \$87,500, without admitting it was at fault.) In April 2005, Salem International University, in West Virginia, agreed to pay the department \$200,000 in fines after never reporting a sexual offense in its Clery reports, even though the school itself had documented such offenses.

There's also been misclassification of sexual assaults. Schools can wrongly categorize reports of acquaintance rape or fondling as "non-forcible" sexual offenses — a definition that should only apply to incest and statutory rape. Five of the 25 Clery audits found schools were miscoding forcible rapes as non-forcible instead. In June 2008, Eastern Michigan University agreed to pay the department \$350,000 — the largest Clery fine ever — for a host of violations, including miscoding rapes. In February 2002, officials determined that Mount Saint Mary College, in New York, had incorrectly reported two sexual offenses as non-forcible; the school had to correct the error. The problem has grown so prevalent that the department now calls schools whenever they submit even one report of a non-forcible sexual offense.

"I don't know anyone who's read the definitions [who] can claim there are any non-forcible sex offenses on campuses," says David Bergeron of the department's Office of Postsecondary Education, which monitors Clery compliance. Still, 27 colleges reported one or two non-forcible sex offenses in their 2006 Clery data.

School officials and watchdog groups agree that colleges have improved Clery reporting over the past two decades. Dolores Stafford, police chief at George Washington University and a national expert on the Clery Act, has trained campus police officers and administrators on the law since the late 1990s, and has seen what she calls "a sea change" in attitudes, which she attributes to improved training and guidance from the Education Department. These days, she says, "There are less intentional and egregious violators." Department audits still reveal schools getting in trouble over their data, she explains, "but not a whole lot of areas where people are purposely underreporting or over-reporting."

### **Are the Numbers Believable?**

Indeed, today's issues may be subtler than that. Rape generally ranks among the most underreported of all crime statistics, experts say. But critics point out that the huge percentage of schools reporting no incidents whatsoever indicates a serious problem with Clery data collection. In 2006, in fact, 3,068 four-year colleges and universities — 77 percent — reported zero sexual offenses. Another 501 reported just one or two.

All those miniscule totals look like red flags to watchdog organizations. "Find any school with a zero, and you'll find problems with Clery reporting," asserts Margaret Jakobson, a victims' advocate who's testified before Congress about issues with Clery compliance. In the late '90s, Jakobson, along with Security on Campus, a watchdog group, filed some of the earliest Clery Act complaints after identifying students who had reported being raped on campuses touting zeros.

"It strains believability to think that those numbers could actually be true," says Mark Goodman, former director of the Student Press Law Center, which has long lobbied to close Clery loopholes. He, like many critics, suspects that some schools are intentionally misinterpreting their obligations under Clery and weeding out reports in order to protect their reputations as safe campuses.

But Lynch, of the law enforcement administrators, and other campus police chiefs believe all those zeros most likely reflect something else: Most rape victims don't report the crime in the first place. The 2002 Justice Department-funded study has actually pegged the number of college women who report their rapes to campus police or other officials at just under five percent. It could be that some schools with low sexual assault statistics don't do a good job at encouraging student victims to come forward. Or it could be that some do — and still end up with zeros. After all, one limitation of the Clery Act is that statistics reflect "official" reports. In other words, a victim has to tell a campus security authority for a sexual assault to count.

“We get the feeling that people would prefer that we would report a lot of sexual assaults even if we were making it up,” observes Stafford, the George Washington chief, “but I can only report what I know.”

Another limitation of the Clery Act: it counts only those crimes occurring on or near campuses, and in school-affiliated buildings like fraternity houses. The initial thinking behind this narrow geographic focus was that off-campus crimes would inevitably be documented by local police, experts say. But that means that Clery statistics don't include such settings as off-campus apartments, where most campus-related rapes are believed to take place. Last year, Jacqui Pequignot, who heads the victim advocate program at Florida State, recorded just nine sexual offenses on or near campus, as compared to 48 off campus. Pequignot, who estimates that 36,000 of FSU's 42,000 students live in apartments more than a block from the university, notes that critics often suspect misreporting whenever they don't see huge numbers of campus sexual assaults. “But sometimes,” she says, “it's really just about the fact that the numbers are greater off campus.”

## See No Evil

Some schools ignore the reports of sexual assaults they do have. At the University of Iowa, alleged victims are instructed to contact the Rape Victim Advocacy Program for medical and counseling services. Housed on campus, the advocacy program records all calls, and categorizes incidents on or off campus. But these numbers don't appear in the university's security report, confirms associate counsel Rob Porter, because certified counselors make up the staff — and they have that privacy exemption. Instead, the school explains in a report footnote that the advocacy program has its own statistics.

And that's more than what some schools do with counselors' reports. At Texas Tech University, counselors don't track the details of an alleged assault — its time, its location — needed for Clery reporting purposes. Jack Floyd, who compiles the Clery data, says counselors are encouraged to forward information about sexual assaults and other crimes to campus police. But, he affirms, “Nobody has returned a report form since I've been here,” beginning in 2001.

“Confidentiality inhibits our requirement to do so,” says Eileen Nathan, of the [Texas Tech counseling center](#), explaining why the staff do not submit reports.

In fact, some counselors believe the fine print of the Clery Act encourages them not to report. Under the law, licensed therapists and pastoral counselors are the only campus employees excluded from reporting requirements. Schools can still use aggregate information — minus names and other identifying information — on sexual assaults from counseling centers, experts say. And interviews with survey respondents reveal that some colleges designate a center staffer as a campus authority for Clery purposes. Others offer a blanket exemption to the entire counseling staff, however, fueling criticisms that administrators are merely exploiting a loophole to keep official statistics low. Even

Education Department officials suggest as much.

“Some institutions may try to stretch that [counselor] privilege,” Bergeron says.

One of the schools that has faced controversy on that front is West Virginia University. Deb Beazley is the sexual assault prevention educator at WVU; she is not a licensed counselor. Beazley helps alleged victims navigate services and heads the countywide sexual assault response team that services the campus. She maintains what she calls a “universal reporting system” of incidents culled from her records, as well as from university faculty and staff. She classifies the anonymous, third-party reports based on incident date, time, and location, either on or off campus. She even records the birth date of alleged victims to avoid double-counting. By all accounts, she compiles numbers in a way that would satisfy Clery requirements. But they don't end up in official data, as per school policy, even though West Virginia counts rape reports forwarded to campus police by non-police campus authorities.

“It's important to understand that, by definition, what Deb is collecting is survey data,” explains Bob Roberts, police chief at West Virginia University, “and we do not take survey data because it is anonymous.”

Roberts is not a stranger to Clery reporting disputes; in March 2004, West Virginia became the subject of a Clery Act complaint after three whistleblower police officers alleged that the university was miscoding crimes. Last September, the Education Department found some problems with the way the university had dealt with sexual assaults — misclassifying forcible and non-forcible offenses, and failing to include sexual assault reports. In its response to the department's preliminary findings, dated October 30, 2008, the university admitted the errors and outlined recent steps to bolster its record-keeping. But counting Beazley's anonymous reports isn't among the improvements.

“You have to compare apples to apples,” contends Roberts, who now trains campus officials around the state on the finer points of the Clery Act, “and other campuses I know of are not reporting anonymous data.”

Yet some schools clearly are — Florida State, for one. Experts say colleges should count numbers from any campus program set up for victims to report crimes and seek services. Stafford, the George Washington chief, collects statistics from her university's response team, its counseling center, and its health center in order to “give people a full picture of what's happening on the campus.” Still, she stresses that schools ignoring these numbers are not necessarily violating the law.

“It is not clear in the [Education Department's Clery Act] handbook or in the law ... that victim advocates and sexual assault services coordinators are required to report,” she says. “It's a big weakness right now.”

And one not likely to change any time soon. According to Bergeron, the Education Department has to allow some room for schools to interpret who actually constitutes a

campus security authority; after all, it has to regulate everything from a for-profit technical school to a four-year university. He doubts it's possible to write a department regulation answering "every question in every circumstance that everyone on a campus would ever encounter," he adds.

But there's little doubt that the differing interpretations of the law are sowing confusion — with one school submitting sexual assault statistics beyond what's required and another the bare minimum. Ultimately, these loopholes, coupled with the law's limitations, can render Clery data almost meaningless. Victim advocates point out that the schools they believe are reporting the most accurate sexual assault numbers — the 10 percent who reported three or more rapes in 2006 — now have to compete with all those schools touting zeros.

"It's almost like UMass gets penalized for doing it correctly," notes Rebecca Lockwood, who heads rape crisis services at the University of Massachusetts Amherst, where her program numbers are gathered for Clery purposes. In 2006, UMass Amherst ranked among just 61 schools, or 1.5 percent, documenting campus sexual assaults in the double digits. As Lockwood sees it, "I'd like to see the schools that report zero be held accountable."

**CORRECTION:** The original version of this article erroneously reported that the Department of Education fined LaSalle University for ignoring crime data, including 28 sexual assaults. The university and the department later reached a settlement. The data in question actually involved a total of 28 crimes, of which only a small number were sexual offenses. The error arose out of a misreading of an Education Department document. The article posted on the Center's website has been revised accordingly.

*Reporting Fellow Claritza Jimenez contributed to this article.*

© 2010, The Center for Public Integrity®. All Rights Reserved. Read our [privacy policy and the terms](#) under which this service is provided to you.

The Center for Public Integrity® | 910 17th Street NW | Suite 700 | Washington, DC 20006 | USA | (202) 466-1300

*Philadelphia Inquirer*  
12/7/09

## **Editorial: Hush-hush subject**

Nearly one in five women who attend college will become the victim of rape or attempted rape before graduation, a Justice Department-funded study found. But too many schools aren't reporting the scope of the problem accurately.

A nine-month investigation by the Washington-based Center for Public Integrity has found that many colleges and universities are still downplaying their crime statistics, despite a 19-year-old federal law requiring full disclosure.

The Clery Act is named for Jeanne Clery, who was murdered by a fellow student in her dorm room at Lehigh University in 1986. The law requires schools to report crimes occurring on or near their campuses annually, in specific categories of offenses.

But in 2006, 77 percent of four-year colleges nationwide reported no sexual offenses. Locally last year, Villanova University and St. Joseph's University reported zero sexual offenses. Temple University reported two, out of an enrollment of more than 35,000.

Pennsylvania State University's main campus, with 44,000 students, reported nine sex offenses. In contrast, Ohio State reported 32 forcible sex crimes out of an enrollment of 53,000. (A loophole in the federal law is that it fails to include crimes committed at most off-campus housing.)

In 2007, the U.S. Education Department fined La Salle University \$110,000 for ignoring crime data, including 28 sexual assaults. The school appealed and then settled for \$87,500, with no admission of fault.

Often, young women who have been assaulted at college remain silent out of fear or embarrassment. But the CPI report found that victims of sexual assault face institutional barriers when they do seek justice on campus. Some of them, after enduring inconclusive disciplinary proceedings, are even told by school officials that they cannot talk about the incident.

The CPI's investigators interviewed 33 women who reported being raped by other students. The experience of Mallory Shear-Heyman, who was a sophomore at Bucknell University in 2003, is typical of what they found.

Shear-Heyman reported being raped in her dorm by another student. She agreed to take part with her alleged attacker in an off-the-record university proceeding called "voluntary facilitated dialogue," in which a male and female administrator guide the discussion. A waiver specified that any information first disclosed in mediation could not be used in other school proceedings.

The male student apologized and implicated himself. The waiver didn't prevent Shear-Heyman from pursuing criminal charges. But she said when she considered it, the deans professed to not remembering the alleged admissions. No action was taken against the male student, and, years later, Shear-Heyman regrets having participated in the confidential hearing. (Bucknell officials said that they followed school policy explicitly in this case, and that they always inform students that mediation does not preclude them from pursuing criminal charges.) Kristen Lombardi, an author of the CPI report, said a rape victim should report



... Philadelphia 4/5/11/11  
12/7/09

the incident to law enforcement and get tested at a hospital or medical center to preserve possible evidence. Neither of those steps prevents a student from later deciding against pursuing criminal charges in favor of a confidential campus proceeding.

Many schools have improved the accuracy of their crime reporting in recent years, but not enough. Too many colleges take advantage of loopholes in the federal law - for example, not tallying any suspected sexual assault that is reported to certified counselors, who enjoy a privacy exemption.

Colleges and universities still aren't providing completely accurate data about sex offenses against students. They owe their community a greater level of disclosure, and stronger advocacy for student victims.

## CULTURE OF SECRECY

# Barriers Curb Reporting on Campus Sexual Assault

## Lack of Response Discourages Victims of Rape, Other Crimes

Buried in the pages of the 2006 student handbook for Dominican College, a small Catholic institution in the northern suburbs of New York City, were five dense paragraphs about what would happen if a student reported a rape.

The college would investigate. That much is required by law. Evidence would be collected and preserved. And if the alleged rapist were another student, campus disciplinary proceedings would ensue, allowing both sides to speak before a hearing board.

The policy was tested in May 2006, with Megan Wright, 19, a freshman from New Jersey. After drinking heavily with others in a friend's dorm room, she woke up in pain on a Sunday morning, with blood in her underwear. On Monday, she elbowed through a lunchtime rush of students to the glass office of director of residence life Carlyle Hicks to report that she had been raped by a man — or men — she could not identify.

But Wright found cold comfort in Hicks' response.

"He didn't seem to have a clue," says Wright's mother Cynthia McGrath, who attended the meeting. Hicks didn't mention a word about a campus disciplinary process, says McGrath, or even ask if the shy redhead was okay. "Just a lack of concern, like he couldn't be bothered."

McGrath describes the meeting as the first of many discouraging encounters with Dominican College as Wright sought some sort of action from the school against the fellow students she suspected of gang-raping her. By late summer, Wright had withdrawn from Dominican and enrolled in a local community college to avoid running into her alleged attackers. By late fall, the police investigation had dead-ended. And on a Saturday afternoon in December, Wright kissed her mother on the cheek, went upstairs, and suffocated herself with a plastic bag.

McGrath is now suing Dominican College administrators, including Hicks, saying they refused to investigate or take Wright's complaint seriously. "All I wanted from the school was to know that she was going to be safe, that these guys were not going to be on the campus," says McGrath.

"No conduct [of Dominican College] has been alleged which is in any way shocking or extreme," the school has previously argued in a [motion to dismiss](#) the lawsuit. However, in late November, a judge denied the college's motion.

## A Disappointing Response

### INTERVIEW



Audio Slide Show

**Christine Carter**, a former student at Towson University, talks about the importance of support from friends as victims cope with alleged sexual assaults.

For many college students who allege they've been raped each year, disappointment may indeed be the norm. One national study funded by the Justice Department found that one in five women who attend college will become the victim of a rape or an attempted rape by the time she graduates. But students reporting sexual assault routinely say they face a host of institutional barriers in pursuing the on-campus remedies meant to keep colleges and universities safe, according to a nine-month investigation by the Center for Public Integrity. The result, say experts, is a widespread feeling that justice isn't being served, and may not even be worth pursuing.

In conducting its probe, the Center interviewed 48 experts familiar with the college disciplinary process — lawyers, student affairs administrators, conduct hearing officers, assault services directors, and victim advocates. The inquiry included a review of hundreds of pages of records in select cases, and examinations of 10 years worth of complaints filed against institutions with the Education Department under Title IX and the Clery Act, as well as a survey of 152 crisis services programs and clinics on or near college campuses. The Center also interviewed 33 women who reported being sexually assaulted by other students. Sexual assault includes not only rape, but also a variety of sexual offenses.

Crisis counselors and service providers who work with college students described barriers as overt as a dean expressing disbelief. These counselors cited institutional barriers on campus more often than any other factor as a discouragement to students pursuing complaints of sexual assault, according to a Center survey of 152 on- and off-campus centers that provide direct services to victims.

Lawyers pointed out failures as subtle as an institution's neglecting to provide access to a professional victim's advocate to guide students through a complicated and intimidating process. Students cited fears that their friends would get in trouble for drinking or drug use, or that their names would not be kept confidential. Many alleged victims told the Center they had encountered roadblocks from their schools. Of those students who said they'd met discouragement, most transferred or withdrew from their schools, while their alleged attackers were almost uniformly unpunished.

Some of the most fundamental obstacles to students pursuing sexual assault complaints are also illegal, say lawyers. Colleges and universities may be flouting federal laws like Title IX, which bans sex discrimination in education, and the Clery Act, which is intended to document campus crime. (See our [companion story](#) for more on the laws that govern how colleges and universities respond to sexual assault.) These laws require that

institutions investigate and take action to end sexual assault, and mandate policies for addressing complaints on campus.

Together with the personal and social barriers to reporting — some of them unique to college — these institutional hurdles help explain the silence that often envelops sexual assault on campus. College students report sexual assault even less often than the general public does, a 2000 Justice Department-funded report found. That report concluded that more than 95 percent of students who are sexually assaulted remain silent.

Mike Segawa, president of the national organization Student Affairs Administrators in Higher Education (NASPA), says most colleges and universities want to be “responsive and supportive” to students reporting sexual assaults. He says schools are also acting to address perceived roadblocks.

But for rape survivors who believe that their college stood in the way of pursuing a sexual assault complaint, the experience of dealing with the school can be traumatizing. “They feel like someone they trusted their lives with has betrayed them,” says S. Daniel Carter, director of public policy at the college safety advocacy group Security On Campus Inc. “It’s as life-altering — if not more so — than the rape or sexual assault itself.”

### **Feelings of Self-Doubt**

Wright’s memory first failed her, then it tortured her.

“Drinking in a dorm room w/ people I know,” Wright wrote in her report to the residence life office. “I then do not remember what happend [sic] after 1:00 am. I do remember a little of the incident. I then went to the hospital the next morning w/ [her friend] Kelly Rocco b/c I knew that I was raped.”

All she remembered of the incident was being in a dorm bed, terrified, trying to tell a man she didn’t know to get off of her. The blood in her underwear, and the pain, told her the rest.

Before a college woman who has been sexually assaulted even gets to a dean’s door, she often has to get past herself — her own self-blame, or her own memory lapses, experts say.

Less than half of college women who are raped identify it as rape, even privately, to judge from the sample in the Justice Department report. In Center interviews, many alleged victims described intense doubt about what had happened. It conflicted with what they thought they knew about violent rape — a stereotypical image of a stranger in the bushes with a knife. The alleged assailants were, in some cases, people they considered friends. They described trying to push it to the back of their minds, just wanting to get on with their lives. Or they blamed themselves for drinking too much, or for failing to protect themselves.

Wright was by no means immune to self-doubt. But she did something that experts say is crucial. She told a supportive friend first.

“She kept saying, ‘It’s all my fault, I let this happen,’” says Kelly Rocco, who was an 18-year-old freshman when Wright pulled her out of the dorm hallway to tell her she had

been raped.

Rocco drove Wright to White Plains Hospital, stayed with her for hours while nurses administered a rape kit and forensic exam, and took her out to eat. But Rocco admits that her first reaction was disbelief.

"I was trying to find questions to prove her wrong," says Rocco, "because I was like, this doesn't happen."

## **A Lack of Support**

Colleges rarely spend much time educating students on how to respond appropriately to a friend who has been sexually victimized, according to a follow-up Justice Department-funded report in 2002. It found that almost 60 percent of schools provided no response training at all to students. And when they did, they often directed it toward students who were residence hall advisers or security officers rather than the general student population. (Rocco says she received no rape awareness or response education during freshman orientation; Dominican College's lawyer says both she and Wright did.)

Away from their parents from the first time, female college students tend to rely on the structure of a close-knit residence hall, a sports team, or a sorority; their friends' response is crucial. To complicate matters, say on-campus advocates, accused and accuser may be separated by just a few degrees.

"If they do go forward and make a report, do they lose that group because of the so-called problems they are creating?" says Roberta Gibbons, a victim's advocate on the Twin Cities campus of the University of Minnesota, describing the concerns of students she encounters. "Or are they going to split that group?"

When Christine Carter met this dilemma as a transfer student at Towson University in Baltimore, she chose to tell the group that a newcomer — a friend of a friend — had reached into her pants while she was sleeping. To her utter mortification, they laughed and said she must have imagined it.

"I was the butt of my friends' jokes," said Carter. "Before we'd go out, my friends would say, 'Oh Christine, don't drink too much. You'll sexually assault yourself.'"

They stopped laughing at her only when the same man did it again, Carter said, to another friend in the group. This time, Carter reported to police that she had been assaulted, and says she encouraged her friend to do the same. The man agreed to serve probation on assault charges but did not plead guilty, according to Maryland court records.

As for Wright, she didn't even know whether she was accusing friends or strangers at first. Her family would accuse both, in the end. Their lawsuit alleges that Terrell Hill, a Dominican College student whom she knew, was one of two men who physically led her from her dorm room to an all-male floor. There, the school's hallway surveillance camera catches two Dominican College students, Isaiah Lynch and Richard Fegins, along with Fegins' visiting cousin Kenneth Thorne — none of them friends of Wright's — going in and out of the room, according to documents obtained from the Orangetown, NY, Police Department. The lawsuit alleges that all three raped her, and adds the detail from the

surveillance video that they were snatching high-fives from onlookers as they went. At one point, Fegins emerged from the room holding up a sign that read "I WANT TO HAVE SEX," signed Megan Wright — an artifact the school gave to police, along with part of the video, and information about the students in it.

Hill says that he has been unfairly accused for being in the "wrong place and wrong time." He strongly denies the family's allegations that he conspired in Wright's assault.

She was a friend, he says: "My friends — and our friends — know that I'm not that kind of person."

Like Hill, the other three were never charged with a crime, and through their lawyers, they declined to comment for this story. In court documents, they deny raping Wright. Lynch told police that he was in the dorm room surfing the Web. He says he left when he saw Wright kissing Thorne. When he returned, he says, she was putting her shirt back on. He denies having any sexual contact with her. Police dropped the investigation — and the Rockland County District Attorney declined to prosecute — after a handwriting expert said that Wright's signature was on the sign, and her sexual assault examination showed no trace of sperm. Nonetheless, a nurse's notation says that her vagina was visibly cut, swollen, and red.

Wright broke down when she first saw the video, according to Orangetown police department notes. Her mother says it showed her things Wright hadn't known, and that she began having flashbacks.

### **The Campus Judiciary Process**

At the center of many schools' stated policy of responding to sexual assault is some form of disciplinary or judicial hearing process, like the one Dominican describes in its handbook. The Campus Assault Victims' Bill of Rights, a 1992 amendment to the Clery Act, mandates that schools publish policies for preventing and addressing sexual assault, including "procedures for on-campus disciplinary action."

Schools don't always comply. Justice Department reviews in response to 26 complaints in the past decade found that four institutions — Eastern Michigan University, St Mary's College (Indiana), Clemson University, and Salem International University (West Virginia) — violated the Clery Act by failing to have or disclose policies for sex offenses. Several other on- and off-campus service providers surveyed by the Center reported that their local colleges had no policy for adjudicating sexual assault on campus.

Victims' advocates say these formalized disciplinary procedures serve as a vehicle for colleges to remove suspected predators from their campuses, and have different standards than a criminal justice system that rarely prosecutes rape. A failure to have disciplinary procedures in place constitutes a fundamental barrier to justice on campus, advocates say.

Even so, students are unlikely to get as far as a campus hearing, even at apparently well-intentioned colleges.

Each year the Justice Department's Office on Violence Against Women awards grants to colleges to combat on-campus stalking and sexual and domestic violence against women.

Many schools use this money to boost reporting and improve adjudication of rape on campus, to mixed results. During fall 2008, the most recent semi-annual reporting period available, 26 institutions whose progress reports the Justice Department provided to the Center reported only 25 sexual assault cases that resulted in any finding in a campus disciplinary proceeding. Another 16 were dismissed before they ever reached that point, with more than half of the dismissals at the victim's own request. The schools had a combined female student population of about 270,000 the previous year. By way of comparison, if that Justice Department-funded study was correct, an estimated 6,450 of these students were actually sexually victimized during that six-month period.

The reports give little clue as to why so few on-campus resolutions were reached. But students interviewed by the Center described encountering processes that seemed intimidating, unsympathetic, or unlikely to result in punishment for the accused students. Anna Babler, a former student at Arizona State University, says a judicial affairs administrator in 2008 urged her to "speak up" against a fraternity with a history of rape reports, without assuring that her name would be kept confidential, or telling her precisely how the campus process would work. (An ASU representative said that privacy rules prevented it from commenting on specific cases, but that it takes sexual assault reports seriously.) Mary Chico, a former student at Miami University in Ohio, describes meeting with a school official in 2001 who made her feel that she was at fault by asking her questions like what she was wearing when she was assaulted. Chico believes a dean pushed her to take a medical leave from the school, accusations the school has dismissed as "baseless."

Carter, of Security On Campus Inc., said that colleges and universities dissipate students' confidence in their adjudication systems by failing to coordinate between offices, or by failing to provide access to a single, well-trained point person who can lead them through the process. "The most pervasive problem for students victimized by sexual assault on campuses," he says, "is a lack of support structures for victims to come forward."

Title IX, the anti-discrimination statute, is best known for its application to women's sports, but the regulations implementing it require grievance procedures that provide for "prompt and equitable resolution of student and employee complaints." The law leaves room for interpretation, and in 2001 the Education Department's Office of Civil Rights issued additional guidance. If a school knows — or even if it should know — of possible sexual harassment, including assault, it must take "immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again." It is also this guidance that mentions that schools must designate a coordinator for Title IX responsibilities — the point person Carter describes.

A school's failures to comply with Title IX can place daunting obstacles in the paths of students who wish to pursue disciplinary proceedings. A measure of the problem came in the Center's review of 214 investigations in the past decade by the Education Department's Office of Civil Rights into suspected Title IX violations involving sex discrimination in admissions or grading, as well as cases of harassment and assault. The Center found 16 cases involving allegations of perceived institutional barriers to pursuing

sexual assault complaints. According to its own published guidelines, the Office of Civil Rights avoids finding schools in violation of the statute when it can find a way to cooperate with schools to fix problems, but it found institutions with no coordinator, no clear policy for handling sexual assault complaints, or alleged victims who were not informed of their right to pursue disciplinary complaints.

The roadblocks to campus justice, however, are often more subtle than that, says Diane Rosenfeld, a Harvard law professor who specializes in Title IX law. They can come in the form of a dean's apparently innocuous suggestion to get counseling, or take a semester off, rather than risking a campus judicial process that won't succeed.

"As I see it," she says, "that's a way of silencing victims and keeping these cases quiet."

## Troubling Tale at SUNY New Paltz

### INTERVIEWS

#### Elizabeth Ryan

recounts her initial meeting with Linda Eaton, the dean of students at SUNY New Paltz. Ryan's voice is disguised to protect her identity.

Audio

**Linda Eaton**, dean of students at SUNY New Paltz, describes how she deals with students alleging they have been sexually assaulted.

Audio

In December 2007, Elizabeth Ryan, who was finishing up her first semester on the New Paltz campus of the State University of New York, was summoned to speak to the Dean dean of Students students in the austere Haggerty Administration Building. The dean's office had just learned she filed a police report alleging that she was raped by another freshman at an off-campus fraternity house. (Elizabeth Ryan is not her real name; she has asked to use a pseudonym to protect her privacy.)

Ryan says she immediately knew that what had happened to her was rape. The nurse who administered the rape kit, and others who heard her story, seemed shocked, Ryan recalls, by the trauma that she conveyed, and by the bruises on her breasts. But when she told the story to the dean, a veteran student affairs administrator named Linda Eaton, it was Ryan's turn to be shocked. One of her options was to "do nothing," she says the dean told her.

Even now, Ryan, 20, has a hard time rationalizing that response. "If I wanted to do nothing, I would have kept my mouth shut," she says. "I wouldn't have gone to my RA, or to the campus police, or to the New Paltz police, or to the hospital. I wouldn't have said a word to anybody right from the start," she says. "It was insulting. This guy had just raped me ... and that's her answer?"

Insulting or not, the dean's response — which Eaton does not dispute — may have been illegal, say lawyers familiar with Title IX. "You never say your option is to do nothing, because the institution doesn't have the option of doing nothing," says Kate Clifford, a partner in the law firm Schuster & Clifford, LLP, which provides training to universities on compliance with the anti-discrimination law.

Investigation is the school's first responsibility, regardless of whether a student demands it, or whether police are conducting a criminal investigation, according to the 2001 Office of Civil Rights guidance.



The dean went on to list other options, each no more satisfying to Ryan. Dean Eaton could bring the alleged attacker into her office, to let him know that what he had done was wrong. Or the two freshmen could participate in a mediation.

Though not illegal, mediation for resolving sexual assault cases is strongly discouraged in official recommendations from the Justice and Education Departments. Eaton denies pushing mediation, citing school statistics showing that no student has chosen to resolve a sexual assault case through mediation in the past decade. But the Education Department's Office of Civil Rights guidance calls it inappropriate "even on a voluntary basis."

"You never, ever, ever have any kind of mediation in sexual assault cases," says Clifford, echoing what counselors, advocates, and lawyers told the Center repeatedly, explaining that mediation presumes an equality of power that is missing in domestic and sexual violence cases.

Ryan felt discouraged from pursuing the two options she most wanted — campus judicial proceedings and criminal charges. "She made everything I'd wanted to do seem ... like a hassle," she says, referring to Eaton, and recalling that the dean cautioned her that campus hearings would be difficult for her, and that they would have to wait until the following semester, after winter break. The dean told her to take time to think about it, and come back again the next day.

Instead, Ryan canceled their meeting and withdrew from SUNY, convinced that her school would not help her.

"How could you not want someone who did this off your campus?" asks Ryan. "Why would she be pushing mediation, pushing me to do nothing? It finally dawned on me that this was about protecting the school's image."

In an interview with the Center, Dean Eaton said she gave Ryan the same standard list of available options she gives to all alleged victims. The dean did not remember the student saying she wanted a campus hearing.

"Part of not re-victimizing the victim is to lay out all of the options that are available to them," says Eaton, who adds that she could not have predicted Ryan's response. By giving options, "you're giving them the power and the choice to make a decision in terms of what they would like to do."

Eaton seemed unaware that Title IX obligated an investigation into sexual assault reports, and said she had not been trained on the legislation. The school's director of media relations, Eric Gullickson, stresses that the school was in compliance with Title IX, and says that coordination was left to the associate athletic director because "[o]ur work with Title IX has been with respect to athletic participation by women."

New Paltz maintains that faculty and staff did what they could to keep Ryan safe, by issuing a no-contact order between the two students and directing her to counseling, and could do nothing else without her participation and her continued attendance at the school. Eaton vigorously denies the contention that the school was more concerned with its own reputation than with a student's well-being.

"I get every single police report that's initiated on this campus. I contact students. I reach out to them," says Eaton. "I feel as though if I had an alternative motive, I wouldn't have reached out to her."

Few of the roughly 8,000 students at SUNY New Paltz have admitted an interest in pursuing disciplinary proceedings in sex offenses, according to statistics the school provided to the Center. Since 1998, only six students have reported a sexual assault to the office responsible for initiating those proceedings. Of those, three cases resulted in a campus hearing. Just one punishment has resulted from a sexual assault case — an expulsion in 2002.

From the Justice Department-funded study, a college the size of SUNY New Paltz could estimate that more than 1,700 of its female students were victims of rape or attempted rape in that 11-year period.

### **Overcoming Perceptions, Fighting Roadblocks**

Segawa, president of the student affairs administrators group, and dean of students at the University of Puget Sound, says that college and university administrators are increasingly aware of perceived roadblocks for students reporting rape and are doing what they can to address them.

"Most institutions want to be very responsive and supportive, but there may be reasons that perception exists," he says.

Segawa suggested that a lack of visibility of the available resources and ignorance of the avenues available for students accounts for some of that perception. He disputes the idea that it is in the interest of the school to keep barriers in place in order to keep rape statistics from going up. Puget Sound often reports zero sex offenses, an "absurd, very low number" he has trouble explaining to parents. "The reality is we know it isn't zero, but we don't have another number we can give them."

Colleges and universities' efforts to produce more accurate numbers also can backfire.

Char Kopchick, assistant dean of students at Ohio University, says that her university's efforts at increasing sexual assault reporting rates several years ago achieved just the opposite effect. The university put in place a mandatory reporting requirement — meaning that all faculty and staff were obligated to report a sexual assault to police, unless they were counselors or health care providers specifically bound by privacy rules. As a result, Kopchick says, students stopped showing up.

"Now they know there's going to be an investigation," she says. "What we find with a lot of survivors, they're not ready for that. ... Sometimes it takes a person six months before they're willing to go forward. Sometimes they never want to do anything."

Carter, the public policy director of Security On Campus Inc., cautions schools against tipping the balance too far toward either ignoring victims' wishes by pushing them to take action, or, conversely, blithely assuming a victim would not wish to move forward with campus disciplinary charges without giving her all the information needed to make a decision.

"If victims know they'll be supported and believed, they'll come forward," Carter says. He points to successes at places like Harvard, where a coordinated effort to improve response to rape victims following a 2003 investigation of alleged Title IX violations resulted in a distinct rise in rape reports. "If they want counseling or to pursue disciplinary action or criminal charges and the school supports them, they'll do it," he adds.

### **Struggling with the Aftermath**

Elizabeth Ryan, who now lives back at home with her mother, still struggles with panic attacks, and has had a hard time regaining her footing since leaving SUNY New Paltz.

Her alleged attacker, meanwhile, is back in New Paltz living the life of a typical college student. Visited by a reporter one Thursday last fall, he was just getting out of bed at 3 p.m. to make himself bacon. To this day, he says, he has never told his parents or his frat brothers that New Paltz town police questioned him about the reported rape. The investigation is still officially open, but inactive. Detective David Dugatkin, who was assigned to the case, says that after speaking to both alleged victim and perpetrator, there were enough "ambiguities" about the issue of consent that he referred the case to the District Attorney's office rather than making an immediate arrest. Ryan did not pursue it. Kevin Harp, the Ulster County assistant district attorney who spoke with Ryan, said he invited her to meet with him, but that he never heard back from her. He says he presented her a realistic account of the steps involved if she decided to pursue charges, and said he did nothing to discourage her.

The accused student firmly maintains that sex was consensual, adding that he kissed Ryan goodbye at the end of the night. He thinks the cops believed him. "At first I was nervous and scared, because nothing like that had ever happened to me before," he says. "But after I was questioned by the police, nobody ever contacted me about it again, and that was it." His only gripe, he says, is with the school. He believes it was unfair of SUNY New Paltz to issue him a no-contact order forbidding him from entering the dorm where Ryan lived. After all, nobody from the school ever bothered to ask him what happened.

That's a complaint his accuser shares.

In Megan Wright's case, it appeared initially that the school would investigate. Dean John Prescott met her within half an hour, was polite, asked questions, and suggested that Wright receive counseling. He said that someone from the school would watch the surveillance video, leaving the impression that he would take action.

As they walked out of the office and peered into a sea of young male faces, Wright's mother remembers thinking, "Is it you? Is it you?"

But the lawsuit contends that instead of investigating, the school left the case entirely in the hands of a local police detective, a Title IX violation. The family alleges that the detective, James Nawoichyk, a part-time instructor at Dominican College, was "hopelessly conflicted," and failed to conduct a thorough investigation. The police log shows that before closing the investigation around the time of Wright's death, the detective did not question Fegins or Thorne, who had hired lawyers, or inspect the dorm room where the alleged rape had taken place.

Nawoichyk declined to comment because of the pending lawsuit against Dominican, but Orangetown Police Chief Kevin Nulty has told a local newspaper, *The Journal News*, "The department stands behind the officer and the integrity of the investigation."

Never once in four meetings Wright's mother had with Dean Prescott over the summer did the dean mention the possibility of the sort of on-campus judicial proceedings outlined in the handbook and required by law.

Unable to get any comfort from her school, or assurance that she would be safe from the alleged attackers, Wright did not return to the college in the fall. On her last visit, says McGrath, her daughter tried to see the college president, but was told she was unavailable. "They were making her feel like she wasn't worth it — the police, the school. The people that you think you're going to be able to turn to, to make things right," says McGrath.

The lawyer for Dominican College, Semprevivo, says without elaborating that contrary to the allegations laid out in the complaint, the school did investigate. He says the school cannot comment on disciplinary action against students, because of privacy concerns. Certainly, Wright was never asked to testify in any hearing. Rocco, Wright's friend, says no one from the school asked her any questions. Hill, the student accused by Wright's family of conspiring in the incident, says he was never questioned or disciplined by the school. He returned to the school the following fall before dropping out for financial reasons.

The other two Dominican College students withdrew, too, for reasons that are unclear. One of them, Lynch, transferred to Ramapo College, where he plays on the basketball team.

In June 2008, the New York Office of the Attorney General, after an investigation initiated at the urging of the family's powerhouse lawyer [Gloria Allred](#), [fined Dominican College](#) \$20,000 for fraudulently under-reporting crime statistics. Among other things, the school had failed to take [appropriate account](#) of Wright's rape report. As part of a settlement, the college agreed to appoint a Title IX coordinator.

By the time she learned that criminal charges would probably not pan out, the light had left Wright's eyes, her mother says. She had stopped singing around the house and goofing off like she used to. In the modest home where her daughter lived and died, McGrath sits beneath an outsize photo of Wright as a baby, and beside others of her in a prom dress, and as a kid — photos she talks to before bed.

"No wonder why so many girls don't come forward. They see what happens. They see," says McGrath, "how they are attacked all over again."

*Staff writer Kristen Lombardi contributed to this article.*

## Much Campus Crime Goes Unreported

### New Post-Virginia Tech Report Gives Added Weight to Concerns

by John Gramlich, Stateline.org Staff Writer

*Stateline.org was a project of the Pew Research Center from 2004 to 2008. As of July 1, 2008, it is a project of the Pew Center on the States.*

September 20, 2007

From: kcshawed@aol.com

To: kcshawed@aol.com

Schools and colleges across the country do not report crime and violent incidents on campus consistently or accurately -- in many cases because they are not required to, according to safety experts and a new report by 27 state attorneys general.

A patchwork of state and federal laws intended to tally assaults, robberies, drug use and other crime at primary and secondary schools -- as well as colleges and universities -- fails to provide a clear picture of the scope of the problem, critics charge. Out-of-date, incomplete statistics are common and authorities have few effective tools to penalize institutions that do not comply, including fines that observers say amount to a "drop in the bucket."

Making matters worse, school and college officials are reluctant to release more comprehensive information on their own because of stigmas that can be attached to institutions with frequent occurrences of crime, said Ronald Stephens, executive director of the California-based National School Safety Center, which advocates for safer primary and secondary schools.

Stephens and others stressed that high crime rates do not necessarily reflect administrative failures, and that the absence of accurate information hinders efforts to understand and prevent illegal activity.

"Good crime data can provide a summary of what crimes are occurring, where they are happening and when they are happening," Stephens said in an e-mail to Stateline.org. "When this information is available, school officials can develop more effective prevention and remediation programs and provide responsible adult supervision to those areas where the difficulties are occurring."

While some advocates for school and college safety have called attention to the underreporting of crime on campus in the past, a report issued Sept. 6 by a bipartisan task force of state attorneys general -- convened in the aftermath of the Virginia Tech massacre -- gives new weight to the school safety experts' concerns....

Under the Clery Act, the Department of Education gathers specific instances of crime on or near college campuses. Colleges that do not meet the act's reporting requirements are subject to fines of up to \$27,500 per violation.

But only about two-thirds of colleges and universities "fully comply" with the Clery Act, often because of image concerns and because federal fines are considered insignificant, said Alison Kiss of Security on Campus, Inc., a nonprofit organization that works to improve safety on college campuses and assists with the enforcement of the Clery Act by examining the statistics that colleges are required to release.

"If there's a school or college with 20,000 students and they're reporting no forcible rapes, it raises a red flag for us," Kiss said. That, according to Kiss, means one of two things: the school has "a utopian society or a culture of silence."

[Read the full report at stateline.org](http://stateline.org)

Craig Brandon  
Testifying in support

Thank you for the opportunity to testify in favor of the proposed bill to require local police to investigate crimes on college campuses. My name is Craig Brandon and I live in Surry, New Hampshire. I am the author of a new book about colleges called, "The Five-Year Party: How Colleges Have Given Up on Educating Your Child and What You Can do About it," which will be published in July by Ben Bella Books.

Between 1995 and 2007 I was advisor to the student newspaper at Keene State College and during that time the Campus Safety office did everything it could to prevent my student journalists from reporting about crimes on campus. Although the law requires public access to the campus police log, for example, Campus Safety's policy was to refuse access to it. Instead the office provided an edited version created for the students in which all the crime reports were removed.

The reason for this, as I point out in my book, is that colleges have a conflict of interest when it comes to reporting campus crimes. Their interest in investigating and reporting crimes is always secondary to their prime interest in marketing themselves to tuition-paying customers. Since no parents would send their child to a college with high crime rates, administrators insist that campus safety offices keep their crime report numbers as low as possible. In addition, colleges are reluctant to take any action against their student customers, the perpetrators of most campus crimes.

They cover up crimes in two ways. First of all, they regularly turn away students who attempt to file crime reports. When a camera was stolen by a student at the newspaper I was not allowed to file a crime report because I didn't have the serial number of the camera. That is NOT how criminal justice is supposed to work. Real police officers write up reports for everyone who wants to report a crime. They don't turn away crime victims. Campus Safety's reasoning was that there would not be enough evidence to pursue the case, but that is not a decision police officers are supposed to make. Real police collect and report all information regarding complaints of crimes.

My students interviewed rape victims who attempted to file a crime report but were turned away by campus safety when the victims admitted they had been drinking when the rape occurred. Since they could not give sober testimony, they were told by campus safety, they were not permitted to file a report. Many of my female students said they were aware of this "policy" and knew of many students who failed to report rapes because they had been drinking. Yet New Hampshire's rape statute says that if a woman is intoxicated any sex is statutory rape since she is incapable of giving consent. This false information given students discourages rape victims them from filing reports.

The other way campus safety offices cover up crimes is to distribute false and inaccurate crime statistics that are much lower than the actual numbers. Investigations at college campuses across the country have exposed this practice. In New York, for example, the state comptroller

found that two thirds of the campuses at the State University of New York underreported their crime statistics to the federal government. Many of these colleges had two sets of books, a secret and accurate one they kept for themselves and a fictitious one for the official report. A more recent report about the campuses of the City University of New York found the same thing.

Eastern Michigan University was fined more than \$300,000 in 2008 for attempting to cover up a murder. The U.S. Department of Justice reports that only 37 percent of colleges report crimes accurately.

A report last month from the Center for Public Integrity called "Sexual Assault on Campus" found that one in five college women have been the victims of rape or attempted rape while they were in college and that 95 percent of campus sexual assaults were never reported. Part of the reason for this was that college safety offices often tried to talk victims out of filing a crime report in an attempt to keep their crime numbers as low as possible.

As part of the research for my book I contacted rape counseling centers at colleges around the country and asked them how many victims they saw. The average response was about 12 per month, yet when I compared those numbers to the official crime statistics at the same college, the numbers ranged from zero to four for the entire year. Date rape drugs called "roofies" are easily available on campus and fraternity brothers frequently brag about the number of women they have raped on campus with little fear of being caught and punished.

I realize that my testimony conflicts with that made by campus safety offices around the state, who maintained that there were little or no crimes committed on their campuses. To get to the truth I would suggest that you ask the state attorney general to audit the records of the campus safety offices of the state's three primary party schools: UNH, Keene State and Plymouth State.

If students were aware of how dangerous New Hampshire's campuses are it would enable them to take precautions against becoming victims. Providing them with artificially low crime numbers is worse than no numbers at all. It tells students there is no reason to take precautions. Similarly, the reluctance of campus safety to investigate or prosecute rape cases actually encourages male students to sexually abuse female students, since they know there is little chance they will be caught or punished. After five years of looking into this I am convinced that colleges are deliberately covering up crimes to protect their marketing efforts to attract students.

I urge you to adopt this bill as a first step toward protecting the thousands of students who attend college in New Hampshire. College safety offices have failed to protect their students and it's time we invited in the real police who can accurately report, investigate and prosecute the hundreds of young campus felons who perpetrate these crimes on unsuspecting victims and get away with it.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT requiring all colleges and universities to report crimes to the local law enforcement agency.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Section; Postsecondary Education Commission; Reporting Crimes. Amend RSA 188-D by inserting after section 9-b the following new section:

188-D:9-c Reporting Crimes. Absent a memorandum of understanding, each nonpublic postsecondary educational institution that has no sworn law enforcement personnel shall immediately report any crime occurring on campus property to the local law enforcement agency.

- i. **The memorandum of understanding will allow the institution and the local law enforcement agency to enter into an agreement as to what constitutes an immediate report and the extent to which offenses listed in Group A of the National Incident Based Reporting System (NIBRS), as defined by the Federal Bureau of Investigation, shall be covered by the immediate reporting requirement and,**
- ii. **The institution and the law enforcement agency shall have discretion to determine which crimes outside of NIBRS Group A offenses shall be covered by the immediate reporting requirement of the memorandum of understanding.**

2 New Section; Community College System of New Hampshire; Reporting Crimes. Amend RSA 188-F by inserting after section 21 the following new section:

188-F:21-a Reporting Crimes. Absent a memorandum of understanding, each institution within the community college system that has no sworn law enforcement personnel shall immediately report any crime occurring on campus property to the local law enforcement agency.



- i. The memorandum of understanding will allow the institution and the local law enforcement agency to enter into an agreement as to what constitutes an immediate report and the extent to which offenses listed in Group A of the National Incident Based Reporting System (NIBRS), as defined by the Federal Bureau of Investigation, shall be covered by the immediate reporting requirement and,**
- ii. The institution and the law enforcement agency shall have discretion to determine which crimes outside of NIBRS Group A offenses shall be covered by the immediate reporting requirement of the memorandum of understanding.**

3 New Section; University System of New Hampshire. Amend RSA 187-A by inserting after section 16 the following new section:

187-A:16-a Reporting Crimes. Absent a memorandum of understanding, each institution within the university system that has no sworn law enforcement personnel shall immediately report any crime occurring on campus property to the local law enforcement agency.

- i. The memorandum of understanding will allow the institution and the local law enforcement agency to enter into an agreement as to what constitutes an immediate report and the extent to which offenses listed in Group A of the National Incident Based Reporting System (NIBRS), as defined by the Federal Bureau of Investigation, shall be covered by the immediate reporting requirement and,**
- ii. The institution and the law enforcement agency shall have discretion to determine which crimes outside of NIBRS Group A offenses shall be covered by the immediate reporting requirement of the memorandum of understanding.**

4 Effective Date. This act shall take effect 60 days after its passage.

## Party Schools Exposed

Information subprime colleges don't want parents to know about what goes on behind the ivy-covered walls. From the new book "The Five-Year Party: How Colleges Have Given Up on Educating Our Child and What You Can Do About It," to be published in July by BenBella Books.

January 20, 2010

### New Hampshire looks into the lies told by Campus Safety officers

In New Hampshire, where I live, the state House of Representatives has set up hearings to look into a proposed bill to require local police to investigate crimes on college campuses. Needless to say, college presidents and campus safety directors are crowded around the microphones to deliver the big lie that no serious crimes ever occur inside the campus walls.

Although there are plenty of witnesses telling about their own experiences with crimes that were covered up, never investigated and never reported, the college officials who can say with a perfectly straight face that there have been no crimes on their campuses get the "Pants on Fire" award for the biggest whopper I have heard this week!

Linda Warman, the director of the campus safety office at the college where I used to work said the campus safety logs are made "available for review daily." Hmmm, this seems to be quite a memory lapse. As the adviser to the student newspaper I dealt with weekly complaints from my student reporters that Warman would not let them look at the log and instead handed them an edited "media version" of the log that had all the crime reports removed.

Also, my student reporters told me about rape victims they had interviewed who had gone to CS to file a report only to be turned away. Why? If they had been drinking the night of the assault, the officers told them, then they could not be good witnesses and could not testify. What a bunch of bull. In the off-campus world police take every report that comes in. They are not the ones who decide if a case will be prosecuted. That is up to the district attorney. But in the topsy turvy world of party schools, officers are encouraged NOT to accept reports because they will go on the list of official crime statistics and damage the college's marketing efforts to attract students.

As recently reported in an investigation published by the Philadelphia Inquirer, 95 percent of campus sexual assaults are not reported. Colleges with 10,000 students reported that there was not a single sexual assault for the entire year. And they expect the public to believe that.

Similarly, theft victims were told they could not file a report unless they had the serial numbers of the items that were taken. Again, this is not necessary in regular police reports and is only an obstacle thrown in to prevent reports from being filed.

My hope is that enough people will testify about this campus cover up that the public will get a better understanding of how dangerous college campuses have become.

Posted at 04:05 PM | [Permalink](#)

### TrackBack

TrackBack URL for this entry:

<http://www.typepad.com/services/trackback/6a00e55405f8be88330120a7f4016c970b>

Listed below are links to weblogs that reference [New Hampshire looks into the lies told by Campus Safety officers](#):

### Comments

## **Landmark Settlement in NY Campus Crime Reporting Case Will Bring Added Accountability, Better Crime Reporting**

**NEW YORK, NY** - New York state Attorney General Andrew M. Cuomo on Friday announced an agreement with Dominican College under which the school will reform its current system of reporting on-campus crimes in order to ensure accuracy. The agreement with Dominican requires the college to reform their reporting policies, as well as pay \$20,000 to New York State. In addition to the agreement with Dominican, Attorney General Cuomo issued a letter to every college and university in New York State, alerting them that underreporting crime statistics violates state law.

"When a college underreports crime statistics they put their students at risk," said Attorney General Cuomo. "Students and their families deserve an honest assessment of any potential dangers on campus, in order to protect themselves and make informed decisions regarding their own safety. Today's agreement with Dominican is a step in the right direction, and my Office is committed to ensuring that colleges statewide take steps to ensure that their crime statistics are accurate."

The agreement stems from an investigation by Cuomo's office into a complaint that Dominican, a private institution in the Hudson Valley with nearly two thousand students, was falsely reporting its campus crime statistics relating to sexual assaults. The federal Jeanne Clery Act requires colleges and universities to disclose campus security policies, as well as three years worth of crime statistics to current and prospective students.

The complaint against Dominican was sparked by the on-campus sexual assault of freshman Megan Wright in 2006. Attorney General Cuomo's investigation found that over the course of several years, Dominican had erroneously reported the number of crimes that occurred on campus in their student handbook. It also found that Dominican did not have adequate procedures in place to ensure accurate reporting.

"As far as we know, this is the first time in the nation that an attorney general has launched such an investigation and has reached a settlement, which requires accurate reports of crime statistics in the future," said victim's rights attorney Gloria Allred who represents Megan Wright's mother, Cynthia McGrath, in a civil lawsuit against the College.

"I know I speak for Meg as well as for myself when I say I am hopeful that, by raising awareness about this important issue and insisting on strict compliance of campus reporting of crime statistics ... that someone else's daughter and sister will be saved," added McGrath.

**The agreement executed with Dominican College requires the school to make the following reforms, as well as pay \$20,000 to New York State:**

- Require all employees responsible for campus security to attend a training program regarding crime reporting issues including the classification and definition of crimes, the collection of crime reports, timely warning requirements and annual disclosure requirements;
- Designate officials to oversee and coordinate the collection of all campus crime reports to ensure that they are properly categorized and maintained to create an accurate crime report;
- Designate officials to ensure that crime statistics are accurately published in the annual campus crime report; and



- And, designate an official who is responsible for ensuring that grievance procedures are in place for students.

Jonathan Kassa, Executive Director of **Security On Campus, Inc.**, said, "We thank Attorney General Cuomo for taking this very meaningful step to ensure that all students in New York are informed about the safety of their college campuses. Parents sending their children to school have a right to know whether the environment is safe, and young people who are leaving home, in most instances for the first time, should be accurately informed about the safety of their school. We commend the Attorney General for highlighting this important issue for all parents, students, schools and public agencies."

#### Other Information -

- **Attorney General Cuomo's Letter to New York Colleges and Universities**
- **Dominican College of Blauvelt Settlement Agreement**



-- ©2008 Security On Campus, Inc. All rights reserved. Powered by Sitecats Web Development



## CULTURE OF SECRECY

# Sexual Assault on Campus Shrouded in Secrecy

## High Rates of Rape, Closed Hearings, and Confusing Laws

Three hours into deliberations by the University of Virginia's Sexual Assault Board, UVA junior Kathryn Russell sat with her mother in a closet-like room in sprawling Peabody Hall. Down the corridor, two professors and two students were deciding her fate. Russell was replaying in her mind, endlessly, details of her allegations of rape when, she remembers, Shamim Sisson, the board chair, stepped into the room and delivered the order: *You can't talk about the verdict to anyone.*

That stern admonition was a reminder of the silence Russell had been keeping since, she says, she struggled to break free from a fellow student's grip in her dorm. That's the account she gave local authorities, who declined to prosecute. And that's what, in May 2004, she told the UVA Sexual Assault Board, whose decision she'd considered "my last resort."

Russell stands among the tiny minority of students who have pursued rape complaints in the college judicial system — 33 at UVA, a school of 21,057 students, since 1998. She became well-versed in the confidential nature of the process as described in the school's 2004 written procedures. Deans repeated the blanket stipulation to her "ad nauseam," she says, throughout her three-month proceeding. The school later defended its mandatory confidentiality policy before the U.S. Department of Education even while softening the language.

Relating the gag order back in the room, Sisson, Russell says, provided a strong incentive to keep quiet: *If you talk of the verdict, you'll face disciplinary charges.*

At the time, the exchange didn't faze Russell, who says she did as told in an effort to get justice. But five years later, she's come to see the school's old confidentiality policy as emblematic of just how far colleges and universities will go to keep secret cases of alleged sexual assault. And a recent ruling by the Education Department against UVA for a policy "inconsistent with the letter and spirit" of the law has resulted in significant changes there.

## RELATED

[Hear reporter Kristen Lombardi discuss this investigation on NPR's Talk of the Nation](#)

## Silent Victims, Secretive Administrators

### INTERVIEW



[Audio Slide Show](#)

**Kathryn Russell**, a former student at the University of Virginia, explains the secrecy that enveloped her campus judicial proceedings.

### INTERVIEW



[Audio Slide Show](#)

**Mallory Shear-Heyman**, a former student at Bucknell University, recounts the mediation process that included her alleged attacker.

But an array of practices at UVA and college campuses elsewhere continues to shroud the college judicial system in controversy. Indeed, a nine-month investigation by the Center for Public Integrity has found that a thick blanket of secrecy still envelops cases involving allegations of sexual assault on campus. One [national study](#) reports that roughly one in five women who attend college will become the victim of a rape or an attempted rape by the time she graduates. But while the vast majority of students who are sexually assaulted remain silent — just over 95 percent, according to [a study](#) funded by the research arm of the U.S. Justice Department — those who come forward can encounter mystifying disciplinary proceedings, secretive school administrations, and off-the-record negotiations. At times, policies lead to dropped complaints and, in cases like Russell's, gag orders later found to be illegal. Many college administrators believe the existing processes provide a fair and effective way to deal with ultra-sensitive allegations, but alleged victims say these processes leave them feeling like victims a second time.

The Center has interviewed 48 experts familiar with the disciplinary process — student affairs administrators, conduct hearing officers, assault services directors, victim advocates — as well as 33 female students who have reported being raped by other students. The inquiry has included a review of records in select cases, and examinations of 10 years worth of complaints filed against institutions with the U.S. Education Department under [Title IX](#) and the [Clery Act](#) — two laws requiring schools to respond to assault claims and to offer key rights to alleged victims. The Center has also surveyed 152 crisis-services programs and clinics on or near college campuses nationwide

over the past year.

Just over half the students interviewed by the Center have reported they unsuccessfully sought criminal charges and instead had to seek justice in closed, school-run administrative proceedings that led either to academic penalties or no punishment at all for their alleged assailants, leaving them feeling betrayed by a process they say has little transparency or accountability. Some of those students, including Russell, said they were ordered to keep quiet about the proceedings and threatened with punishment if they did not. Still other students said administrators discouraged them from pursuing rape complaints. Survey respondents indicated similar problems with the closed procedures on campuses.

Undoubtedly, another law, the Family Educational Rights and Privacy Act, complicates the issue. FERPA forbids schools from divulging students' educational records, including disciplinary records. Administrators believe it binds them to silence on case details, but others aren't so sure. Under FERPA, colleges *can* release names of students found "responsible" for committing violent acts. But "we don't," concedes Rick Olshak, associate dean of students at Illinois State University, "and I don't know anyone who does, frankly." Victim advocates contend that colleges use the law as a smokescreen to cover up campus crimes.

"Most institutions have a strong interest in keeping sexual assaults as quiet as possible," says David Lisak, an associate professor at the University of Massachusetts- Boston, who has trained college administrators on combating sexual violence. Typically, Lisak notes, administrators view campus sexual assault as "a very negative piece of publicity," tarnishing institutional reputations, and heightening fears among tuition-paying parents and students for whom colleges are aggressively competing.

College administrators bristle at the idea they're shielding rapes. But they admit they've wrestled with confidentiality in campus assault proceedings because of FERPA and the Clery Act. Confusion over the laws has reinforced what critics see as a culture of silence that casts doubt on the credibility of the process. "People will think we're running star chambers," says Don Gehring, founder of the Association for Student Conduct Administration, referring to secret, arbitrary courts in old England. "And that's what's happening now."

### **Kathryn Russell's Allegations**

Russell first approached the UVA administration in February 2004. UVA is required by Title IX regulations to respond "promptly and equitably" when a student alleges sexual assault — investigating the claim and taking action to eliminate harm. Most institutions, including UVA, list "sexual assault" or "sexual misconduct" as prohibited acts in their official standards of conduct — allegations of which automatically trigger internal disciplinary processes.

A petite, perky student who counted herself "a nerd," Russell reported that she had been raped on February 13 by a fellow junior whom she'd gotten to know through a class and a club the year before. On a campus prone to what UVA assault-services director Claire Kaplan calls "a culture of silence around sexual assault," administrators say they have strived to encourage reporting. "We try to make it clear that UVA ... has zero tolerance for sexual offenders," says Patricia Lampkin, vice president for student affairs, "and that students need to report all assaults." In 2004, Russell became one of eight to recount an alleged rape in a UVA dorm.

Eight days after filing an incident report; after telling UVA police she had "unwanted sexual contact"; after informing UVA doctors of "worsening pain" from allegedly forced sex, Russell found herself repeating the story to Penny Rue, then dean of students. The

dean gave Russell a 12-page document, entitled “UNIVERSITY OF VIRGINIA PROCEDURES FOR SEXUAL ASSAULT CASES,” which outlined options for adjudicating complaints. It included this language:

*Confidentiality of the hearings process is of great importance to all involved. Identity of the reporting or accused student and any formal discipline resulting from the hearing may not be publicly disclosed....*

Rue didn't dwell on the policy at first. Instead, Russell remembers the dean doing what many victim advocates say is common: discouraging her from pursuing a hearing. Rue, Russell charges, recommended mediation — an equally shrouded process in which, according to the UVA procedures, “all verbal statements ... must remain confidential,” including “offers of apologies and concessions.”

“I didn't want to talk to him,” recalls Russell, of her alleged assailant, so mediation seemed out of the question. She would later initiate her complaint in a March 19 e-mail to Rue.

In ensuing days, the dean would informally “confront” Russell's alleged assailant, who claimed he'd had consensual sex with Russell. In his March 30, 2004, statement to UVA administrators, the accused student portrayed Russell as a willing flirt at a bar who turned sexual aggressor in her dorm, and who repeatedly “grabbed my genitals and wanted me not to leave.” The individual in question did not respond to multiple calls, e-mails, and letters from the Center seeking comment.

Rue now works as vice chancellor of student affairs at the University of California, San Diego. In an August 2005 letter addressed to UVA's associate general counsel, obtained by the Center for Public Integrity, Rue confirmed meeting Russell and handing her the school's written procedures. The dean said she'd been careful to lay out all the options. “I let her know that it was her decision whether to pursue charges,” Rue wrote in the letter, “and that the University would support her either way.” Rue declined to discuss Russell's case with the Center, as did other former and current UVA officials familiar with it, despite a waiver from Russell granting permission for them to do so.

### **Informal Proceedings Common**

Days before filing her complaint, Russell learned that the local district attorney wouldn't press criminal charges — a typical outcome. Experts say the reasons are simple: Most cases involving campus rape allegations come down to he-said-she-said accounts of sexual acts that clearly occurred; they lack independent corroboration like physical evidence or eyewitness testimony. At times, alcohol and drugs play such a central role, students can't remember details. Given all this, says Gary Pavela, who ran judicial programs at the University of Maryland, College Park, “A prosecutor says, ‘I'm not going to take this to a jury.’” Often, the only venues in which to resolve these cases are on campus.



Internal disciplinary panels, like the UVA Sexual Assault Board, exist in various forms on most campuses. But they're not the only way schools handle rape allegations. For decades, informal proceedings run by an administrator have represented the most common method to adjudicate disciplinary matters. Typically, an administrator meets with both students, separately, in an attempt to resolve a complaint. Occasionally, they "mediate" the incident. Officials find such adjudication appealing in uncontested situations. If a dean elicits a confession, says Olshak, of Illinois State, who headed the student conduct association in 2001, "We'll be able to resolve the complaint quickly, easily, and without the confrontation of a judicial hearing." Resolution, as in formal hearings, can mean expulsion, suspension, probation, or another academic penalty, like an assigned research paper. By all accounts, informal processes take place almost as frequently as formal ones; at UVA, for example, the administration has held 16 hearings since 1998, as compared to 10 informal meetings.

And these proceedings can turn out positively for student victims. In January 2005, Carrie Ressler, then a junior at Concordia University, near Chicago, reported being raped by a football player after attending a party in his dorm. On January 19, within hours of the alleged assault, the police arrested the student athlete; by October, he'd pled guilty to battery for "knowingly [making] physical contact of an insulting nature," court records show.

At Concordia, Ressler's report landed on the desk of Dean of Students Jeffrey Hynes. The morning of the arrest, the dean summoned her to his office. "He told me he'd be telling the perpetrator he needed to leave by choice," she remembers Hynes saying. "If not, he'd be expelled." Within days, the athlete had left Concordia. Hynes declined to comment on Ressler's case.

"The dean acted in my interests," Ressler says. She recognizes, though, that the informal adjudication served the university's interests, too. "I got the sense from the dean that the school wanted to keep this case hush-hush."

Many victim advocates share Ressler's opinion on this. Often, these victim advocates charge, informal proceedings serve to sweep campus assaults under the rug. Both the Justice Department and the Education Department explicitly say in guidance documents that schools should not encourage mediation in sexual assault cases. Yet Katherine Lawson, an attorney at the Victim Rights Law Center, in Boston, says she's heard one local administrator boast they haven't held a full sexual assault hearing in years. "This meant to us that they had managed to pressure students to drop a complaint, mediate, or take some lesser administrative route," she explains, which kept cases quiet. At times, these proceedings even leave the victim advocates in the dark. Says one crisis-services coordinator at a Massachusetts university, "I don't have any idea what goes on in those little [deans'] meetings."

## **College Hearings: Little Transparency**

More formal proceedings are sometimes no less shrouded. College disciplinary hearings, unlike courts, lack the trappings of transparency — campus spectators. Advocates can't attend unless serving as "advisers" to students. Only integral participants like board members or administrators have any clue when a hearing occurs. "They're secret *because they're closed*," says S. Daniel Carter, of Security on Campus Inc., a watchdog group.

Administrators see it differently, arguing that there are important distinctions between "secrecy" and "privacy." They can't open up internal proceedings — formal or informal — because that would amount to granting access to private educational records, which FERPA prohibits, they say. But that doesn't mean they're operating in secret. "Not providing private information to the rest of the world is respecting confidentiality and respecting FERPA as a law," says Mary Beth Mackin, assistant dean of student life at the University of Wisconsin-Whitewater. And while proceedings remain hidden to outsiders, administrators maintain they're conducted so students feel they're as open as possible.

Lisa Simpson would probably disagree. Her allegations of rape at the University of Colorado at Boulder blew open a scandal of sexual assault allegations against football players and recruits in 2004; three years later, her Title IX lawsuit brought against CU ended in a \$2.85 million settlement in her favor. Yet she found CU's judicial process a mystery. In December 2001, Simpson, then a CU sophomore, alleged she was raped by five football players and recruits during a beer-soaked party. They claimed she was a willing participant. Within days, Simpson's rape report made its way to CU's judicial affairs director, Matthew Lopez-Phillips. During a meeting in his office, she recalls him relaying how a panel of students, faculty, and staff would adjudicate. At the time, CU's official conduct code stated that alleged victims would generally be expected to participate in the process by "providing testimony at the formal hearing of the accused," among other things.

But Simpson never appeared before a panel. No panelist interviewed her about the report, or the victim impact statement she filed. Even after her five-year legal battle against CU over its response to her case — a battle that sparked a broader investigation, as well as systematic reform — she has no idea what transpired before the panel, or if it actually even existed. CU documents obtained by the Center show one accused student underwent a formal hearing as a result of Simpson's report; three others had informal, administrative proceedings. But some CU documents on the panel remain sealed by protective order, and only one includes a list of 17 possible panelists. Court records have revealed the identity of only one panelist. "For all I know," Simpson says, "it could have been a panel of athletic coaches."

Lopez-Phillips, who now works at Sonoma State University, did not respond to several calls and e-mails from the Center. Meanwhile, the sole panelist named in court records, Carlos Garcia, who directs CU's student center, declined to comment, citing "confidential" board sessions.

## Adjudicating the Russell Case

Russell's proceedings before the UVA Sexual Assault Board commenced on May 10, 2004. According to the hearing transcript, Sisson, the board chair and senior associate dean, said: "All parties are reminded these proceedings are confidential ..."

It had become a familiar refrain for Russell. Before Russell filed her complaint, UVA deans spelled out the policy. In a March 1 e-mail, Rue told Russell:

*It is perfectly okay to discuss the events that occurred with anyone you trust, but the fact that they are subject to a judicial proceeding through the university must be kept entirely confidential.*

Reminders followed — in e-mails and letters stamped "CONFIDENTIAL." By the time the hearing occurred, Russell had heard the stipulation so often she refused to share documents with her mother. Over nine hours, as family and friends waited outside, the four-member board sat in a secured conference room, listening to testimony. Russell and the alleged assailant agreed on initial details — they ran into each other at a bar; he ended up at her dorm; she offered him an air mattress to sleep. But they painted different pictures of what transpired next. The man, Russell said, grabbed her from behind, ignored her pleas to stop, and "used [me] for his sexual need." Russell, the man countered, "tacitly agreed to have sex," demanding a condom, and never saying no. "Not all my actions would in a day-to-day situation be considered kosher," he wrote in his April 23, 2004 defense. "But none of my actions broached or even swept near the arena of rape."

Sisson repeated the confidentiality admonition 11 times during the hearing, according to the transcript. By its end, she relayed a directive that would wipe away much of the hearing record. "Leave all of your materials," she told participants, "so these materials are shredded."

Russell's mother, Susan, who had created a website criticizing UVA's response to campus rape allegations, claims Sisson admonished her, too, threatening to bring Kathryn up on disciplinary charges if the hearing verdict was posted on the site.

In a brief phone call with the Center, Sisson, now retired, described the proceedings as "entirely confidential at the time," and "a complicated set of circumstances." She said, "I approached my work and every one of these cases with the greatest professional integrity." Asked if she warned Russell not to talk or threatened disciplinary charges, she replied, "I cannot comment on specifics."

## Going after Gag Orders

UVA administrators insist the confidentiality policy laid out in the school's 2004 written procedures was never meant to muzzle students, although they recognize students could "over interpret" its language. Nor was it official practice to warn them to keep quiet — or

else. “There was no quid pro quo here that I know,” says Nicole Eramo, current chair of the UVA Sexual Assault Board. “That was just not part of our policy.” The actual written policy suggests otherwise — both old and new procedures state punishable actions “may include ... violations of the rules of confidentiality.” But administrators stress students have never gotten in trouble for telling their stories.

Instead, they blame their former policy on a longstanding confusion within higher education over the scope of FERPA in sexual assault proceedings. For decades, college administrators had operated under the assumption that FERPA protects all disciplinary proceedings — until the Clery Act passed in 1992. The Clery Act makes it mandatory for schools to notify alleged victims of hearing results. Understanding how FERPA intersects with Clery — two laws seemingly at odds—has been, in Eramo’s words, “difficult for administrators.”

That confusion, according to Carter, who heads public policy at Security on Campus Inc. has caused a proliferation of disturbing practices. Some schools have threatened alleged victims with expulsion for disclosing verdicts. Others have barred them from viewing their proceeding records. Still others have required confidentiality pacts — all citing FERPA. The Education Department found that institutions had even kept alleged victims in the dark. In September 2005, the department fined Miami University of Ohio \$27,500 for breaking a promise to regulators to provide accurate written information about hearing results to student victims, as it had done to accused students. Earlier that year, in June, the department determined that California State University, East Bay, had violated Title IX by not notifying alleged victims of the outcomes of sexual harassment investigations — requiring the school fix its policy under a resolution agreement.

By October 2002, Carter had petitioned the Department of Education about these sorts of practices. Alleged victims should be allowed to disclose not just the hearing results, he said, but also names of accused students and any sanctions. In March 2003, he filed a separate complaint against Georgetown University, which had been using gag orders in its proceedings. Like UVA, the Georgetown administration restricted students from divulging outcomes. Unlike UVA, it refused to release those outcomes unless students signed confidentiality agreements. Carter saw the pacts as clear violations of the Clery Act, which provides that “both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.”

In July 2004, the department agreed, issuing a ruling against Georgetown for its “impermissible non-disclosure agreement for Clery Act purposes.” It ruled that Clery grants alleged victims a right to their proceeding outcomes, without restrictions, despite FERPA. Its final determination letter, dated July 16, required Georgetown to “discontinue its use of non-disclosure agreements.”

Carter then went after illegal gag orders elsewhere — like one presented to Alpha Morin at the University of Central Florida. Now a former student, Morin found the school’s process “very hidden to me” after filing a rape complaint against a scholarship athlete. In

January 2005, the then-freshman learned she could only participate in the hearing before UCF's Student Conduct Board as a "witness" to her alleged assault. Save for her 20-minute testimony, the board banned her from the room. Later, she learned she could only receive the verdict by signing a confidentiality agreement.

Morin went public with her predicament in the campus newspaper, prompting Carter of Security on Campus Inc. to send a cautionary e-mail to UCF President John Hitt, warning that UCF's policy sounded illegal. Four days later, UCF sent Morin a copy of the verdict, with no written pacts attached. Carter managed to nullify verbal gag orders at schools including the College of William and Mary, among others, though he and administrators agree that written gag orders have always been pretty rare.

## **A Ruling against UVA**

Kathryn Russell didn't think much about her school's policy until things went badly. At the hearing, board members asked questions making her wonder about their training — "Did it occur to you to perhaps leave the room?" "Why not just shut the door [on him]?" Sources familiar with the UVA board's training describe it as extensive; in 2004, the school required members to undergo a day of preparation featuring a videotape and reading materials, as well as sessions with outside experts on campus sexual assault. One previous board member describes Russell's panelists as open-minded and thoughtful. But the panel also judged her complaint using a "clear and convincing" evidence standard, which the Education Department ruled, in one 2004 case, is higher than Title IX authorizes — and which victim advocates argue is illegal.

In the end, the student Russell accused was found "not responsible" for sexual assault. The board instead slapped him with a verbal reprimand. "We ... believe that you used very bad judgment," Sisson declared. The case resulted in one of nine "not-responsible" verdicts the UVA board has handed down over the past decade, as compared to seven responsible ones.

"You can have a bad sexual experience but not be sexually assaulted under the university's definition and standard of evidence," says the prior UVA board member.

Russell saw it differently. "It was just a charade," she said.

In light of all those warnings about confidentiality, Russell thought she could tell no one what happened. But in November 2004, her mother filed a complaint against UVA with the Education Department, alleging violations under the Clery Act. It centered on the verbal threats of punishment, as did a second complaint filed on behalf of another former UVA student, Annie Hylton. Hylton told the Center she had feared repercussions from UVA for going public in the local press that same month, even though her hearing dated to 2002.

"That's one reason I decided to go public," she relays. "If they were keeping me quiet, who else were they trying to keep quiet?"

In its official response, according to case records and a written statement from the Education Department, UVA argued it wasn't violating Clery so much as upholding FERPA and limiting what it termed "improper re-disclosures." Officials contended they could enforce the confidentiality policy through "pre-conditions" like a verbal commitment. While defending its policy, UVA was also reviewing the 2004 procedures. By March 2005, UVA administrators had submitted to the department a revamped policy that would soften the language and eliminate specific secrecy requirements. The new policy says the university "neither encourages nor discourages further disclosure."

In November 2008, however, the Education Department determined the school had violated the Clery Act. In a letter to UVA President John Casteen, it stated "the University cannot require an accuser to agree to abide by its non-disclosure policy, in writing or otherwise." The November 3, 2008 letter added:

*It is ... clear that several UVA students were persuaded that failure to adhere to the confidentiality policy could have resulted in serious consequences ranging from disciplinary action to not being granted a hearing before the Sexual Assault Board in the first place.*

The department's UVA decision has made it clear that alleged student victims are no longer required to keep quiet about their hearing results. This year, in fact, the Education Department has amended its FERPA regulations to specify as much. The new regulations have thus effectively ended confidentiality requirements for hearing *results* on college campuses. But they have left open questions about broader secrecy requirements to *participate* in the college judicial process — even on the UVA campus.

### **Discretion or Lack of Accountability?**

Inside the stately, red-brick Rotunda at UVA, administrators say the Education Department's decision represents the byproduct of a confused legal environment. And they assert that the school had already changed its confidentiality policy by the time the department issued its ruling. Unlike before, they say, the school's current procedures make plain that students can divulge their proceeding results, including accused students' names and any sanctions. The school has also taken steps to improve the process: it has bolstered investigations of rape allegations; improved training for the assault board; and added a lesser charge of "sexual misconduct" to its standards of conduct. Susan Davis, assistant vice president for student affairs, says UVA has "struck a good balance now." Indeed, deans elsewhere have touted the current UVA procedures as a national model.

But procedures at many schools, including UVA, still stipulate a confidential process — in formal hearings, and in informal mediations. For instance, UVA administrators still caution students not to discuss their proceedings during the process. Today's written procedures still specify that all proceeding "documents, testimony, or other evidence ... may not be disclosed." Read the actual policy, and the only confidentiality language that has changed is the stipulation that students can divulge their proceeding results. But even that comes

with a warning to, as the procedures state, “consult with legal counsel before doing so.” To critics, the silencing effect of the old confidentiality rules still holds. But to UVA deans — and their colleagues elsewhere — there is legitimacy to ensuring a closed process as it unfolds. Some officials, such as UVA’s Lampkin, insist a confidential procedure encourages reluctant alleged victims to come forward in the first place — a sentiment reinforced by some survey respondents. Others consider it crucial to ensure rights of accused students. Still others argue there is no need for outsiders to know details of campus rape proceedings because schools are deciding if a student’s conduct violated institutional rules — not criminal laws.

“I’ve yet to hear students say they want a public process,” says Davis.

“It’s a balance between figuring out how to give students a safe space,” Lampkin adds, “and having an environment where both the accuser and accused will come forward.”

But critics say that attitude fails to acknowledge a fundamental flaw in the college judicial system: Without outside scrutiny, it lacks accountability. “The reason for disclosure and public oversight is that we can’t allow educational institutions to police themselves,” observes Mark Goodman, former head of the Student Press Law Center, which has pushed for more transparency. He, like many critics, believes the institutional reliance on confidentiality does more to protect the image of colleges than the anonymity of students. “I have a fundamental disagreement with schools over the notion that justice can be reached in secrecy,” he says.

## Controversy over Mediation

### INTERVIEW

**Mallory Shear-Heyman** describes the legal waiver she was required to sign prior to participating in mediation — a waiver she says she didn’t fully understand.

Audio

Not without unintended consequences, at least. In November 2003, Mallory Shear-Heyman, then a sophomore at Bucknell University in Pennsylvania, underwent a confidential mediation after reporting being raped in her dorm by a fellow student. Mediations became popular in disciplinary matters involving sexual assault earlier in the decade, and remain common today — despite controversy. In 2001, the Education Department deemed mediations improper partly because they carry no punishment. And while mediation is generally considered effective for resolving interpersonal conflicts, the department — and many critics — argue that it falls short in instances of sexual violence. The reason: an intimidating element exists between victims and their assailants because, like other serious assault, sexual assault is a violent act “In some cases,” the department states in its guidance document, referring to sexual assault cases, “mediation will not be appropriate even on a voluntary basis.”

But Bucknell administrators defend their use of the practice, which they now call “voluntary facilitated dialogue,” precisely because it only occurs at the request of an

accusing student, with the willing participation of an accused student. Any power imbalance, they argue, is evened out by the presence of two administrators — one male, one female — guiding the conversation and assuring a comfortable setting. “Our students have really been key spokespeople for indicating they want some sort of option to have this dialogue,” says Kari Conrad, judicial administrator for sexual misconduct. “We feel confident in keeping this process as a responsible response.”

Shear-Heyman remembers Bucknell officials portraying the off-the-record session as an attractive way to confront the accused student, “as if it were the best option ever.” Confidentiality, they relayed, would allow for more open and honest discussion. She was presented with a waiver, which specified that “information first disclosed during mediation may not be used in any subsequent internal University proceeding.”

But Shear-Heyman wouldn’t grasp the waiver’s implications until the accused student, she says, implicated himself. Bucknell records show the student apologized to her in instant messages, admitting “b/c you got hurt, yes,” what had occurred was rape. She says he repeated the admissions before the two deans who participated in the mediation — Gerald Commerford and Amy Badal. The waiver did not prevent Shear-Heyman from pursuing outside remedies. But the deans, she says, gave her the strong impression that she couldn’t use what had occurred in the session — on or off campus. When she later considered pursuing criminal charges, she says, the deans claimed not to remember the accused student’s alleged admissions.

Both Commerford and Badal told the Center they don’t remember details from Shear-Heyman’s mediation, including possible incriminating statements. And they claim not to recall her later asking them to corroborate such statements. “I don’t recall any such scenario,” says Badal.

Bucknell administrators insist it is standard practice to inform participants verbally and in writing that pursuing mediation won’t preclude them from filing charges — on or off campus. Commerford describes himself and Badal as “sticklers about following the protocol.” “I cannot speak for Mallory and her interpretations,” he adds, “but I can tell you that we followed the protocol to a T.”

One former Bucknell employee familiar with Shear-Heyman’s mediation finds the practice “a problem because alleged assailants can say whatever they want without any repercussions” — a criticism voiced by many victim advocates. Bucknell University officials confirm that they wouldn’t take action against an accused student who apologizes or confesses in mediation unless the victim were to file charges first — something that Shear-Heyman found pretty pointless. “After I’d realized how much I got screwed with the confidentiality,” she says, “I didn’t want to pursue anything further with the university.” The former employee adds, “I absolutely think the practice serves the interest of the university, not the victims.”

As for Russell, her life unraveled in the years after her proceeding at UVA. She lost



weight, moved home, and divorced herself from friends. For years, she would find herself replaying in her mind, endlessly, details of her proceeding. She's long struggled to reconcile the fact that what she endured in pursuing a complaint had been for naught. Nothing had happened to her alleged assailant. "He was barely inconvenienced by having to attend the hearing," she says. Three years ago, Russell filed a civil lawsuit against him in Circuit Court for the City of Charlottesville, laying out her story in a complaint. The suit was never served on the man and eventually was dismissed at Russell's request, because, she says, she could not afford an attorney. The injustice of seeing her alleged assailant go unpunished has been, in her words, "the worst thing imaginable."

More recently, Russell discovered that the same student faced a second rape complaint at UVA. In April 2005, nearly a year after Russell's hearing, Rebekah Hay, then a UVA junior, filed that complaint, which ended up before two assault boards because the accused appealed — the first board returned a verdict against him; the second did not. Hay remembers Dean Rue addressing the suspect's history when she had filed her complaint. "She said to me, 'I'm sorry to see this name come up again,'" Hay recalls.

UVA administrators — and the alleged assailant — have stayed silent on the specifics of this complaint. Hay has never spoken publicly about her UVA case — until now. After all, the confidentiality of those proceedings was emphasized at UVA, she says, "and repeated and repeated and repeated again."

*Staff Writer Kristin Jones contributed to this article.*

© 2010, The Center for Public Integrity®. All Rights Reserved. Read our [privacy policy and the terms](#) under which this service is provided to you.

The Center for Public Integrity® | 910 17th Street NW | Suite 700 | Washington, DC 20006 | USA | (202) 466-1300

U.S. Department of Justice  
Office of Justice Programs  
*National Institute of Justice*



Research Report

# The Sexual Victimization of College Women

**NIJ**  
NATIONAL  
INSTITUTE  
of JUSTICE

**BJS**  
Bureau of  
Justice  
Statistics

Bonnie S. Fisher  
Francis T. Cullen  
Michael G. Turner

U.S. Department of Justice  
Office of Justice Programs  
810 Seventh Street N.W.  
Washington, DC 20531

**Janet Reno**  
*Attorney General*

**Daniel Marcus**  
*Acting Associate Attorney General*

**Mary Lou Leary**  
*Acting Assistant Attorney General*

**Julie E. Samuels**  
*Acting Director, National Institute of Justice*

---

Office of Justice Programs  
World Wide Web Site  
<http://www.ojp.usdoj.gov>

National Institute of Justice  
World Wide Web Site  
<http://www.ojp.usdoj.gov/nij>

---

Bureau of Justice Statistics  
World Wide Web Site  
<http://www.ojp.usdoj.gov/bjs>

---

# The Sexual Victimization of College Women

Bonnie S. Fisher

Francis T. Cullen

Michael G. Turner

December 2000

NCJ 182369

# NIJ

# BJS

Julie E. Samuels  
*Acting Director*  
*National Institute of Justice*

Jan M. Chaiken  
*Director*  
*Bureau of Justice Statistics*

Bernard V. Auchter  
*Program Monitor*  
*National Institute of Justice*

Michael R. Rand  
*Program Monitor*  
*Bureau of Justice Statistics*

The results from the college women studies were supported under award 95-WT-NX-0001 from the National Institute of Justice and award 97-MU-MU-0011 from the Bureau of Justice Statistics, U.S. Department of Justice. Points of view in this document are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice. Joanne Belknap, Ph.D., worked with Professors Fisher and Cullen on award 95-WT-NX-0001 in developing and revising the surveys and led the focus groups with Professor Fisher.

*The National Institute of Justice and the Bureau of Justice Statistics are components of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.*

## Foreword

This study contributes extremely important data to our understanding about the prevalence and nature of violence against women in the United States.

College campuses host large concentrations of young women who are at greater risk for rape and other forms of sexual assault than women in the general population or in a comparable age group. Based on their findings, Bonnie Fisher and her colleagues estimate that the women at a college that has 10,000 female students could experience more than 350 rapes a year—a finding with serious policy implications for college administrators.

Fisher also found that many women do not characterize their sexual victimizations as a crime for a number of reasons (such as embarrassment, not clearly understanding the legal definition of rape, or not wanting to define someone they know who victimized them as a rapist) or because they blame themselves for their sexual assault. The study reinforces the importance of many organizations' efforts to improve education and knowledge about sexual assault.

A unique feature of this study, brought about by joint funding from our two agencies, is its parallel use of two different survey methods for learning about sexual assault of women. The differences in estimated levels of sexual assault that are associated with the methodological differences will help us design better and more accurate surveys in the future.

**Julie E. Samuels**

*Acting Director*

National Institute of Justice

**Jan M. Chaiken**

*Director*

Bureau of Justice Statistics

# Contents

Foreword .....	iii
What we know about sexual victimization of college women .....	2
Who was surveyed? .....	3
How was sexual victimization measured? .....	4
What types of sexual victimization were measured in the NCWSV study? .....	9
How extensive is rape among college women? .....	10
How do the NCWSV rape estimates compare with the rape estimates based on the National Crime Victimization Survey? .....	11
Do women define their victimization as a rape? .....	15
How extensive are other forms of sexual victimization? .....	15
How extensive is prior sexual victimization? .....	16
Do victims know their offenders? .....	17
When does sexual victimization occur? .....	18
Where does sexual victimization occur? .....	18
Are women victimized on or off campus? .....	19
Do sexual victims take protective actions during the incident? .....	19
Are victims hurt in the victimization incidents? .....	22
Are some women more at risk of being sexually victimized? .....	23
Do women report victimization incidents to the police? .....	23
How extensive is stalking? .....	23
What is the nature of stalking incidents? .....	28

Are some women more at risk of being stalked? .....	28
What is the extent of visual and verbal sexual victimization? .....	30
Conclusions .....	30
Notes .....	35



During the past decade, concern over the sexual victimization of female college students has escalated. In part, the interest in this problem has been spurred by increasing attention to the victimization of women in general; until the relatively recent past, female victims received very little attention. However, this is no longer true. Terms such as "date rape" and "domestic violence" have entered the public lexicon and signify the unprecedented, if still insufficient, notice given to women who have been victimized.

Attention to the sexual victimization of college women, however, also has been prompted by the rising fear that college campuses are not ivory towers but, instead, have become hot spots for criminal activity. Researchers have shown that college campuses and their students are not free from the risk of criminal victimization.<sup>1</sup> It is noteworthy that large concentrations of young women come into contact with young men in a variety of public and private settings at various times on college campuses. Previous research suggests that these women are at greater risk for rape and other forms of sexual assault than women in the general population or in a comparable age group.<sup>2</sup> College women might, therefore, be a group whose victimization warrants special attention.

Recognizing these risks, the U.S. Congress passed the Student Right-to-Know and Campus Security Act of 1990 (hereafter referred to as the act). This legislation mandates that colleges and universities participating in Federal student aid programs "prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report" containing campus security policies and campus crime statistics for that institution (see 20 U.S.C. 1092(f)(1)).<sup>3</sup>

Congress has maintained an interest in campus crime issues, passing legislation that requires higher educational institutions to address the rights of victims of sexual victimization and to collect and publish additional crime statistics (e.g., murder and nonnegligent manslaughter, arson). For example, Congress amended the act in 1992 to include the Campus Sexual Assault Victims' Bill of Rights, which requires colleges and universities (1) to develop and publish as part of their annual security report their policies regarding the awareness and prevention of sexual assaults and (2) to afford basic rights to sexual assault victims.<sup>4</sup> The act was amended again in 1998 to include additional reporting obligations, extensive campus security-related provisions, and the requirement to keep a daily public crime log; some States

already required a public log (Public Law 105–244).<sup>5</sup> The 1998 amendments also officially changed the name of the act to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. In 1999, the U.S. Department of Justice awarded \$8.1 million to 21 colleges and universities to combat sexual assault, domestic violence, and stalking.<sup>6</sup> In 2000, 20 additional schools were awarded \$6.8 million. Two national-level studies are currently in the field. The first study examines how institutions of higher education respond to the report of a sexual assault. The second one is a multisite evaluation of the programs and policies implemented in the above-mentioned 41 schools.

## **What we know about sexual victimization of college women**

Like government officials, researchers also have given attention to the sexual victimization of college women and have conducted a number of studies.<sup>7</sup> Although illuminating, much of the research is generally characterized by one or more of the following limitations:

- The failure to use a randomly selected, national sample of college women. (Many studies have sampled students at only one college or at a limited number of institutions.)
- The failure to assess the various ways in which women can be victimized. (Most studies have focused on a limited number of types of sexual victimization.)
- The failure to use question wording or sufficiently detailed measures that prevent biases that might cause researchers to underestimate or overestimate the extent of sexual victimization.
- The failure to collect detailed information on what occurred during the victimization incident.
- The failure to explore systematically the factors that place female students at risk for sexual victimization.
- The failure to study whether women have been stalked—a victimization that, until recently, had not received systematic research.

The National College Women Sexual Victimization (NCWSV) study, described in this report and funded by the National Institute of Justice

(NIJ), attempted to build on, and surmount the limitations of, existing research on the sexual victimization of college students by:

- Employing a nationally representative sample of college women.
- Assessing a range of sexual victimizations, including stalking.
- Measuring sexual victimization using a two-stage process starting with “behaviorally specific” screen questions that attempted to cue respondents to recall and report to the interviewer different types of sexual victimization experiences they may have had. Those who reported a victimization were then asked a series of questions, called an incident report, to verify what type of sexual victimization, if any, had occurred.
- Acquiring detailed information on each victimization incident, including the type of penetration(s) or unwanted sexual contact experienced and the means of coercion, if any, used by the offender.
- Examining how the risk of being sexually victimized was affected by a variety of variables, including demographic characteristics, lifestyles, prior victimization, and the characteristics of the college or university attended.

In addition, the research project contained a comparison component designed to assess how rape estimates that use the two-stage process (behaviorally specific questions and incident reports) compared with rape estimates drawn from a sample of college women who completed a survey based on the National Crime Victimization Survey (NCVS). The comparison component was funded by the Bureau of Justice Statistics (BJS).<sup>8</sup>

The resulting data furnish perhaps the most systematic analysis of the extent and nature of the sexual victimization of college women in the past decade.

## **Who was surveyed?**

NCWSV study results are based on a telephone survey of a randomly selected, national sample of 4,446 women who were attending a 2- or 4-year college or university during fall 1996. The questions were asked between February and May 1997. The sample was limited to schools with at least 1,000 students and was stratified by the size of the total student enrollment (1,000–2,499; 2,500–4,999; 5,000–19,999; 20,000 or more) and the school’s location (urban, suburban, and rural). Schools were randomly chosen using a probability proportional with the size of the total female enrollment.

Students were then randomly selected using a sampling frame provided by the American Student List Company. This company provided the school address and telephone number for each student in the sample.

Each sample member was sent a letter describing the study and research protocol approximately 2 weeks prior to when a trained female interviewer called using a computer-aided telephone interviewing system.<sup>9</sup> The response rate was 85.6 percent.<sup>10</sup>

The comparison component used the same two-stage methodology as the main study except victimization was measured by using the screen questions and the incident report employed by NCVS. One purpose of the comparison component was to conduct a methodological experiment that would provide insight into the extent to which rape estimates are influenced by survey methods.

## **How was sexual victimization measured?**

Measurement of sexual victimization was based on responses to “screen questions” and on a reference period for the victimization. In addition to the victimization measures, survey questions and secondary data sources were used to investigate the factors that potentially placed women at risk of being sexually victimized.

### **Two-stage measurement design: The screen question-incident report methodology**

With important exceptions noted later, sexual victimization was measured largely by following the two-stage measurement format of NCVS. NCVS first asks a series of screen questions that seek to determine if a respondent has experienced an act that may possibly be a victimization. If the respondent answers “yes,” then for each of the times that the act was experienced, the respondent is asked by the interviewer to complete an “incident report.” This report contains detailed questions about the nature of the events that occurred in the incident. The report is used to classify the type of victimization that took place; that is, responses to questions in the incident report—not the screen questions—are used to categorize whether a victimization occurred and, if so, what type.

Some researchers have contended that the screen questions as worded in NCVS are not detailed enough to identify all women who have experienced

a rape or another type of sexual assault. A respondent may not answer "yes" to a screen question unless it is worded in a way that reflects the experience the respondent has had. To rectify this limitation, researchers have argued that sexual victimization should be measured with screen questions that are both numerous and detailed enough that respondents will not misunderstand what is being asked.<sup>11</sup>

NCWSV, therefore, used a series of behaviorally specific screen questions that sought to assess whether respondents had experienced a range of sexual victimizations. A behaviorally specific question, for example, is one that does not ask simply if a respondent "had been raped"; rather, it describes an incident in graphic language that covers the elements of a criminal offense (e.g., someone "made you have sexual intercourse by using force or threatening to harm you . . . by intercourse I mean putting a penis in your vagina"). The same logic can be used to ask about other forms of sexual victimization, such as sexual coercion or unwanted sexual contact.

Examples of the screen questions used in the NCWSV study are listed in exhibit 1. Each completed rape screen question asks the respondent about a different form of penetration in which force or the threat of harm was used. A statement then follows each question that defines the type of penetration. For example, anal sex is defined as "putting a penis in your anus or rectum." The other screen questions provide examples of the behaviors that respondents were asked about.

The NCWSV rape screen questions are similar, if not identical, to those used by Kilpatrick and his associates<sup>12</sup> and by Tjaden and Thoennes.<sup>13</sup> The use of behaviorally specific screen questions is an important difference between the current survey and NCVS. The NCVS screen questions begin with a reference to a type of criminal victimization that may have been experienced (e.g., "were you attacked or threatened"), which is then followed by a list of short cue responses about the potential victimization. This list includes cues regarding specific places or situations in which the victimization could have occurred (e.g., "at work or at school"); objects that could have been used (e.g., "with any weapon, for instance, a gun or knife"); actions that could have been associated with the victimization (e.g., "face-to-face threats"); actions that constitute a criminal victimization (e.g., "rape, attempted rape, or other types of sexual attack"); and people who might have perpetrated the criminal act (e.g., "a relative or family member"). There is also a screen question that asks about "incidents involving forced or unwanted sexual acts."<sup>14</sup>

## Exhibit 1: Survey Screen Questions

---

Women may experience a wide range of unwanted sexual experiences in college. Women do not always report unwanted sexual experiences to the police or discuss them with family and friends. The person making the advances is not always a stranger, but can be a friend, boyfriend, fellow student, professor, teaching assistant, supervisor, coworker, somebody you meet off campus, or even a family member. The experience could occur anywhere: on or off campus, in your residence, in your place of employment, or in a public place. You could be awake, or you could be asleep, unconscious, drunk, or otherwise incapacitated. Please keep this in mind as you answer the questions.

Now, I'm going to ask you about different types of unwanted sexual experiences you may have experienced since school began in fall 1996. Because of the nature of unwanted sexual experiences, the language may seem graphic to you. However, this is the only way to assess accurately whether or not the women in this study have had such experiences. You only have to answer "yes" or "no."

- Since school began in fall 1996, has anyone made you have sexual intercourse by using force or threatening to harm you or someone close to you? Just so there is no mistake, by intercourse I mean putting a penis in your vagina.
- Since school began in fall 1996, has anyone made you have oral sex by force or threat of harm? By oral sex, I mean someone's mouth or tongue making contact with your vagina or anus or your mouth or tongue making contact with someone else's genitals or anus.
- Since school began in fall 1996, has anyone made you have anal sex by force or threat of harm? By anal sex, I mean putting a penis in your anus or rectum.
- Since school began in fall 1996, has anyone ever used force or threat of harm to sexually penetrate you with a foreign object? By this, I mean for example, placing a bottle or finger in your vagina or anus.
- Since school began in fall 1996, has anyone attempted but not succeeded in making you take part in any of the unwanted sexual experiences that I have just asked you about? For example, did anyone threaten or try but not succeed to have vaginal, oral, or anal sex with you or try unsuccessfully to penetrate your vagina or anus with a foreign object or finger?
- Not counting the types of sexual contact already mentioned, have you experienced any unwanted or uninvited touching of a sexual nature since school began in fall 1996? This includes forced kissing, touching of private parts, grabbing, fondling, and rubbing up against you in a sexual way, even if it is over your clothes.
- Since school began in fall 1996, has anyone attempted but not succeeded in unwanted or uninvited touching of a sexual nature?
- Since school began in fall 1996, has anyone made or tried to make you have sexual intercourse or sexual contact when you did not want to by making threats of nonphysical punishment, such as lowering a grade, being demoted or fired from a job, damaging your reputation, or being excluded from a group for failure to comply with requests for any type of sexual activity?
- Since school began in fall 1996, has anyone made or tried to make you have sexual intercourse or sexual contact when you did not want to by making promises of rewards, such as raising a grade, being hired or promoted, being given a ride or class notes, or getting help with coursework from a fellow student if you complied sexually?
- Since school began in fall 1996, has anyone made or tried to make you have sexual intercourse or sexual contact when you did not want to by simply being overwhelmed by someone's continual pestering and verbal pressure?

Drawing on the NCVS screen question and incident report methodology, the NCWSV screen questions were followed by a detailed incident report that (1) clarified what type of victimization, if any, had occurred and (2) collected information about various aspects of the incident (e.g., victim-offender relationship, whether the victimization took place on or off the college campus, whether the incident was reported to the police). Responses to the screen questions were not used to classify the type of victimization reported by the respondent. Instead, classification was based on the responses in the incident report to questions about (1) the type of penetration experienced (e.g., penile-vaginal, anal, oral); (2) the type of unwanted sexual contact experienced (e.g., touching, grabbing, or fondling); and (3) the means of coercion used by the perpetrators (e.g., force, threat of force). Like Koss et al. and NCVS, the incidents were classified using a hierarchical algorithm; that is, incidents were classified by the most severe type of sexual victimization that occurred within an incident.<sup>15</sup> For example, if within an incident report the victim answered questions indicating she had experienced a completed rape and attempted sexual coercion, the incident was classified as a completed rape.

## **Reference period**

To limit potential response bias due to recall or memory decay, the NCWSV survey questions used a reference period that had a clear starting date for students. Thus, respondents were asked if they had experienced a sexual victimization "since school began in fall 1996." The survey was conducted in 1997 between late February and early May. On average, the reference period for the victimization covered almost 7 months (6.91 months).<sup>16</sup> To participate in the study, respondents had to be enrolled in a college or university at the start of the 1996 fall semester.

## **Risk factors**

In addition to the victimization measures, the NCWSV survey contained questions about respondents' demographic characteristics, lifestyles or routine activities, living arrangements, prior sexual victimizations, and so forth. Secondary data sources were used to measure the characteristics of the schools the respondents attended (e.g., size of enrollment, location, crime rate). These individual- and institution-level variables were used in multivariate analyses that investigated which factors potentially placed women at risk of being sexually victimized.

## Exhibit 2: Descriptions of Types of Victimizations

Type of victimization	Definition
Completed rape	Unwanted completed penetration by force or the threat of force. Penetration includes: penile-vaginal, mouth on your genitals, mouth on someone else's genitals, penile-anal, digital-vaginal, digital-anal, object-vaginal, and object-anal.
Attempted rape	Unwanted attempted penetration by force or the threat of force. Penetration includes: penile-vaginal, mouth on your genitals, mouth on someone else's genitals, penile-anal, digital-vaginal, digital-anal, object-vaginal, and object-anal.
Completed sexual coercion	Unwanted completed penetration with the threat of non-physical punishment, promise of reward, or pestering/verbal pressure. Penetration includes: penile-vaginal, mouth on your genitals, mouth on someone else's genitals, penile-anal, digital-vaginal, digital-anal, object-vaginal, and object-anal.
Attempted sexual coercion	Unwanted attempted penetration with the threat of non-physical punishment, promise of reward, or pestering/verbal pressure. Penetration includes: penile-vaginal, mouth on your genitals, mouth on someone else's genitals, penile-anal, digital-vaginal, digital-anal, object-vaginal, and object-anal.
Completed sexual contact with force or threat of force	Unwanted completed sexual contact (not penetration) with force or the threat of force. Sexual contact includes: touching; grabbing or fondling of breasts, buttocks, or genitals, either under or over your clothes; kissing; licking or sucking; or some other form of unwanted sexual contact.
Completed sexual contact without force	Any type of unwanted completed sexual contact (not penetration) with the threat of nonphysical punishment, promise of reward, or pestering/verbal pressure. Sexual contact includes: touching; grabbing or fondling of breasts, buttocks, or genitals, either under or over your clothes; kissing; licking or sucking; or some other form of unwanted sexual contact.
Attempted sexual contact with force or threat of force	Unwanted attempted sexual contact (not penetration) with force or the threat of force. Sexual contact includes: touching; grabbing or fondling of breasts, buttocks, or genitals, either under or over your clothes; kissing; licking or sucking; or some other form of unwanted sexual contact.



## Exhibit 2: Descriptions of Types of Victimizations, continued

Type of victimization	Definition
Attempted sexual contact without force	Unwanted attempted sexual contact (not penetration) with the threat of nonphysical punishment, promise of reward, or pestering/verbal pressure. Sexual contact includes: touching; grabbing or fondling of breasts, buttocks, or genitals, either under or over your clothes; kissing; licking or sucking; or some other form of unwanted sexual contact.
Threat of rape	Threat of unwanted penetration with force and threat of force. Penetration includes: penile-vaginal, mouth on your genitals, mouth on someone else's genitals, penile-anal, digital-vaginal, digital-anal, object-vaginal, and object-anal.
Threat of contact with force or threat of force	Threat of unwanted sexual contact with force and threat of force. Sexual contact includes: touching; grabbing or fondling of breasts, buttocks, or genitals, either under or over your clothes; kissing; licking or sucking; or some other form of unwanted sexual contact.
Threat of penetration without force	Threat of unwanted penetration with the threat of nonphysical punishment, promise of reward, or pestering/verbal pressure. Penetration includes: penile-vaginal, mouth on your genitals, mouth on someone else's genitals, penile-anal, digital-vaginal, digital-anal, object-vaginal, and object-anal.
Threat of contact without force	Threat of unwanted sexual contact with the threat of nonphysical punishment, promise of reward, or pestering/verbal pressure. Sexual contact includes: touching; grabbing or fondling of breasts, buttocks, or genitals, either under or over your clothes; kissing; licking or sucking; or some other form of unwanted sexual contact.

## What types of sexual victimization were measured in the NCWSV study?

Measures of 12 types of sexual victimization were constructed; they are defined in exhibit 2. Most important, the NCWSV study included measures of both completed and attempted rape as well as threats of rape. The study also measured completed, attempted, and threatened sexual coercion (penetration with the use of nonphysical forms of coercion) and unwanted sexual contact (sexual contact, but not penetration, with force or threat of force). In addition, the study measured stalking and visual and verbal forms of sexual victimization.

## How extensive is rape among college women?

Exhibit 3 reports the extent of rape found in the NCWSV study. As shown, 2.8 percent of the sample had experienced either a completed rape (1.7 percent) or an attempted rape incident (1.1 percent). The victimization rate was 27.7 rapes per 1,000 female students.

We recognize that a hierarchical scoring procedure is not the only way to count victims and incidents, especially because we have multiple victims. Another estimation procedure is to count the total number of completed rape victims and the total number of attempted rape victims separately. For example, suppose there were two incident records for respondent 00: One incident was classified as a completed rape, and the other was classified as an attempted rape (recall that using a hierarchical scoring procedure, respondent 00 would be counted as a completed rape victim). Respondent 00 would now count as a completed rape victim and as an attempted rape victim. Using this “separate” counting procedure, there were 57 attempted rape victims, or 1.3 percent of the sample.

Because some women were victimized more than once, the rate of incidents was higher than the rate of victims (35.3 per 1,000 students). Of the 123 victims, 22.8 percent ( $n = 28$ ) were multiple-rape victims.

A separate analysis, again using the same hierarchical scoring procedure, found that when rates were computed for only undergraduate students, the percentage of students victimized was 1.8 percent for rape and 1.3 percent for attempted rape. The comparable figures for nonundergraduate students were, respectively, 0.8 percent and 0 percent.<sup>17</sup>

At first glance, one might conclude that the risk of rape victimization for college women is not high; “only” about 1 in 36 college women (2.8 percent) experience a completed rape or attempted rape in an academic year. Such a conclusion, however, misses critical, and potentially disquieting, implications. The figures measure victimization for slightly more than half a year (6.91 months). Projecting results beyond this reference period is problematic for a number of reasons, such as assuming that the risk of victimization is the same during summer months and remains stable over a person’s time in college. However, if the 2.8 percent victimization figure is calculated for a 1-year period, the data suggest that nearly 5 percent (4.9 percent) of college women are victimized in any given calendar year. Over the course of a college career—which now lasts an average of 5 years—the percentage of completed or attempted rape victimization among women in higher educational institutions might climb to between one-fifth and one-quarter.<sup>18</sup>

**Exhibit 3: Extent of Rape, by Number of Victims, and Number of Incidents, by Type of Victimization Incident**

Type of victimization	Victims			Incidents	
	Number of victims in sample	Percentage of sample	Rate per 1,000 female students	Number of incidents	Rate per 1,000 female students
Completed rape	74	1.7	16.6	86	19.3
Attempted rape	49	1.1	11.0	71	16.0
Total	123	2.8	27.7 <sup>a</sup>	157	35.3

a. Total has been rounded (from 27.665 to 27.7).

Furthermore, from a policy perspective, college administrators might be disturbed to learn that for every 1,000 women attending their institutions, there may well be 35 incidents of rape in a given academic year (based on a victimization rate of 35.3 per 1,000 college women). For a campus with 10,000 women, this would mean the number of rapes could exceed 350. Even more broadly, when projected over the Nation's female student population of several million, these figures suggest that rape victimization is a potential problem of large proportion and of public policy interest.

## How do the NCWSV rape estimates compare with the rape estimates based on the National Crime Victimization Survey?

The sexual victimization literature contains a great deal of discussion about how rape estimates from the Nation's federally sponsored victimization survey, NCVS, compare with estimates from other national surveys. This issue was examined through a comparison component.<sup>19</sup> Like the main NCWSV study, the comparison study was conducted in the 1996–97 academic year, from late March to mid-May. The sample size was 4,432 college women; the response rate was 91.6 percent.<sup>20</sup>

Every effort was made to ensure that, aside from using different screen and incident report questions, the methodology used in both the main and comparison components was the same. Thus, both components (1) contacted sample members with a letter that explained the purpose of the survey, (2) employed the same sampling design and sampling frame, (3) used the same

reference period for victimization (“Since school began in fall 1996 . . .”), and (4) measured victimization using the screen question-incident report methodology. Both components also were conducted by the same survey research firm (see endnote 10) and were administered by trained female interviewers using a computer-aided telephone interviewing system.

However, in assessing the influence of different methodologies for measuring sexual victimization, the two studies differed on one methodological issue: the wording of the screen questions and the wording of the incident-level questions used to determine the type of incident. As previously described, the main study substantially modified the NCVS format to include a range of behaviorally specific screen questions. In contrast, the comparison component used a format that was closely aligned with the survey format of NCVS. All of the screen questions used in the comparison component came directly from NCVS, as did the incident-level questions used to determine what type of violent victimization the respondent had experienced.<sup>21</sup> Both components used a hierarchical algorithm to classify the type(s) of victimization that the respondent described in the incident report.

We should note, however, that the methodology used in the comparison component differs from that used in NCVS in one respect. In addition to structured responses to the survey questions, NCVS interviewers record a brief “verbatim description” of the victimization incident from those respondents who report experiencing rape or sexual assault. These verbatim responses are used to clarify what occurred in an incident and to code whether an incident should count as a sexual victimization. Thus, according to BJS staff:

In the NCVS, all questionnaires for which any rape or sexual assault code is entered in any of the pertinent items are reviewed to determine whether the codes reflect the written entries in the summaries. Where there are clear indications that the coded entries are not correct, they are edited, using guidelines developed by BJS and Bureau of Census staffs. This procedure has proven beneficial towards improving the NCVS estimates of rape and sexual assault by removing, to the extent possible, the discrepancies existing between the coded and written entries.<sup>22</sup>

In our comparison component study, the estimates were not adjusted using verbatim responses.<sup>23</sup> We do not know how much this consideration affects the findings reported for the comparison component that is, again, based on NCVS methodology. None of the *Criminal Victimization in the United*

States annual publications report how much the NCVS estimates are adjusted using verbatim responses, or whether such adjustments cause estimates to increase or decrease compared with estimates coded solely on respondents' answers to the structured screen and incident-report questions.

NCVS defines rape as:

Forced sexual intercourse including both psychological coercion as well as physical force. Forced sexual intercourse means vaginal, anal, or oral penetration by the offender(s). This category also includes incidents where the penetration is from a foreign object such as a bottle. Includes attempted rapes, male as well as female victims, and both heterosexual and homosexual rape. Attempted rape includes verbal threats of rape.

This definition guided the classification of incidents in the comparison study as a completed rape, an attempted rape, or a threat of rape. In the *Criminal Victimization in the United States* series published by BJS, estimates for attempted rape and threats of rape are reported separately. The same is true in this report so as to compare rape estimates from the two components of the study.

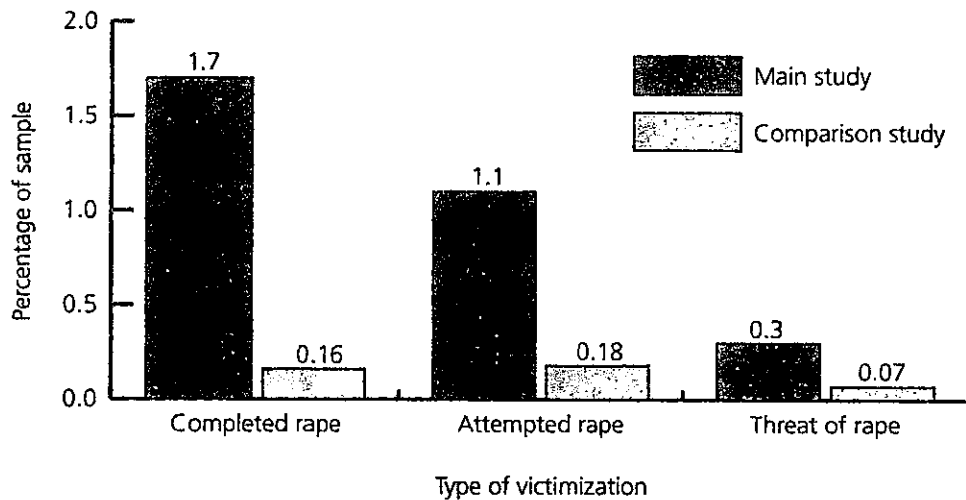
How do the rape estimates from these two studies compare? It should be noted that studies that use behaviorally specific screen questions generally find higher levels of sexual victimization than those reported by NCVS.<sup>24</sup> Most important, this finding has occurred in recent research using a national-level sample and behaviorally specific questions.<sup>25</sup>

Looking at exhibit 4, it is clear that estimates from the comparison study for completed rape, attempted rape, and threats of rape are considerably lower than the respective estimates from the main study. The percentage of the sample that reported experiencing a completed rape in the comparison study was 11 times smaller than the percentage of victims in the main component (0.16 percent compared with 1.7 percent). The attempted rape estimate from the comparison component was six times smaller than the attempted rape estimate (0.18 percent compared with 1.1 percent) from NCWSV. A similar pattern was evident for threats of rape; the estimate based on the comparison component was four times smaller than the NCWSV estimate (0.07 percent compared with 0.3 percent).

What accounts for these differences? Given the similarities between the two studies, it would appear that the differences most likely stem from the wide range of behaviorally specific screen questions used in the NCWSV study.

Compared with the NCVS screen questions employed in the comparison component, the use of graphically worded screen questions in NCWSV likely prompted more women who had experienced a sexual victimization to report this fact to the interviewer. Their responses in the incident report determined whether those answering “yes” to a rape screen question were subsequently classified as rape victims.<sup>26</sup> Even so, it appears that behaviorally specific screen questions are more successful in prompting women who have in fact been sexually victimized to answer in such a way that they are then “skipped into” the incident report by interviewers.

**Exhibit 4: Comparison of Rape Estimates Between the NCWSV Main Study and Comparison Component Study**



What is unknown, however, is whether behaviorally specific screen questions produce higher estimates of victimization in general or only higher estimates of sexual victimization. It is possible that, due to the sensitive nature of sexual victimization, graphically descriptive screen questions are needed to prompt reluctant victims to report their victimization to interviewers. The other possibility, however, is that a large set of behaviorally specific questions would result in more victim reports for any type of victimization, including property crimes and other forms of violent crime (e.g., aggravated assault, robbery). Future research on NCVS methodology might profit from exploring this issue.

## Do women define their victimization as a rape?

In each incident report, respondents were asked, "Do you consider this incident to be a rape?" For the 86 incidents categorized as a completed rape, 46.5 percent ( $n = 40$ ) of the women answered "yes," 48.8 percent ( $n = 42$ ) answered "no," and 4.7 percent ( $n = 4$ ) answered "don't know." Among women who experienced other forms of sexual victimization ( $n = 1,318$ ), it is noteworthy that 3.4 percent ( $n = 42$ ) defined their sexual victimization as a rape and 1.1 percent ( $n = 14$ ) answered "don't know."

Some scholars believe that the failure of women to define a victimization as a rape calls into question whether researchers have truly measured the crime of rape.<sup>27</sup> Others suggest, however, that the true prevalence of rape is best measured by carefully worded questions on victimization surveys, such as NCWSV.<sup>28</sup> Women may not define a victimization as a rape for many reasons (such as embarrassment, not clearly understanding the legal definition of the term, or not wanting to define someone they know who victimized them as a rapist) or because others blame them for their sexual assault.<sup>29</sup> Which of these reasons is more or less correct cannot be definitively substantiated here because little systematic research has examined why women do or do not define as a rape an incident that has met the researcher's criteria for a rape.

## How extensive are other forms of sexual victimization?

Exhibit 5 presents the extent of victimization across 10 forms of sexual victimization other than rape. Threats of sexual victimization happened less often than other forms of sexual victimization. Across the 10 types of victimization in exhibit 5, the incident rate per 1,000 female students ranged from a low of 9.5 to a high of 66.4.

Exhibit 6 presents the data in a slightly different form and contains rape incidents. This exhibit illustrates the percentages of women in the sample who had experienced at least one victimization in three separate categories: (1) physical force, (2) nonphysical force, and (3) either physical or nonphysical force or both. Because the third category includes respondents who have experienced both types of victimization, its percentage is not computed by summing the percentages in the physical and nonphysical categories. As is shown, 15.5 percent of the college women were sexually victimized during the current academic year. In the sample, 7.7 percent experienced an incident

**Exhibit 5: Extent of Sexual Victimization**

Type of victimization	Victims			Incidents	
	Number of victims in sample	Percentage of sample	Rate per 1,000 female students	Number of incidents	Rate per 1,000 female students
<b>Completed or attempted</b>					
Completed sexual coercion	74	1.7	16.6	107	24.1
Attempted sexual coercion	60	1.3	13.5	114	25.6
Completed sexual contact with force or threat of force	85	1.9	19.1	130	29.2
Completed sexual contact without force	80	1.8	18.0	132	29.7
Attempted sexual contact with force or threat of force	89	2.0	20.0	166	37.6
Attempted sexual contact without force	133	3.0	29.9	295	66.4
<b>Threats</b>					
Threat of rape	14	0.31	3.2	42	9.5
Threat of contact with force or threat of force	8	0.18	1.8	50	11.3
Threat of penetration without force	10	0.22	2.3	50	11.3
Threat of contact without force	15	0.34	3.4	75	16.9
<b>Total</b>	<b>568</b>			<b>1,161</b>	

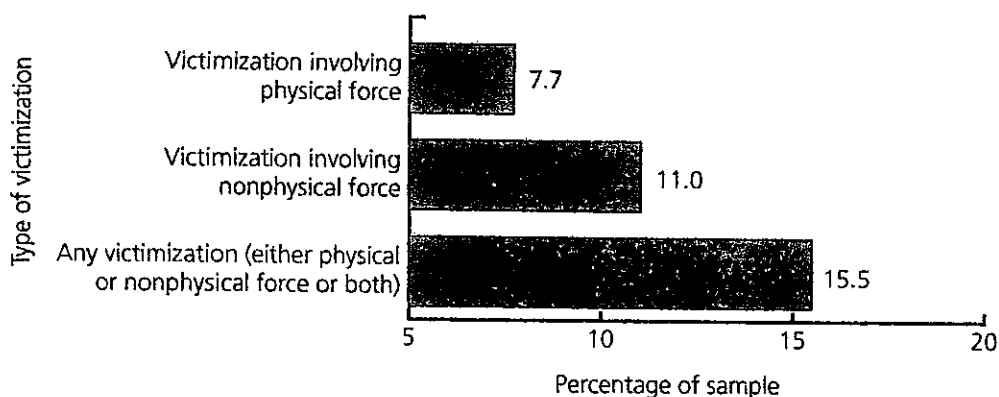
involving the use or threat of physical force, and 11.0 percent experienced a victimization that did not involve force.

### How extensive is prior sexual victimization?

Respondents were also asked if they had experienced sexual victimization incidents before starting school in fall 1996. These incidents were measured only with single questions, not incident reports (that is, the two-stage process



**Exhibit 6: Percentage of Sample Having at Least One Victimization Incident**



of screen questions followed by an incident report was not used). To limit bias, we attempted to use the detailed questions shown in exhibit 7. Still, the findings must be assessed in light of this methodological limitation.

As exhibit 7 shows, about 1 in 10 college women said they had experienced a rape, while the same proportion stated that they were victims of an attempted rape. Almost the same proportion also had sexual intercourse or contact in which they were subject to threats of nonphysical punishment or promises of reward. Unwanted or uninvited sexual contacts were widespread, with more than one-third of the sample reporting these incidents.

## **Do victims know their offenders?**

Most victims knew the person who sexually victimized them. For both completed and attempted rapes, about 9 in 10 offenders were known to the victim. Most often, a boyfriend, ex-boyfriend, classmate, friend, acquaintance, or coworker sexually victimized the women. College professors were not identified as committing any rapes or sexual coercions, but they were cited as the offender in a low percentage of cases involving unwanted sexual contact. The victim-offender relationship for rape incidents is displayed in exhibit 8.

Variation in the type of sexual victimization that occurred on a date was evident. With regard to date rape, 12.8 percent of completed rapes, 35.0 percent of attempted rapes, and 22.9 percent of threatened rapes took place on a date.

**Exhibit 7: Percent of Sample Who Were Sexually Victimized Before the Start of the 1996 School Year**

Type of victimization	Yes (percentage)	No (percentage)
Rape <sup>a</sup>	10.1	89.9
Attempted rape <sup>b</sup>	10.9	89.1
Threatened, attempted, or completed unwanted/uninvited sexual contact <sup>c</sup>	35.5	64.5
Sexual intercourse or contact with nonphysical threats/rewards <sup>d</sup>	8.6	91.4
Any other unwanted or uninvited sexual intercourse/contact <sup>e</sup>	5.9	94.1

a. Prior to school starting in fall 1996, did anyone ever make you have vaginal, oral, or anal intercourse—including penetrating you with a penis, a finger, or a foreign object—by using force or threatening to harm you?

b. Prior to school starting in fall 1996, did anyone ever attempt but not succeed in making you have vaginal, oral, or anal intercourse—including penetrating you with a penis, a finger, or a foreign object—by using force or threatening to harm you?

c. Prior to school starting in fall 1996, have you ever experienced any unwanted or uninvited touching of a sexual nature, or threats or attempts of such touching, including forced kissing, touching of private parts, grabbing, fondling, and rubbing up against you in a sexual way?

d. Prior to school starting in fall 1996, has anyone ever tried to make you have sexual intercourse or sexual contact when you did not want to by making either threats of nonphysical punishment or promises of reward if you complied sexually?

e. Prior to school starting in fall 1996, is there any type of unwanted or uninvited sexual intercourse or physical sexual contact that you ever experienced that was not covered in the questions thus far?

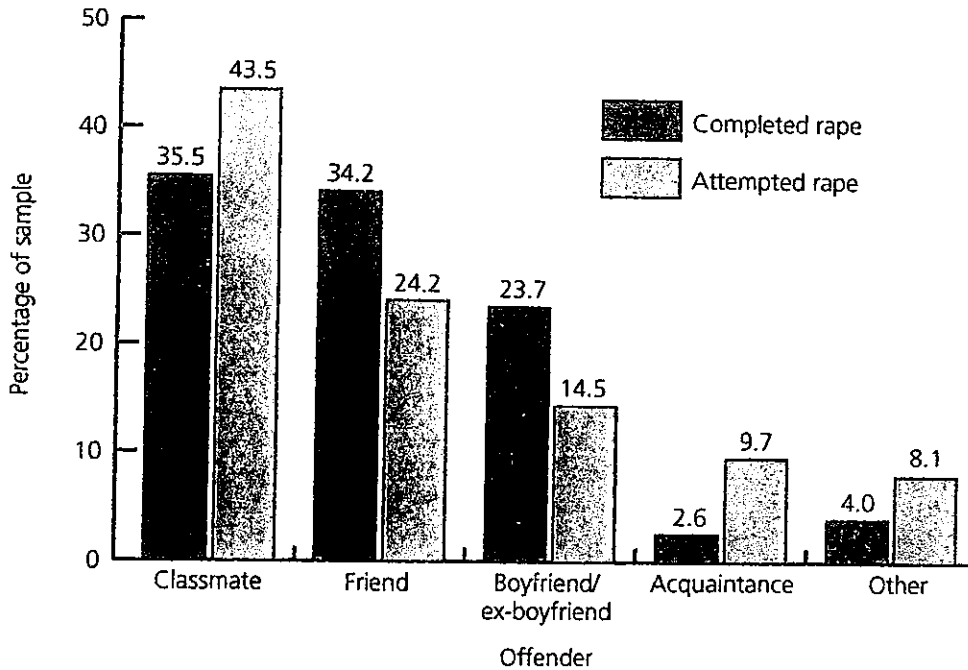
## When does sexual victimization occur?

The vast majority of sexual victimizations occurred in the evening (after 6 p.m.). For example, 51.8 percent of completed rapes took place after midnight, 36.5 percent occurred between 6 p.m. and midnight, and only 11.8 percent took place between 6 a.m. and 6 p.m.

## Where does sexual victimization occur?

The majority of sexual victimizations, especially rapes and physically coerced sexual contact, occurred in living quarters. Almost 60 percent of the completed rapes that occurred on campus took place in the victim's residence, 31 percent occurred in other living quarters on campus, and 10.3 percent took place in a fraternity. Off-campus sexual victimizations, especially rapes, also occurred in residences. However, particularly for

**Exhibit 8: Victim-Offender Relationship for Rape Victimization Committed by Single Offenders**



sexual contacts and threatened victimizations, incidents also took place in settings such as bars, dance clubs or nightclubs, and work settings.

### Are women victimized on or off campus?

College women are victimized both on campus and off campus. For nearly all types of sexual victimization, however, off-campus victimization is more common (exhibit 9). This conclusion must be qualified because off-campus sexual victimizations may take place in bars and nightclubs or in student residences close to campus. Thus, even if a student is victimized off campus, she may be engaged in an activity that is connected to her life as a student at the college she attends.

### Do sexual victims take protective actions during the incident?

As exhibit 10 shows, for nearly all forms of sexual victimization, the majority of female students reported attempting to take protective actions during

**Exhibit 9: The Location of Victimization by On-Campus and Off-Campus Location, by Type of Victimization**

Type of victimization	Location of victimization <sup>a</sup>	
	On campus percentage (n)	Off campus percentage (n)
<b>Completed or attempted</b>		
Completed rape	33.7 (29)	66.3 (57)
Attempted rape	45.1 (32)	54.9 (39)
Completed sexual coercion	29.0 (31)	71.0 (76)
Attempted sexual coercion	46.5 (53)	53.5 (61)
Completed sexual contact with force or threat of force	34.6 (45)	65.4 (85)
Completed sexual contact without force	38.6 (51)	61.4 (81)
Attempted sexual contact with force or threat of force	33.9 (56)	66.1 (109)
Attempted sexual contact without force	35.9 (106)	64.1 (189)
<b>Threats</b>		
Threat of rape	45.2 (19)	54.8 (23)
Threat of contact with force or threat of force	44.0 (22)	56.0 (28)
Threat of penetration without force	48.0 (24)	52.0 (26)
Threat of contact without force	54.1 (40)	45.9 (34)

a. Don't know (n = 2) not included.

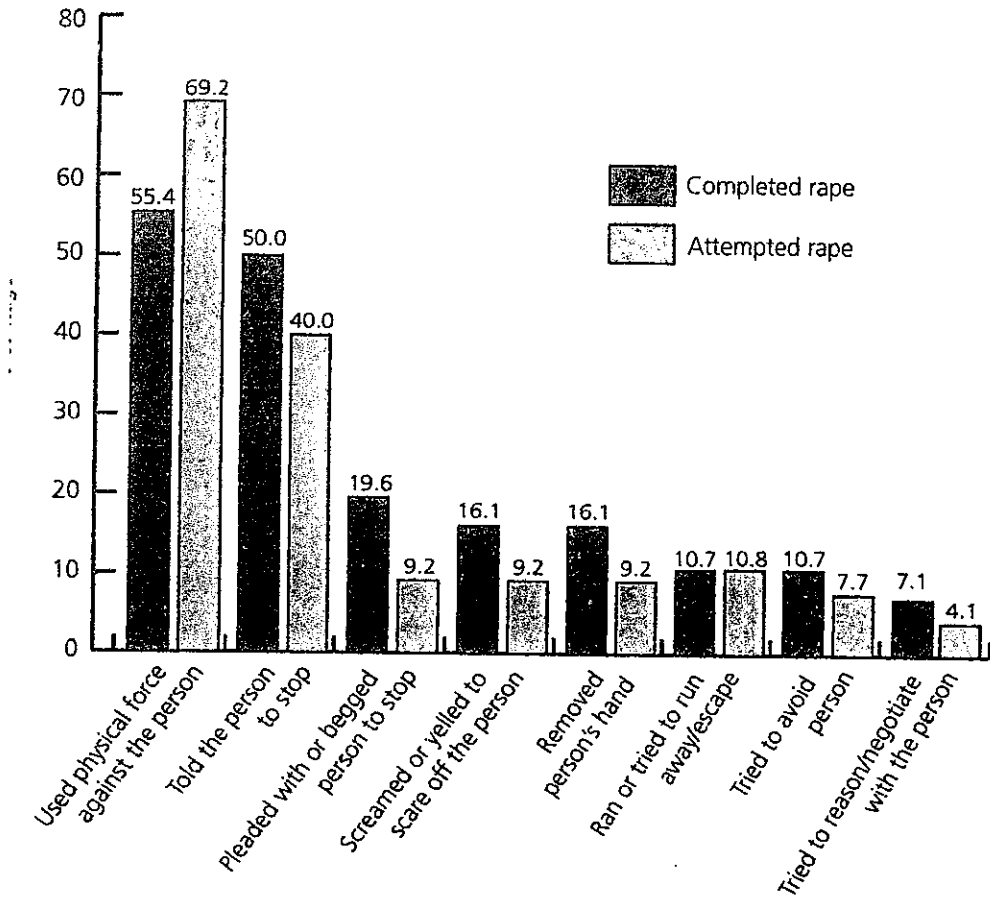
the incident. For both completed rape and sexual coercion, victims of completed acts were less likely to take protective action than those who experienced attempted victimization. This finding suggests that the intended victim's willingness or ability to use protection might be one reason attempts to rape or coerce sex failed.

**Exhibit 10: Percentage of Victims Taking Protective Action, by Type of Victimization**

<b>Type of victimization</b>	<b>Victim attempted to protect herself (n)</b>
<b>Completed or attempted</b>	
Completed rape	65.1 (56)
Attempted rape	91.5 (65)
Completed sexual coercion	46.7 (50)
Attempted sexual coercion	74.3 (84)
Completed sexual contact with force or threat of force	87.6 (113)
Completed sexual contact without force	81.8 (108)
Attempted sexual contact with force or threat of force	89.8 (149)
Attempted sexual contact without force	76.6 (226)
<b>Threats</b>	
Threat of rape	81.0 (34)
Threat of contact with force or threat of force	86.0 (43)
Threat of penetration without force	60.0 (30)
Threat of contact without force	66.7 (50)

Exhibit 11 reports the most common forms of protective action taken by victims during rape incidents. Note that the most common protective action was using physical force against the assailant. Nearly 70 percent of victims of attempted rape used this response—again, a plausible reason many of these acts were not completed. Other common physical responses included removing the offender’s hand, running away, and trying to avoid the offender. Verbal responses also were common, including pleading with the offender to stop, screaming, and trying to negotiate with the offender.

**Exhibit 11: Most Common Forms of Protective Actions Used in Rape Incidents**



a. Percentages may be greater than 100 because a respondent could give more than one response.

## Are victims hurt in the victimization incidents?

Victims in the sample generally did not state that their victimization resulted in physical or emotional injuries. In about one in five rape and attempted rape incidents, victims reported being injured, most often citing the response “bruises, black-eye, cuts, scratches, swelling, or chipped teeth.” The percentage injured by other types of victimization was lower, ranging from 0 percent (completed sexual contact without force) to 16.7 percent (threatened rape).

## **Are some women more at risk of being sexually victimized?**

Multivariate logit models for each type of sexual victimization measured were estimated to predict the likelihood of having been victimized. Consistent across the models, it was found that four main factors consistently increased the risk of sexual victimization: (1) frequently drinking enough to get drunk, (2) being unmarried, (3) having been a victim of a sexual assault before the start of the current school year, and (4) living on campus (for on-campus victimization only).

## **Do women report victimization incidents to the police?**

Few incidents of sexual victimization were reported to law enforcement officials. Thus, fewer than 5 percent of completed and attempted rapes were reported to law enforcement officials. In about two-thirds of the rape incidents, however, the victim did tell another person about the incidents. Most often this person was a friend, not a family member or college official.

Victims gave a number of reasons for not reporting their victimizations to law enforcement officials (exhibit 12). Some reasons indicated that they did not see the incidents as harmful or important enough to bring in the authorities. Thus, the common answers included that the incident was not serious enough to report and that it was not clear that a crime was committed. Other reasons, however, suggested that there were barriers to reporting. Such answers included not wanting family or other people to know about the incident, lack of proof the incident happened, fear of reprisal by the assailant, fear of being treated with hostility by the police, and anticipation that the police would not believe the incident was serious enough and/or would not want to be bothered with the incident.

## **How extensive is stalking?**

In addition to the 12 types of sexual victimization (exhibit 2), this research assessed a form of victimization that has been infrequently studied: stalking. In general, for behavior to qualify as stalking, the attention given to someone must be repeated and it must create fear in a reasonable person. Accordingly, stalking was measured with this screen question: "Since school began

**Exhibit 12: Reasons for Not Reporting Incident to the Police, by Type of Victimization**

Type of incident	Reason for not reporting incident <sup>a</sup>				
	Incident was not reported % (n)	Did not want family to know % (n)	Did not want other people to know % (n)	Lack of proof that incident happened % (n)	Fear of being treated hostilely by police % (n)
<b>Completed or attempted</b>					
Completed rape	95.2 (82)	44.4 (36)	46.9 (38)	42.0 (34)	24.7 (20)
Attempted rape	95.8 (68)	32.4 (22)	32.4 (22)	30.9 (21)	8.8 (6)
Completed sexual coercion	100.0 (107)	41.9 (44)	43.8 (46)	33.3 (35)	8.6 (9)
Attempted sexual coercion	100.0 (114)	21.2 (24)	19.5 (22)	15.9 (18)	2.7 (3)
Completed sexual contact with force or threat of force	99.2 (128)	19.5 (25)	16.4 (21)	21.9 (28)	9.4 (12)
Completed sexual contact without force	98.5 (129)	4.7 (6)	11.7 (15)	18.0 (23)	4.7 (6)
Attempted sexual contact with force or threat of force	97.0 (160)	13.8 (22)	21.9 (35)	23.1 (37)	8.8 (14)
Attempted sexual contact without force	99.3 (293)	7.2 (21)	10.2 (30)	18.1 (53)	4.4 (13)
<b>Threats</b>					
Threat of rape	90.5 (38)	26.3 (10)	34.2 (13)	31.6 (12)	13.2 (5)
Threat of contact with force or threat of force	90.0 (45)	22.2 (10)	20.0 (9)	20.0 (9)	8.9 (4)
Threat of penetration without force	100.0 (50)	20.0 (10)	22.0 (11)	24.0 (12)	4.0 (2)
Threat of contact without force	98.7 (74)	6.8 (5)	8.1 (6)	21.6 (16)	8.1 (6)

a. Percentages may be greater than 100 because a respondent could give more than one response.



**Exhibit 12: Reasons for Not Reporting Incident to the Police, by Type of Victimization, continued**

Type of incident	Reason for not reporting incident <sup>a</sup>			
	Fear of being treated hostilely by other parts of justice system % (n)	Not clear it was a crime or that harm was intended % (n)	Did not know how to report % (n)	Police wouldn't think it was serious enough % (n)
<b>Completed or attempted</b>				
Completed rape	6.2 (5)	44.4 (36)	13.6 (11)	27.2 (22)
Attempted rape	1.5 (1)	39.7 (27)	7.4 (5)	33.8 (23)
Completed sexual coercion	1.9 (2)	58.1 (61)	14.3 (15)	24.8 (26)
Attempted sexual coercion	2.7 (3)	46.9 (53)	6.2 (7)	28.3 (32)
Completed sexual contact with force or threat of force	0 (0)	37.5 (48)	7.0 (9)	37.5 (48)
Completed sexual contact without force	1.6 (2)	43.0 (55)	5.5 (7)	29.7 (38)
Attempted sexual contact with force or threat of force	6.3 (10)	37.5 (60)	10.0 (16)	31.3 (50)
Attempted sexual contact without force	1.4 (4)	39.6 (116)	6.1 (18)	22.9 (67)
<b>Threats</b>				
Threat of rape	7.9 (3)	39.5 (15)	13.2 (5)	34.2 (13)
Threat of contact with force or threat of force	4.4 (2)	51.1 (23)	13.3 (6)	37.8 (17)
Threat of penetration without force	4.0 (2)	46.0 (23)	6.0 (3)	30.0 (15)
Threat of contact without force	6.8 (5)	31.1 (23)	2.7 (2)	21.6 (16)

a. Percentages may be greater than 100 because a respondent could give more than one response.

**Exhibit 12: Reasons for Not Reporting Incident to the Police, by Type of Victimization, continued**

Type of incident	Reason for not reporting incident <sup>a</sup>			
	Police wouldn't want to be bothered % (n)	Afraid of reprisal by assailant or others % (n)	Did not think it was serious enough to report % (n)	Other % (n)
<b>Completed or attempted</b>				
Completed rape	25.9 (21)	39.5 (32)	65.4 (53)	7.4 (6)
Attempted rape	13.2 (9)	25.0 (17)	76.5 (52)	1.5 (1)
Completed sexual coercion	21.9 (23)	31.4 (33)	71.4 (75)	1.9 (2)
Attempted sexual coercion	18.6 (21)	11.5 (13)	86.7 (98)	0 (0)
Completed sexual contact with force or threat of force	30.5 (39)	22.7 (29)	81.3 (104)	3.1 (4)
Completed sexual contact without force	18.8 (24)	12.5 (16)	91.4 (117)	0.8 (1)
Attempted sexual contact with force or threat of force	22.5 (36)	23.8 (38)	80.0 (128)	2.5 (4)
Attempted sexual contact without force	18.4 (54)	10.9 (32)	88.4 (259)	2.7 (8)
<b>Threats</b>				
Threat of rape	31.6 (12)	26.3 (10)	65.8 (25)	2.6 (1)
Threat of contact with force or threat of force	26.7 (12)	17.8 (8)	68.9 (31)	4.4 (2)
Threat of penetration without force	30.0 (15)	12.0 (6)	88.0 (44)	2.0 (1)
Threat of contact without force	9.5 (7)	13.5 (10)	83.8 (62)	0 (0)

a. Percentages may be greater than 100 because a respondent could give more than one response.

in fall 1996, has anyone—from a stranger to an ex-boyfriend—repeatedly followed you, watched you, phoned, written, e-mailed, or communicated with you in other ways that seemed obsessive and made you afraid or concerned for your safety?” If a respondent answered “yes,” she was then given an incident report that asked detailed questions about the stalking that occurred.

The survey indicated an incidence rate of 156.5 per 1,000 female students. Indeed, fully 13.1 percent of the female students in the sample ( $n = 581$ ) had been stalked since the school year began. This figure approximates what was found in a pretest of the survey conducted on students attending one university. It also is similar to the 6-month prevalence figure reported by Mustaine and Tewksbury,<sup>30</sup> which, in a survey of 861 women attending 9 postsecondary institutions, found that 10.5 percent of the female students reported that they had been stalked.<sup>31</sup>

In contrast, Tjaden and Thoennes' national study of women reports much lower annual rates of stalking: 1 percent to 6 percent, depending on the definition of stalking used.<sup>32</sup> Compared with the current study, the lower extent of stalking in Tjaden and Thoennes' research may be because (1) their study used a more restrictive definition of stalking; (2) their study focused on females across the life course (age 18 to 80 years or older), rather than on younger women among whom stalking is more prevalent; and (3) their study did not focus specifically on college students. It may be that the social domain of college places women in situations and in contact with a range of men that increase the chances of being stalked.

It should be noted, however, that like the study by Tjaden and Thoennes, the estimates in this study of the extent of stalking vary depending on the criteria used to define what counts as stalking victimization.<sup>33</sup> Again, more than 13 percent of the women in the sample were stalked if this victimization is defined as a woman experiencing repeated, obsessive, and frightening behavior that made the victim afraid or concerned for her safety. Even so, if we were to decide that such behavior counts as a stalking victimization only if the person were actually threatened with harm—a requirement for criminal stalking in many States—the extent of stalking victims in the sample falls to 1.96 percent. These results suggest that, in the future, researchers should examine how estimates of the extent of stalking may vary widely depending on the criteria used to define what “counts” as a stalking victimization.

## **What is the nature of stalking incidents?**

As with other sexual victimizations, four in five victims knew their stalkers. Of the stalkers who were known, they were most often a boyfriend or ex-boyfriend (42.5 percent), classmate (24.5 percent), acquaintance (10.3 percent), friend (5.6 percent), or coworker (5.6 percent). Female students were infrequently stalked by college professors or graduate assistants.

Stalking incidents lasted an average of 60 days. About 30 percent of the female students were stalked only off campus; the remaining victims were stalked either only on campus or both on and off campus. The most common forms of stalking behaviors reported by victims were being telephoned (77.7 percent), having an offender waiting outside or inside places (47.9 percent), being watched from afar (44.0 percent), being followed (42.0 percent), being sent letters (30.7 percent), and being e-mailed (24.7 percent).<sup>34</sup> Almost two-thirds of the sample indicated that they were stalked at least two to six times a week.

Although some victims reported being physically injured, the most common consequence was psychological: Almost 3 in 10 women said they were “injured emotionally or psychologically” from being stalked. In 15.3 percent of incidents, victims reported that the stalker either threatened or attempted to harm them. In 10.3 percent of incidents, the victim reported that the stalker “forced or attempted sexual contact.”

In nearly three-fourths of incidents, victims reported that they had taken “actions as a result of their stalking.” Exhibit 13 shows actions victims took following stalking incidents. Two of the most common responses were “to avoid the stalker” (43.2 percent) or, conversely, “to confront the stalker” (16.3 percent). Beyond the data in exhibit 13, in about 17 percent of incidents, victims reported the stalker to the police. In contrast, in more than 9 in 10 incidents, victims confided in someone—such as a friend, family member, or roommate—that they were being stalked.

## **Are some women more at risk of being stalked?**

A multivariate logit model was estimated to predict the likelihood of being stalked. The risk of being a stalking victim was increased by a number of factors: the propensity to be in places with alcohol; living alone; being in a dating relationship, especially early in the relationship, as opposed to being

**Exhibit 13: Actions Taken by Victim as a Result of Stalking Incidents**

<b>Actions</b>	<b>Percentage<sup>a</sup></b>	<b>n</b>
<b>Avoidance</b>		
Avoided or tried to avoid the stalker	43.2	210
Did not acknowledge messages or e-mails	8.8	43
Moved residence	3.3	16
Dropped a class the stalker was in or taught	1.4	7
Quit job	0.8	4
Changed colleges or university	0.4	2
Changed majors	0.2	1
<b>Legal/Judicial</b>		
Sought a restraining order	3.9	19
Filed a grievance or initiated disciplinary action with university officials	3.3	16
Went forward with criminal charges	1.9	9
Filed civil charges	1.2	6
<b>Self-Protection</b>		
Got caller ID	4.9	24
Improved security system of residence	4.1	20
Began traveling with companion	3.9	19
Bought a weapon	1.9	9
Took a self-defense class	0.4	2
<b>Psychological</b>		
Became less trustful or more cynical of others	5.6	27
Sought psychological counseling	2.9	14
<b>Confrontation</b>		
Confronted the stalker	16.3	79
<b>Other actions taken but not specified</b>	<b>21.8</b>	<b>106</b>

a. Percentages may be greater than 100 because a respondent could give more than one response.

married or living with an intimate partner; being an undergraduate; being from an affluent family; and having experienced sexual victimization before the beginning of the current academic year. Also, among racial/ethnic groups, Asian/Pacific Islander women were significantly less likely to be stalked while American Indian/Alaska Native women were significantly more likely to be stalked compared with women in other racial/ethnic

groups. Notably, American Indian/Alaska Native women had the highest likelihood of any racial/ethnic group to experience a stalking. This is consistent with Tjaden and Thoennes' research, which reported that American Indians/Alaska Natives are at greatest risk of being stalked.<sup>35</sup>

## **What is the extent of visual and verbal sexual victimization?**

Finally, this research measured the extent to which women were involuntarily exposed to visual images and verbal comments that would generally be considered sexually victimizing. Since these relatively "minor" types of victimization were plentiful, it was not possible to obtain a detailed report on each incident. Instead, results showed only whether a type of victimization was experienced and, if so, how many times it happened both on and off campus.

As exhibit 14 reveals, most respondents did not experience visual victimization. Still, about 6 percent of female students had been shown pornographic pictures, almost 5 percent had someone expose their sexual organs to them, and 2.4 percent were observed naked without their consent. Verbal victimizations, moreover, were commonplace. About half the respondents were subjected to sexist remarks and to catcalls and whistles with sexual overtones. One in five female students received an obscene telephone call and was asked intrusive questions about her sex or romantic life. One in ten students had false rumors spread about her sex life.

## **Conclusions**

The sexual victimization of college students has emerged as a controversial issue, pitting feminist scholars who claim that the sexual victimization of women is a serious problem against conservative commentators who claim that such victimization is rare and mostly a fictitious creation of ideologically tainted research.<sup>36</sup> The research reported here undoubtedly will not settle this debate; battle lines are solidly entrenched and how the data are interpreted will, to a degree, lie in the "eye of the beholder." However, the current study attempts to add a judicious voice to this conversation by attempting to furnish a methodologically sound assessment of the extent and nature of the sexual victimization of female students.

**Exhibit 14: The Extent of Verbal and Visual Victimization**

	Percentage and number of victims for sample	Total number of victimizations <sup>a</sup>	Rate per 1,000 female students
<b>Type of verbal victimization</b>			
General sexist remarks in front of you	54.3 (2,398)	31,434	7,070.2
Cat calls, whistles about your looks, or noises with sexual overtones	48.2 (2,129)	29,609	6,660.0
Obscene telephone calls or messages	21.9 (973)	4,885	1,099.0
Asked questions about sex or romantic life when clearly none of their business	19.0 (844)	4,694	1,055.8
False rumors about sex life with them or other people	9.7 (431)	1,166	262.3
<b>Type of visual victimization</b>			
Someone exposed you to pornographic pictures or materials when you did not agree to see them	6.1 (272)	865	194.6
Someone exposed their sexual organs to you when you did not agree to see them	4.8 (214)	568	127.8
Anyone, without your consent, observed or tried to observe you while you were undressing, nude, or in a sexual act	2.4 (105)	302	67.9
Anyone, without your consent, showed other people or played for other people photographs, videotapes, or audiotapes having sex or in a nude or seminude state	0.3 (15)	18	4.0
Anyone, without your consent, photographed, videotaped, or audiotaped you having sex or in a nude or seminude state	0.2 (8)	9	2.0

a. The distributions for the number of victimization variables are right censored because they include the value "97 or more."

**Exhibit 14: The Extent of Verbal and Visual Victimization, continued**

	Number of victimizations per victim	Percentage and number of victimizations on campus	Percentage and number of victimizations off campus
<b>Type of verbal victimization</b>			
General sexist remarks in front of you	13.0	50.6 (15,894)	49.4 (15,540)
Cat calls, whistles about your looks, or noises with sexual overtones	13.9	38.6 (11,423)	61.4 (18,186)
Obscene telephone calls or messages	5.0	59.8 (2,922)	40.2 (1,963)
Asked questions about sex or romantic life when clearly none of their business	5.6	41.2 (1,933)	58.8 (2,761)
False rumors about sex life with them or other people	2.7	59.7 (696)	40.3 (470)
<b>Type of visual victimization</b>			
Someone exposed you to pornographic pictures or materials when you did not agree to see them	3.2	59.9 (518)	40.1 (347)
Someone exposed their sexual organs to you when you did not agree to see them	2.7	34.0 (193)	66.0 (375)
Anyone, without your consent, observed or tried to observe you while you were undressing, nude, or in a sexual act	2.9	44.0 (133)	56.0 (169)
Anyone, without your consent, showed other people or played for other people photographs, videotapes, or audiotapes having sex or in a nude or seminude state	1.2	44.4 (8)	55.6 (10)
Anyone, without your consent, photographed, videotaped, or audiotaped you having sex or in a nude or seminude state	1.1	77.8 (7)	22.2 (2)



To summarize, the national-level survey of 4,446 college women suggests that many students will encounter sexist and harassing comments, will likely receive an obscene phone call, and will have a good chance of being stalked or of enduring some form of coerced sexual contact. During any given academic year, 2.8 percent of women will experience a completed and/or attempted rape. This figure is not based only on broadly worded, behaviorally specific screen questions because all victimization incidents reported in the screen questions were verified through subsequent questions in the incident report. Furthermore, the level of rape and other types of victimization found in the survey becomes an increasing concern when the victimization figures are projected over a full year, a full college career, and the full population of women at one college or at colleges across the Nation.

The results also hold important methodological implications. The comparison component study sponsored by the Bureau of Justice Statistics allowed the rare opportunity to conduct a quasi-experiment in how the methods used to measure sexual victimization might potentially affect estimates of victimization. Thus, two randomly selected samples of college women were surveyed using very similar methodology, with one noteworthy exception: A different way of measuring sexual victimization was used with each sample. Results showed that a methodology that uses behaviorally specific screen questions in combination with an incident report yields considerably higher estimates of completed, attempted, and threatened rape than are found using NCVS methodology.

Future research should explore the implications of this finding for NCVS. As noted, it was not determined whether using a number of behaviorally specific screen questions tends to increase estimates of only rape or whether the technique would also increase estimates of other types of victimization (i.e., the more widely in scope and the more closely in detail that possible victimizations are probed, the more victims are prompted to report their victimization to interviewers). However, assuming that the methodology used in this study is defensible, it seems likely that NCVS underestimates the true incidence of rape victimization in the United States.

We should note, however, one other possible factor that might have contributed to the differences in victimization between the main and comparison components: the "context" of two surveys. In the main component of NCWSV, the respondents were instructed in an initial contact letter and in instructions during the interview that the survey was focusing on "unwanted sexual experiences." In contrast, the comparison component was patterned after NCVS, which is a crime survey. In this part of the study, respondents

were sent an initial letter that mentioned the “increasing concern about criminal victimizations that women may experience during college,” and the interview itself contained questions measuring victimization by other types of criminal offenses. It is conceivable, therefore, that respondents on the main component study were sensitized to report a broad range of sexual victimization incidents they experienced, while those on the NCVS-based comparison component limited their reports to the incidents they defined as criminal. If so, this contextual difference would mean that the comparison component was measuring a much narrower domain of sexual victimization. One caution in this line of reasoning is that, as discussed previously, nearly half of the completed rape victims defined their victimization as a “rape,” a clear criminal offense. Even when the count of rape victims is limited to this group, the prevalence of rape victims is several times greater in the main component than in the comparison components. Still, the impact of survey context on respondents’ responses to sexual victimization questions remains an area that warrants further research.

Of course, many other methodological issues in addition to the use of behaviorally specific screen questions and survey context will have to be addressed in the quest to design surveys capable of achieving more accurate estimates of rape and other forms of sexual victimization. These would include, but not be limited to, issues such as the differential meaning that words used in questions might have to respondents, the impact of the sequencing of questions on answers, the use of more verbatim descriptions of victimization incidents in coding “what happened” in a sexual assault, and perhaps the use of computer-aided personal interviewing as a means of encouraging respondents to disclose traumatic events. In short, systematic, rigorous experimental research into the factors that affect victim responses and, in turn, victimization estimates—especially in the sensitive area of rape and sexual assault—remains in its beginning stages.

Although exceptions exist, most sexual victimizations occur when college women are alone with a man they know, at night, and in the privacy of a residence. Most women attempt to take protective actions against their assailants but are then reluctant to report their victimization to the police. Although based on fewer cases, these same patterns were found as well in the comparison component survey, which used NCVS methodology.<sup>37</sup> The analysis also revealed that some college women were more at risk of being victimized than others. Several factors appeared to increase various types of victimization: living on campus, being unmarried, getting drunk frequently, and experiencing prior sexual victimization.

Finally, in the aftermath of this study, an important challenge remains: Taking the information found and developing programs and policies that may reduce female students' risk of victimization. Minor forms of sexual victimization—sexist statements, harassing catcalls, sexually tainted whistles—appear to be commonplace. How can a more civil environment be achieved without compromising free speech? Much is known about the circumstances under which sexual victimization, including rape, most often occurs. How can this information be used in crime prevention programs, including rape awareness seminars designed for women or rape prevention seminars designed for men? Furthermore, the relatively high prevalence of stalking—a form of victimization often ignored by college officials—is cause for concern. What strategies can women use to prevent or end stalking? What programs might colleges implement to control or counsel men who stalk? More generally, how can the lives of college women—whether on, close to, or off campus—be made safer and thus free from the costs imposed by the experience of sexual victimization?

## Notes

1. Bonnie S. Fisher et al., "Crime in the Ivory Tower: The Level and Sources of Student Victimization," *Criminology* 36 (1998): 671–710.
2. Walter DeKeseredy and Katharine Kelly, "The Incidence and Prevalence of Women Abuse in Canadian University and College Dating Relationships," *Canadian Journal of Sociology* 18 (1993): 137–59; Fisher et al., "Crime in the Ivory Tower"; Mary P. Koss, Christine A. Gidycz, and Nadine Wisniewski, "The Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students," *Journal of Counseling and Clinical Psychology* 55 (1987): 162–70.
3. John J. Sloan, Bonnie S. Fisher, and Francis T. Cullen, "Assessing the Student Right-to-Know and Campus Security Act of 1990: An Analysis of the Victim Reporting Practices of College and University Students," *Crime and Delinquency* 43 (1997): 248–68.
4. "The Jeanne Clery Act Information Page," at [www.campussafety.org](http://www.campussafety.org) (Security On Campus: College and University Campus Safety Information On-Line, maintained by Security on Campus, Inc., King of Prussia, Pennsylvania, 2000).
5. Bonnie S. Fisher, "Campus Crime and Fear of Victimization: Judicial, Legislative, and Administrative Responses," *The Annals of the American*

*Academy of Political and Social Science* 539 (1995): 85–101; Michael C. Griffaton, "State-Level Initiatives and Campus Crime," in *Campus Crime: Legal, Social, and Policy Perspectives*, edited by Bonnie S. Fisher and John J. Sloan III (Springfield, Illinois: Charles C. Thomas Publisher, 1995).

6. "Justice Department Awards \$8.1 Million to Colleges and Universities to Combat Violence Against Women," edited by Daniel S. Carter, at [www.campus-safety.org](http://www.campus-safety.org) (Security On Campus: College and University Campus Safety Information On-Line, maintained by Security on Campus, Inc., King of Prussia, Pennsylvania, 2000).
7. DeKeseredy and Kelly, "The Incidence and Prevalence of Women Abuse"; Fisher et al., "Crime in the Ivory Tower"; Koss et al., "The Scope of Rape."
8. In the comparison component, the screen questions and incident questions were virtually identical to those used in NCVS. In designing the comparison component, two minor changes were made to NCVS. First, slight word changes or additional responses to the response sets of questions in the incident report were made to capture plausible response from a college student sample. For example, to determine to which authority the victim reported the victimization, "campus police" was included in the response set. Second, a few questions were added to the NCVS incident report. For example, questions about offender characteristics included a question about fraternity membership.
9. Most of the sample ( $n = 4,446$ ) were full-time students (90.1 percent) and undergraduates (86.1 percent). Freshmen at 4-year schools/first-year students at 2-year schools made up 24.2 percent of the sample; sophomores at 4-year schools/second-year students at 2-year schools, 22.0 percent; juniors, 17.5 percent; seniors, 22.4 percent; graduate students, 12.1 percent; and others (postdoctorate, continuing education, certification programs), 1.7 percent. As expected, the sample was youthful: Slightly more than 76 percent of the sample was between the ages of 17 and 22 years (mean = 21.54, standard deviation = 4.25). Most of the sample were white, non-Hispanic (80.6 percent), followed by African-American, non-Hispanic (7.0 percent), Hispanic (6.2 percent), Asian/Pacific Islander, non-Hispanic (3.4 percent), American Indian/Alaska Native, non-Hispanic (0.8 percent), and mixed or other (1.5 percent). Less than 1 percent (0.5) of respondents refused or did not know their race or ethnicity.
10. The interview was conducted by the firm of Shulman, Ronca, and Bucuvalas, Inc., and lasted an average of 25.9 minutes. This is the same firm that Tjaden and Thoennes (1998) employed for the National Violence Against Women Study.

11. Bonnie S. Fisher and Francis T. Cullen, *The Extent and Nature of Sexual Victimization Among College Women: Results from a National-Level Study* (Unpublished report, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1999); Bonnie S. Fisher and Francis T. Cullen, "Measuring the Sexual Victimization of Women: Evolution, Current Controversies and Future Research," in *Criminal Justice 2000, Volume 4: Measurement and Analysis of Crime*, edited by David Duffee (Washington, DC: U.S. Department of Justice, National Institute of Justice, 2000).
12. Dean G. Kilpatrick, Christine N. Edmunds, and Anne Seymour, *Rape in America: A Report to the Nation* (Arlington, Virginia: National Victim Center, 1992).
13. Patricia Tjaden and Nancy Thoennes, *Stalking in America: Findings From the National Violence Against Women Survey*, Research in Brief (Washington, DC: U.S. Department of Justice, National Institute of Justice, 1998, NCJ 169592).
14. Questionnaires are available in portable document format (pdf) files from the BJS Web site, at [www.ojp.usdoj.gov/bjs/quest.htm](http://www.ojp.usdoj.gov/bjs/quest.htm) (July 24, 2000).
15. Koss et al., "The Scope of Rape."
16. The minimum reference period was 6 months, and the maximum was 8 months (standard deviation = 20.3 days).
17. Nonundergraduates made up 13.8 percent of the sample. They included graduate students, postdoctorate fellows, continuing education students, certification students, and others.
18. These projections are suggestive. To assess accurately the victimization risk for women throughout a college career, longitudinal research following a cohort of female students across time is needed.
19. Bonnie S. Fisher and Frances T. Cullen, *Violent Victimization Against College Women: Results From a National-Level Study* (Unpublished report, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1999).
20. The interviews lasted, on average, 12.7 minutes. Most of the sample ( $N = 4,432$ ) were full-time students (89.3 percent) and undergraduates (82.1 percent). Freshmen at 4-year schools/first-year students at 2-year schools made up 19.9 percent of the sample; sophomores at 4-year schools/second-year students at 2-year schools, 19.5 percent; juniors, 17.3 percent; seniors, 25.4 percent; graduate students, 16.6 percent; and others (postdoctorate, continuing education, certification programs), 1.6 percent. As expected, the sample was youthful; 61

percent of the sample was between the ages of 17 and 22 years (mean = 23.18, standard deviation = 4.79). Most of the sample was white, non-Hispanic (81.6 percent), followed by African-American, non-Hispanic (6.9 percent), Hispanic (5.1 percent), Asian/Pacific Islander, non-Hispanic (3.5 percent), American Indian/Alaska Native, non-Hispanic (0.7 percent), and mixed or other (1.8 percent). Less than 1 percent (0.5) of respondents refused or did not know their race or ethnicity.

21. Some of the incident-level questions had to be modified to reflect the characteristics of a college sample. For example, locations where an incident occurred included on-campus locations, such as a residence hall room or the library.
22. Personal communication with Jan Chaiken and Michael Rand, April 14, 2000.
23. In the comparison component study, we collected verbatim responses for all incidents. We subsequently explored how the use of verbatim responses can potentially affect estimates of completed rape, attempted rape, and threat of rape. See Fisher and Cullen, *Criminal Justice 2000*.
24. DeKeseredy and Kelly, "The Incidence and Prevalence of Women Violence"; Koss et al., "The Scope of Rape"; Nancy A. Crowell and Ann W. Burgess, editors, *Understanding Violence Against Women*, by the Panel on Violence Against Women, National Research Council (Washington, DC: National Academy Press, 1996).
25. Tjaden and Thoennes, *Stalking in America*.
26. Rape victims also have screened into an incident report based on a "yes" to other sexual victimization screen questions (Fisher and Cullen, *Criminal Justice 2000*).
27. Neil Gilbert, "Advocacy Research and Social Policy," in *Crime and Justice: A Review of Research*, edited by Michael Tonry (Chicago: University of Chicago Press, 1997).
28. Mary P. Koss, "The Underdetection of Rape: Methodological Choices Influence Incidence Estimates," *Journal of Social Issues* 48 (1992): 61–75; Mary P. Koss, "The Measurement of Rape Victimization in Crime Surveys," *Criminal Justice and Behavior* 23 (1996): 55–69.

29. Victoria L. Pitts and Martin D. Schwartz, "Promoting Self-Blame in Hidden Rape Cases," *Humanity and Society* 17(4) (1993): 383-98.
30. Elizabeth Ehrhardt Mustaine and Richard Tewksbury, "A Routine Activity Theory Explanation of Women's Stalking Victimization," *Violence Against Women* 5(1) (1999): 43-62.
31. Mustaine and Tewksbury provide no definition of stalking. Instead, to operationalize stalking, surveyed respondents were asked whether, during the prior 6 months, they had been a victim of behavior that they defined as stalking.
32. Tjaden and Thoennes, *Stalking in America*.
33. Ibid.
34. Of the 696 incidents, in 11 incidents the respondents refused to discuss the incident, and in 13 incidents the respondents did not tell us the form(s) of the stalking behavior. Reported percentages are based on 672 incidents.
35. Ibid.
36. Gilbert, "Advocacy Research and Social Policy."
37. Fisher and Cullen, *Violent Victimization Among College Women*.

## About the National Institute of Justice

The National Institute of Justice (NIJ), a component of the Office of Justice Programs, is the research agency of the U.S. Department of Justice. Created by the Omnibus Crime Control and Safe Streets Act of 1968, as amended, NIJ is authorized to support research, evaluation, and demonstration programs, development of technology, and both national and international information dissemination. Specific mandates of the Act direct NIJ to:

- Sponsor special projects and research and development programs that will improve and strengthen the criminal justice system and reduce or prevent crime.
- Conduct national demonstration projects that employ innovative or promising approaches for improving criminal justice.
- Develop new technologies to fight crime and improve criminal justice.
- Evaluate the effectiveness of criminal justice programs and identify programs that promise to be successful if continued or repeated.
- Recommend actions that can be taken by Federal, State, and local governments as well as by private organizations to improve criminal justice.
- Carry out research on criminal behavior.
- Develop new methods of crime prevention and reduction of crime and delinquency.

In recent years, NIJ has greatly expanded its initiatives, the result of the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Act), partnerships with other Federal agencies and private foundations, advances in technology, and a new international focus. Examples of these new initiatives include:

- Exploring key issues in community policing, violence against women, violence within the family, sentencing reforms, and specialized courts such as drug courts.
- Developing dual-use technologies to support national defense and local law enforcement needs.
- Establishing four regional National Law Enforcement and Corrections Technology Centers and a Border Research and Technology Center.
- Strengthening NIJ's links with the international community through participation in the United Nations network of criminological institutes, the U.N. Criminal Justice Information Network, and the NIJ International Center.
- Improving the online capability of NIJ's criminal justice information clearinghouse.
- Establishing the ADAM (Arrestee Drug Abuse Monitoring) program—formerly the Drug Use Forecasting (DUF) program—to increase the number of drug-testing sites and study drug-related crime.

The Institute Director establishes the Institute's objectives, guided by the priorities of the Office of Justice Programs, the Department of Justice, and the needs of the criminal justice field. The Institute actively solicits the views of criminal justice professionals and researchers in the continuing search for answers that inform public policymaking in crime and justice.

To find out more about the National Institute of Justice  
please contact:

National Criminal Justice Reference Service  
P.O. Box 6000  
Rockville, MD 20849-6000  
800-851-3420  
e-mail: askncjrs@ncjrs.org

To obtain an electronic version of this document, access the NIJ Web site  
(<http://www.ojp.usdoj.gov/nij>).

If you have questions, call or e-mail NCJRS.



# Voting Sheets

# Senate Education Committee

## EXECUTIVE SESSION

HB  
Bill # 1400

Hearing date: 4/20/2010

Executive session date: April 27, 2010

Motion of: ITL

VOTE: 5-0

**Made by** Kelly   
**Senator:** Merrill   
 Fuller Clark   
 Lasky   
 Bragdon   
 Letourneau

**Seconded** Kelly   
**by Senator:** Merrill   
 Fuller Clark   
 Lasky   
 Bragdon   
 Letourneau

**Reported** Kelly   
**by Senator:** Merrill   
 Fuller Clark   
 Lasky   
 Bragdon   
 Letourneau

Motion of: \_\_\_\_\_

VOTE: \_\_\_\_\_

**Made by** Kelly   
**Senator:** Merrill   
 Fuller Clark   
 Lasky   
 Bragdon   
 Letourneau

**Seconded** Kelly   
**by Senator:** Merrill   
 Fuller Clark   
 Lasky   
 Bragdon   
 Letourneau

**Reported** Kelly   
**by Senator:** Merrill   
 Fuller Clark   
 Lasky   
 Bragdon   
 Letourneau

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Kelly, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Merrill, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Fuller Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Lasky	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bragdon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Letourneau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Amendments: \_\_\_\_\_  
 \_\_\_\_\_

Notes: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 27, 2010

THE COMMITTEE ON Education

to which was referred House Bill 1400

AN ACT                    requiring all colleges and universities to report crimes to  
the local law enforcement agency.

Having considered the same, the committee recommends that the Bill:

**IS INEXPEDIENT TO LEGISLATE**

BY A VOTE OF:    5-0

AMENDMENT # {Type 4-digits here}s

Senator Martha Fuller Clark  
For the Committee

Addie Shankle 271-4151

## New Hampshire General Court - Bill Status System

**Docket of HB1400**

Docket Abbreviations

**Bill Title:** requiring all colleges and universities to report crimes to the local law enforcement agency.*Official Docket of HB1400:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
12/10/2009	H	Introduced 1/6/2010 and Referred to Education; <b>HJ 6</b> , PG.238
01/05/2010	H	Public Hearing: 1/14/2010 2:00 PM LOB 207
01/05/2010	H	==CANCELLED== Executive Session: 1/20/2010 1:00 PM LOB 207
01/21/2010	H	Subcommittee Work Session: 1/28/2010 10:00 AM LOB 207
01/28/2010	H	Subcommittee Work Session: 2/9/2010 10:00 AM LOB 207
02/02/2010	H	Executive Session: 2/16/2010 10:00 AM LOB 207
02/16/2010	H	Majority Committee Report: Ought to Pass with AM #0727h for Mar 3 (Vote 19-1; RC); <b>HC 17</b> , PG.819-820
02/16/2010	H	Proposed Majority Committee Amendment #0727h; <b>HC 17</b> , PG.886-887
02/16/2010	H	Minority Committee Report: Inexpedient to Legislate; <b>HC 17</b> , PG.819-820
03/03/2010	H	Special Ordered to Next Session Without Objection; <b>HJ 20</b> , PG.1180
03/10/2010	H	Amendment #0727h Adopted, VV; <b>HJ 23</b> , PG.1260-1261
03/10/2010	H	Ought to Pass with Amendment #0727h: MA DIV 248-92; <b>HJ 23</b> , PG.1260-1261
03/24/2010	S	Introduced and Referred to Education; <b>SJ 11</b> , Pg.262
03/31/2010	S	Hearing: April 20, 2010, Room 103, LOB, 10:15 a.m.; <b>SC14</b>
04/27/2010	S	Committee Report: Inexpedient to Legislate 5/5/10; <b>SC18</b>
05/05/2010	S	Inexpedient to Legislate, MA, VV === BILL KILLED === <b>SJ 17</b> , Pg.369

NH House

NH Senate

Contact Us

*New Hampshire General Court Information Systems*  
 107 North Main Street - State House Room 31, Concord NH 03301

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

HB 1400 ORIGINAL REFERRAL

\_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: \_\_\_\_\_

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 14753      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_\_ - AMENDMENT # \_\_\_\_\_      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED       AS AMENDED BY THE HOUSE  
\_\_\_\_\_ FINAL VERSION      \_\_\_\_\_ AS AMENDED BY THE SENATE

PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: a-h

EXECUTIVE SESSION REPORT

\_\_\_\_\_ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 9/8/2010

  
COMMITTEE SECRETARY