

The Clery Act: Literature Review

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The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, also known simply as the Clery Act, is a consumer protection law that aims to provide transparency around campus crime policy by requiring institutions of higher education that participate in federal financial aid programs to release crime statistics related to an array of criminal activities. These activities include crimes such as murder, sexual assault, domestic and dating violence, stalking, aggravated assault, robbery, burglary, motor vehicle theft, hate crimes and arson, as well as drug and alcohol violations. Statistics related to these crimes must be reported in an annual security report which is to be distributed to current and prospective students as well as employees. In this way, the Clery Act hopes to educate students on their potential exposure to crime on campus and allow them to make an informed decision on where to attend.¹

Since its inception in 1990, then under the name The Crime Awareness and Campus Security Act (officially renamed in the 1998 amendment), the Clery Act has been the subject of much debate and discussion within the field. This paper will review the literature surrounding this debate, examining the arguments for and against the Clery Act. Mainly, this paper will deal with the arguments regarding the effectiveness, or lack thereof, of the Clery Act in promoting campus safety and institutional transparency. To begin this discussion, it is important to first examine the initial passing of the act in 1990 to provide a jumping off point and provide some context to the discussion surrounding the Clery Act.

Initial Responses: The Crime Awareness and Campus Security Act of 1990

While the passing of the 1990 Clery Act drove campus safety and institutional transparency into the spotlight, it was far from an undiscussed issue beforehand. Prior to this, a major criticism of institutions by parents was the failure of institutions to provide transparent and accurate information relating to crime on campus. This frustrated both students and parents who sought to

¹ Unnati Patel and Ronald Roesch, "Campus Sexual Assault: Examination of Policy and Research," *Journal of Aggression, Conflict and Peace Research* 10, no. 2 (2018): 104.

gain enough knowledge of such statistics in order to adequately gauge campus safety and thereby make the necessary precautions.²

Some scholars have contended, such as Michael Griffaton, that institutions of higher education actively, “maintained the façade that crime did not occur on campus.”³ This obfuscation of the realities of campus crime was largely able to occur, argues Griffaton, due to institutions historically being able to deal with criminal activity internally, rather than referring students to the criminal justice system. This, in turn, helped foster the illusion that colleges and universities were somehow removed from worldly realities, and that crime did not occur on campuses.⁴ There was also a prevailing belief that, if crimes did occur, it was the outside world invading the campus, tarnishing its sanctity. That is to say, it was not student on student crime. The reality is quite different. A study conducted in 1985 by the Towson State University Center for the Study and Prevention of Campus Violence found that roughly 80% of campus crime occurred between students; this included a finding that 78% of sexual assaults on campus were committed by students against students.⁵ Just two years later, a study conducted by Mary P. Koss and colleagues on a national level found that 53.7% of female students experienced some form of sexual victimization, with unwanted sexual contact (kissing, fondling, but not intercourse) being the most common form, accounting for 44% of self-reported cases.⁶ The Federal Bureau of Investigation’s Uniform Crime Report of 1990 found that, across 402 institutions, 2,761 violent crimes (murder, forcible rape, robbery, and aggravated assault) and 132,601 property crimes (burglary, larceny-theft, and motor vehicle theft) were committed on the campus of the observed institutions.⁷

Despite these alarming reports, campus crime was not a major priority of concern for many higher education institutions prior to 1990. In 1991, the Vice President of State Relations at Purdue University commented that he did not, “think it necessary to call attention to those

² Michael Griffaton, “Forewarned is Forearmed: The Crime Awareness and Campus Safety Act of 1990 and the Future of Institutional Liability for Student Victimization,” *Case Western Reserve Law Review* 43, no. 2 (1993): 527.

³ *Ibid*, 529.

⁴ *Ibid*, 529.

⁵ *Ibid*, 530.

⁶ 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 Consulting and Clinical Psychology* 55, no. 2 (1987): 167.

⁷ Griffaton, 531.

problems which aren't any more of a problem on a campus than they are in any other community.”⁸ A 1989 survey by the Carnegie Foundation for the Advancement of Teaching found that only 20% of college presidents said they believed increasing the quality of campus security was “very important”.⁹

Yet, in the wake of a multitude of civil lawsuits, courts ruled, in precedent-setting cases, that institutions were required to take reasonable steps to prevent “foreseeable” crimes.¹⁰ The ruling of such cases increased institutional liability, which caused institutions to begin taking serious notice of the issue. The 1990 Clery Act further contributed to this. As Michael Griffaton argues, requiring institutions to report on crime statistics increases an institution's ability to foresee potential criminal activity. This, in turn, eliminates an institution's ability to claim ignorance, and can increase their liability if they do not take action to protect their students. Likewise, institutions that do take steps to prevent foreseeable crimes can shield themselves from liability.¹¹

Yet the 1990 Clery Act was also met with important criticism. This paper will outline them here to provide context on how these criticisms have evolved or been met by the various Clery Act amendments that have occurred over the years. An important point here is that many criticisms that the Clery Act faces today were there from the outset and will be discussed in greater detail later on in this literature review.

Such criticism includes worries that the Clery Act of 1990 did not require the reporting of crime involving students that occurred off campus.¹² The issue of geography as it relates to the Clery Act remains relevant today. Another is that, given that the Act deals only with reported crimes, it is heavily dependent on voluntary reporting to approach anything close to accurate statistics regarding campus crime.¹³ This is especially problematic with crimes relating to sexual violence, which are often heavily underreported. The issue of statistical accuracy has been one of

⁸ *Ibid*, 533.

⁹ *Ibid*.

¹⁰ Bonnie S. Fisher, Jennifer L. Hartman, Francis T. Cullen, and Michael G. Turner, “Making Campuses Safer for Students: The Clery Act as a Symbolic Legal Reform,” *Stetson Law Review* 32 (2002): 62.

¹¹ Griffaton, 537.

¹² *Ibid*, 571.

¹³ *Ibid*, 574.

the most prominent and lasting criticisms of the Clery Act; particularly the discrepancy between reported crime and victimization surveys conducted on campuses.

However, the 1990 Clery Act was a major step in making campus safety a prominent issue. Prior to the passing of this federal law, only thirteen states had enacted any sort of campus crime laws, and of those thirteen, there was very little uniformity or cohesion. And while the criticisms of the Act are well founded, there was a general feeling at the time that such a federal law was needed to address the growing issue of campus crime.¹⁴

Disparity between Reported and Victimization Survey Crime Statistics

As mentioned above, one of the major, if not the major, criticism of the Clery Act is that the statistics which it requires to be reported do not accurately represent the nature of crime on college campuses. This can be seen in the disparity between formally reported crimes and self-reported crimes, which are typically taken from victimization surveys.

One such reason for the underreporting of violent crimes is the idea of “rape myth acceptance” that is often perpetuated on college campuses.¹⁵ This faulty ideology has been shown to promote false stereotypes related to sexual conduct, particularly relating to female complainants’ credibility. Complainant credibility, according to this idea, is damaged when female students engage in behavior that is deemed outside of appropriate norms. This, in turn, leads victims to not report the incident for fear of not being believed or blamed for what occurred.¹⁶ Other factors, such as peer pressure, use of drugs and alcohol, and knowing one’s assailant can all lead to a crime going unreported. Often, according to Patel and Roesch, the victim may not even recognize what occurred as sexual assault due to these factors.¹⁷

While not all these factors are unique to a campus setting, many are more prevalent than in the wider world. This idea that campuses promote a particular environment where sexual victimization is likely to occur more frequently is supported by other studies. Fisher, Hartman,

¹⁴ *Ibid*, 560.

¹⁵ Patel and Roesch, 105.

¹⁶ *Ibid*.

¹⁷ *Ibid*.

Cullen, and Turner found that, while most other violent crimes (such as murder and burglary) were less likely to occur on campus, rape victimization was three times more likely to occur.¹⁸ The most common reason that these violent crimes go unreported, according to Fisher *et al.*, is that the students victimized did not believe the incident serious enough to report. Other reasons include the fear of not being taken seriously by authorities, not being sure whether harm was intended or that a crime occurred, and a lack of proof that the incident happened. Two other reasons, with particular relevance for the underreporting of sexual victimization, were that of a fear of retaliation from their attacker and not wanting family and others to know of the incident.¹⁹

A more recent study conducted by Gardella, Nichols-Hadeed, Mastrocinque, Stone, Coates, Sly, and Cerulli in 2015 examined the specific demographics of victimization. Here, the authors reported that students who identified as female experienced sexual victimization at four times the rate of students who identified as male, with male students more likely to face physical victimization, though the correlation was not nearly as strong.²⁰ Additionally, for many non-violent crimes, such as property theft, the authors found no correlation between gender. They did, however, find that students with lower GPAs were twice as likely to experience property crimes as those with higher GPAs.²¹

Another reason for the gap in statistics is that Clery does not cover all forms of victimization that can appear on self-reported surveys. This can largely be due to the wording of the survey, which may be broader than the Clery Act's definition of what constitutes a reportable crime. This, in turn, can cause a discrepancy in data. Gardella *et al.*, found that a university which reported ten forcible sex offenses saw the number of cases rise to sixty six cases of sexual victimization in a self-reported survey looking at the same institution.²² The important thing to

¹⁸ Fisher *et al.*, 82.

¹⁹ *Ibid*, 85.

²⁰ Joseph H. Gardella, Corey A. Nichols-Hadeed, Jeanna M. Mastrocinque, Jennifre T. Stone, Cynthia A. Coates, Christopher J. Sly, and Catherine Cerulli, "Beyond Clery Act Statistics: A Closer Look at College Victimization Based on Self-Report Data," *Journal of Interpersonal Violence* 30, no. 4 (2015): 650.

²¹ *Ibid*.

²² *Ibid*, 651.

note here is that the language used in the self-report defined sexual victimization in a broader sense, which can cause the gap between self-reported and reported crime to artificially increase.

However, the authors are quick to point out that this slight artificial increase cannot account entirely for the statistical gap. Empirically, it has been shown time and again that the statistics reported by the Clery Act do not match those of victimization surveys. Patel and Roesch posit that twenty to twenty five percent of female students experience some form of attempted sexual assault during college, yet only five percent of these incidents, perhaps less, are typically reported to campus officials or law enforcement.²³

Fisher *et al.* point out that it is difficult to determine just how many crimes truly go unreported, even with the inclusion of victimization surveys. Yet they confirm that crimes related to sexual assault are less likely to be reported than others. In particular, the crime of rape, which is perhaps the most underreported violent crime, is reported at a rate of less than five percent of all cases, with 96.8% of completed or attempted cases going unreported.²⁴ As a conclusion to this, Fisher *et al.* point to the statistics reported by the Clery Act as being at best incomplete and at worst “inherently inaccurate” representations of campus crime.²⁵

More recent studies have maintained this discrepancy. A study conducted in 2015, sponsored by the Association of American Universities (AAU), surveyed 150,000 students across twenty-seven universities and found that 33.1% of female seniors were a victim of nonconsensual sexual contact at least once since enrolling in an institution of higher education. The rate was slightly higher for transgender students (39.1%) and much lower for male students (7%).²⁶ It should be noted that this is a significantly lower rate than found by reports conducted before the Clery Act was implemented, such as the Koss study, which found that 53.7% of female students experienced unwanted sexual contact.²⁷

The College Sexual Assault Study (CSA) from 2007 found that 19.8% of female college seniors were victims of completed nonconsensual sexual contact involving force or

²³ Patel and Roesch, 104.

²⁴ Fisher *et al.*, 73.

²⁵ *Ibid*, 78.

²⁶ David Cantor, Bonnie Fisher, Susan Chibnall, Reanne Townsend, Hynunshik Lee, Carol Bruce, and Gail Thomas, *Report on the AAU campus climate survey on sexual assault and sexual misconduct* (Westat: Maryland, 2015): xiv.

²⁷ Koss *et al.*, 167.

incapacitation. The AAU reported an increased number of 26.1%.²⁸ However, this trend reversed when looking at victims of penetration by force and incapacitation, with the CSA reporting a figure of 14.3% and the AAU reporting 11.3% of female seniors.²⁹ However, overall the AAU study concluded that none of the compared studies, or even the AAU itself, is capable of generating estimates that are nationally representative across all higher education institutions. Rather, the rates vary greatly across institutions.³⁰

In terms of reporting, the AAU found, in accordance with past studies, that reporting was quite low. Stalking and physically forced penetration were the most likely to be reported, with 28.2% and 25.5% of students reporting the crimes respectively.³¹ Reports for sexual touching were the lowest, with only five percent of all case being reported.³² The percentage of reported physically forced penetration cases stands in stark contrast to previous studies. Recall that Fisher *et al.*, believed rape to be the most unreported crime, with less than five percent of all cases being reported.³³ However, this took into account both completed and attempted cases, which the AAU does not directly specify. Still, even the lowest rate of reporting for an institution of higher education surveyed by the AAU was 17%, which remains significantly higher than the less than five percent figure from 2002.³⁴

Extremely consistent with the Fisher findings, however, were the AAU's findings regarding why students chose not to report an incident of victimization. The number one reason remaining that the student did not believe the incident to be serious enough. For penetration involving physical force, this reason was still the most highly cited, with 58.6% of respondents choosing this option; the second highest reason being that they felt too embarrassed, ashamed, or that reporting the incident would be too emotionally difficult, with 35.9% citing this reason.³⁵ For most forms of harassment and sexual touching, over 70% of respondents cited feeling the situation was not serious enough as their main reason for not reporting the incident.³⁶

²⁸ Cantor *et al.*, xiv.

²⁹ *Ibid.*

³⁰ *Ibid.*, xv.

³¹ *Ibid.*, 35.

³² *Ibid.*

³³ Fisher *et al.*, 73.

³⁴ Cantor *et al.*, 36.

³⁵ *Ibid.*, 36.

³⁶ *Ibid.*

Clery Act Geography

Another aspect of the Clery Act that has been widely commented and debated on is that of geography as it relates to the Clery Act. Through the Clery Act, institutions are required to report crimes that occur, “(1) on campus, (2) on public property within or immediately adjacent to the campus,” and “(3) in or on noncampus buildings or property that your institution owns or controls.”³⁷ This issue here has to do with the blurred line that can often occur when defining exactly what constitutes an “on campus” crime as opposed to a crime that simply occurs in the surrounding community. Many campuses lay in the heart of a city or densely populated area. As such, distinguishing campus crime from community crime can become incredibly difficult. Is it a campus crime if the crime occurs two blocks off campus but still in the general vicinity of the institution? What about three blocks removed? Where, exactly, is a line to be drawn? This issue is not helped by the Clery Act’s own ambiguous language, with the phrase “reasonably contiguous” being used often to describe geographical limits.

The *Handbook for Campus Safety and Security Reporting* does offer guidance for such questions. For instance, reasonably contiguous is said to be, “a building or property your institution owns or controls that’s in a location that you and your students consider to be, and treat as, part of your campus.”³⁸ An example is given of a house, owned by the institution, which is commonly used as an art studio by students. The *Handbook* further clarifies that any such location up to a mile outside of campus can fall into this category. However, it is up to the institution to decide on a case by case basis which properties are to be considered contiguous, and they must cite a reason for not considering a property as such, for example a river or multiple lane highway.³⁹

When dealing with public property, definitions become a bit more concrete. Here, the Clery Act sets limits by including all public property, “that is within the campus, or immediately adjacent to and accessible from the campus.”⁴⁰ So, for example, a public road which bisects the

³⁷ U.S. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting: 2016 Edition* (Washington D.C.: 2016), 2-1.

³⁸ *Ibid*, 2-3.

³⁹ *Ibid*.

⁴⁰ *Ibid*, 2-11.

campus would be included in Clery's geography. Immediately adjacent can be understood through the sidewalk, street, sidewalk rule, where anything beyond that second sidewalk is no longer considered adjacent to campus.

The complexity of this issue is summed up nicely by this example from the *Handbook*, "Joe's Fried Chicken Emporium across the street from your student center would not be included in your on-campus geography even though many of your students eat there daily, if your institution does not own or control it."⁴¹ Despite that this is an establishment frequented by students and in immediate proximity to the campus, it does not get included in Clery geography because it is privately owned property which does not meet the "immediately adjacent" definition.

Even since its inception, the Clery Act's limited geography has been questioned and criticized for limiting crime reporting to specific areas. Michael Griffaton, writing in 1993 and generally supportive of the Act, proposed that the Clery Act broaden its scope to include all off campus crime and victimization, whether it be against students or members of the surrounding community.⁴² Griffaton saw this as a more concrete way of presenting accurate crime statistics to students, however, he did not outline how this was to be done.

Other authors, such as Nobles, Fox, Khey, and Lizotte, share this argument that such restrictions and specifications for on campus crime fails to create a comprehensive view of what is, ostensibly, campus crime. That is to say, the limiting scope of Clery Act geography does not truly capture where and how frequently "campus crime" occurs. Instead, it paints an incomplete picture of the likelihood of student crime and victimization risk. Especially important for Nobles and his colleagues is the issue that the Clery statistics exclude incidents occurring very near but not technically *on* campus.⁴³

In reality, argue Nobles *et al.*, campuses often see clusters of criminal activity just outside their defined borders, in areas still dominated by student activity. Local bars, student housing areas (that is to say, housing commonly rented to students but not owned by the school), and

⁴¹ *Ibid*, 2-4.

⁴² Griffaton, 570.

⁴³ Matt R. Nobles, Kathleen A. Fox, David N. Khey, and Alan J. Lizotte, "Community and Campus Crime: A Geospatial Examination of the Clery Act," *Crime and Delinquency* 59 no. 8 (2010): 1149.

popular downtown locations all provide flashpoints for criminal activity to occur. The authors posit that, due to this, almost half of all crime that occurs within five hundred feet of the campus boundary, as defined by Clery, is not reflected in official Clery statistics, despite that the reporting requirements have been met by the institution.⁴⁴

Indeed, using GIS (geographic information system) mapping and crime report statistics, the authors examined crime on and around campus from 2004 to 2007. They found that, on campus, the numbers were rather consistent between crimes that were mapped as “on campus” by GIS (1,718) and those shown in the Clery statistics (1,578).⁴⁵ Within five hundred feet of campus, however, the study found that, of the 6,146 crimes highlighted by GIS, only 4,171 crimes were reported in compliance with the Clery Act.⁴⁶

Given the definitions of Clery geography, this discrepancy in off campus crime is not surprising, as Clery does not aim to capture all crime within five hundred feet of campus. However, it does highlight the issue of the way Clery geography is defined leading to an inaccurate picture of crime statistics in a given area. Nobles *et al.* find this especially troubling, pointing out that the vast majority of crimes being committed just beyond the boundary of campus were typically being committed by students against other students, oftentimes across the very street that ends the on-campus boundary.⁴⁷

In addition to this, Clery act geography does not take into account what Nobles *et al.* refer to as “corridors” of student activity. These corridors are common transit routes that students use to travel to and from campus, and the study found that these, too, act as hot spots for student crime. Due to all these points, Nobles and colleagues conclude that the Clery Act statistics do not provide students with a true understanding of the nature of campus crime, as it neglects the critical border between campus and community.⁴⁸

In response to this, Nobles *et al.* highlight the potential of crime mapping as a way to increase, not only the effectiveness of crime prevention near campuses, but also as a way of

⁴⁴ *Ibid*, 1150.

⁴⁵ *Ibid*, 1142.

⁴⁶ *Ibid*.

⁴⁷ *Ibid*.

⁴⁸ *Ibid*, 1152.

ensuring Clery statistics more accurately represent the nature of crime around campus. By taking note of and monitoring hot spots of criminal activity, an institution could more easily and effectively combat student victimization. Nobles *et al.* refer to multiple criminal studies and conclude that hot spot policing, “holds excellent promise for targeted reductions in the rates of specific crimes, and that there is very limited evidence for the notion that crime is displaced to other areas.”⁴⁹

On the other hand, there is both a practicality and a judicial issue here. Mike Kennedy highlighted this issue in a 2000 article, pointing out the confusion language such as “contiguous” was likely to cause. Kennedy states his question simply, “where does a college campus end and the rest of the world begin?”⁵⁰ In this article, Michael Webster, director of campus safety at Maryland College at the time, points out that, “wherever you draw a line, sooner or later there’s going to be an extreme example of a crime that occurs on the other side of the line.”⁵¹ Even with the use of crime hot spots proposed by Noble and colleagues, this is likely still to be the case.

Judicially, expanding Clery reporting beyond campus, even as it is now, can cause problems for institutions. Often, campus security has no jurisdiction outside of the campus boundaries, and therefore must work with and rely upon local law enforcement officials to gather the necessary crime data. This can create even more confusion, as many local law enforcement officials do not track crime statistics in the same way that is required by Clery. This can lead, argues Kennedy, to institutions simply including data drawn from the entire city, to make sure they are in compliance, which does not represent crime truly affecting the campus.⁵²

Substantive vs. Symbolic Success

Much of the criticism presented in this literature review has been aimed at the issue of Clery statistics being unrepresentative of the realities of campus crime. This has, in turn, led many critics to argue that the Clery Act has failed in its main goal of promoting transparency around campus crime statistics. However, while this may be the “main” goal of the Clery Act, failing to

⁴⁹ *Ibid*, 1137.

⁵⁰ Mike Kennedy, “Safety by the Numbers,” *American School and University* 72, no. 2(Oct. 2000): 34b.

⁵¹ *Ibid*, 34d.

⁵² *Ibid*, 34f.

meet this goal does not necessarily mean that the Act itself has not led to success in other areas or helped improve campus crime awareness as a whole.

For example, in a 2002 study, Fisher, Hartman, Cullen, and Turner differentiated areas of success into substantive success and symbolic success. According to Fisher *et al.*, laws either serve a substantive function or a symbolic function. A substantive law serves to introduce changes that have demonstrable utility, “changes that essentially help to alleviate or solve the problem the law addresses,” while a symbolic law, “includes such goals as reaffirming cherished values and showing that ‘something is being done’ about a perceived social problem. The Clery Act is one such law.”⁵³

This literature review has already examined in depth the criticisms of the Clery Act’s substantive success. However, over the years the Clery Act has been amended several times to try and add to its substantive impact on institutions tackling of campus safety. One such substantive change has been the required disclosure of any student disciplinary case involving a crime of violence or non-forcible sex offense. Before a 1998 amendment, institutions still argued that such disclosures were protected under the Federal Student Privacy Laws (FERPA).⁵⁴ In addition to this, the Clery Act was amended twice more in 2008 and 2013. The 2008 amendment introduced emergency notification requirements which will be discussed in greater detail below. The 2013 amendment expanded policy requirements to include things such as dating violence, domestic violence, sexual assault, and stalking.

In terms of symbolic success, Fisher and others argue that the Clery Act has been far more influential. Fischer *et al.* point to multiple points of success, chief among them being that the Passing of the Clery Act brought campus safety to the forefront of congressional discussion, where it has maintained steady interest over the years, especially issues relating to that of the safety of college women. The Clery Act also increased institutions’ openness to discuss the issue of crime, both internally and with its students. It also can be said to have caused a rise in campus

⁵³ Fisher *et al.*, 61.

⁵⁴ Dennis E. Gregory and Steven M. Janosik, “The Clery Act: How Effective is it? Perception from the Field – The Current State of the Research and Recommendations for Improvement,” *Stetson Law Review* 32 (2002): 31.

awareness of crime, as institutions were more likely to implement seminars and develop clear policies and practices.⁵⁵

Dennis Gregory and Steven Janosik make similar arguments. While they question the effectiveness of the legislation and its direct impact on campus crime, they state that, “everyone can agree that the Clery Act has increased awareness of crime on American college campuses.”⁵⁶ While Gregory and Janosik do not use the term “symbolic success”, they allude to the idea by acknowledging that the purpose of the Clery Act is “largely two-fold.”⁵⁷ Indeed, the authors actually refer to the changing of institutional behavior as it relates to campus crime as Clery’s main goal, not providing transparency regarding crime statistics.⁵⁸

However, while there is a general consensus that the Clery Act has directly had an effect on institutional and congressional awareness on campus crime, it is much less clear to what extent the Clery Act has played in changing or informing students understanding of campus crime. Fisher and colleagues question to what extent the programs and resources produced by institutions, often in response to the Clery Act, have played in actually lessening campus crime.⁵⁹

Steven Janosik and Donald Gehring raised a similar question in a 2003 study, asking how knowledgeable of the Clery Act students actually are, and to what extent the Clery Act itself affects student behavior. By and large, the authors found that students were unaware of the Clery Act, with only 27% percent indicating that they knew the Act existed at all.⁶⁰ When asked whether or not the Clery Act directly affected their decision on choosing where to attend college only 8% percent responded in the affirmative.⁶¹ 27% of students attended the crime prevention and awareness programs mandated by the Clery Act, and it was far more common for students to engage with other literature (such as flyers and articles) produced by their institution relating to campus crime, with 60% of students reporting they did so.⁶² However, Janosik and Gehring do

⁵⁵ Fisher *et al.*, 88.

⁵⁶ Gregory, 8.

⁵⁷ Gregory, 39.

⁵⁸ *Ibid.*

⁵⁹ Fisher *et al.*, 88.

⁶⁰ Steven M. Janosik and Donald D. Gehring, “The Impact of the Clery Campus Crime Disclosure Act on Student Behavior,” *Journal of College Student Development* 44, no. 1(Jan. 2003): 83.

⁶¹ *Ibid.*

⁶² *Ibid.*, 83,87.

note that students attending smaller, private institutions were far more likely to engage with the Clery Act statistics in a meaningful way.⁶³

Janosik and Gehring conclude that, while the Clery Act itself may not directly drive student behavior, other literature surrounding campus crime does have an effect, resulting in both a higher rate of awareness and behavioral change.⁶⁴ The question then becomes, how much of this can be contributed to the Clery Act? For as Janosik and Gehring point out, much of the literature produced by institutions relating to crime on campus is encouraged or required by the Clery Act.⁶⁵ The authors seem confident in Clery's direct impact in this direction, for they end by suggesting that the energy and resources spent on reporting statistics may be better served on developing the sort of programs and services promoted by the Clery Act.⁶⁶

Other experts grant the Clery Act a more direct, substantive role. In particular, the Clery Act annual security reports are often helpful in determining how well an institution is performing in its handling of campus sexual assault. While perhaps a bit counterintuitive, increased reports of sexual assault through the Clery Act is typically seen as a sign that an institution is improving in its dealing with campus sexual assault. Indeed, Diane Moyer, former legal director of the Pennsylvania Coalition Against Rape, urged parents to send their children to institutions with the highest number of sexual assaults reported through the Clery Act, stating that, "these schools are probably most aware of the campus sexual assault problems."⁶⁷ Likewise, John Foubert, an expert on campus sexual assault, praised institutions that saw a dramatic rise in the number of reports, saying that it was a clear sign that the institution was doing something right.⁶⁸ As such, the Clery Act and the annual security reports that it mandates provides a sort of litmus test and quantifiable data that can be examined to gauge an institutions improvement, or lack thereof, over the years.

⁶³ *Ibid*, 88.

⁶⁴ *ibid*, 89.

⁶⁵ *Ibid*.

⁶⁶ *Ibid*, 91.

⁶⁷ Corey Rayburn Yung, "Concealing Campus Sexual Assault: An Empirical Examination," *Psychology, Public Policy, and Law* 21, no. 1 (2015): 2.

⁶⁸ Benjamin Wewrmund, "Growing Campus Sex Assault Numbers Show More Reporting, Experts Say," *Houston Chronicle*, 2 October, 2014.

Another area of substantive success that has consistently been attributed to the Clery Act is that of improving campus law enforcement practices and training. Steven Janosik and Dennis Gregory have consistently been the leaders in this field and have conducted numerous studies to determine how the Clery Act is viewed by campus personnel and administrators. In 2003, Janosik and Gregory found that a majority of campus law enforcement officers believed the Clery Act to have improved the overall quality of crime-reporting practices.⁶⁹

In another study, Janosik and Gregory surveyed 327 senior student affairs officers (SSAOs) which were defined as professionals largely responsible for the oversight of offices in charge of collecting data for Clery Act reporting and setting program priorities with respect to campus safety, as well as establishing an institutions overall philosophy regarding campus safety.⁷⁰ A majority of these SSAOs believed that literature and programs required by the Clery Act directly resulted in increased student confidence in campus police. Additionally, sixty five percent of SSAO respondents credited the Clery Act with improving crime reporting by campus police.⁷¹ Forty percent believed that the Clery Act had directly improved and impacted crime awareness programming on campus.⁷²

Interestingly, Janosik and Gregory find such opinions to be fairly consistent across multiple surveyed groups. These groups include parents and students, judicial officials, victim advocates, housing and residence life, law officials, and SSAOs. The major consensus among these groups being that the Clery Act has substantively improved the campus crime reporting process.⁷³

A final area where the Clery Act has shown substantive success is with regards to emergency notification systems. These emergency notification systems (ENS) take the form of e-mail, text messages, voice messages, and website notifications in response to campus safety incidents and are mandated by the Clery Act. A study conducted by Wencui Han, Serkan Ada, Raj Sharman, and Raghav Rao concluded that institutions implementation of ENS's contributed

⁶⁹ Steven Janosik and Dennis Gregory, "The Clery Act, Campus Safety, and the Perceptions of Senior Student Affairs," *NASPA Journal* 46, no. 2 (2009): 209.

⁷⁰ *Ibid*, 210.

⁷¹ *Ibid*, 219.

⁷² *Ibid*.

⁷³ *Ibid*, 223.

to a greater sense of safety among students. They also found that, for the most part, students respond immediately and effectively to emergency alerts. While this did vary based on the nature of the emergency, overall the study determined that the addition of emergency alerts mandated by the Clery Act helped to improve a campus' safety.

In addition to this, the response to the implementation of ENS's from professionals responsible for meeting Clery Act requirements has been extremely positive. A study conducted in 2019 found that, in a survey of 1,000 randomly selected professionals working on Clery Act compliance across multiple institutions, 86% believed that the Clery Act ENS's helped inform people on campus of safety issues. The survey also found that a majority of respondents felt the ENS's directly impacted people's short-term decision making, with 65% believing so.⁷⁴ Overall, only four percent of those surveyed believed the ENS's to have no impact on improving campus safety, while the plurality, 43%, believed the ENS's to have a moderate impact.⁷⁵ The study concluded that ENS's mandated by the Clery Act were effective in achieving their main purpose of informing students of safety issues and influencing student's safety related behavior.⁷⁶

Concluding Thoughts: Possible Areas of Research

Generally speaking, it does appear that awareness of campus crime remains on the rise, particularly with relation to violent, sexual crimes. In a recent survey conducted by the Association of American Universities, it was found that knowledge of the definition of sexual assault increased dramatically from 2015 to 2019, rising from 11.5% to 36.9% of women and 12.4% to 40.3% of men. However, it is once again difficult to tell how much of this is a direct result of the Clery Act.

This is a general problem with symbolic success, that it can be difficult to measure. It does not yield hard statistics like that of substantive success. Largely this is because it can be difficult to say how much improvement can be directly attributed to the Clery Act itself, and how much is simply a rising general awareness of the issues. Likely it is impossible to say how much,

⁷⁴ Travis W. Douglas, "Efficacy of Clery Act Timely Warning and Emergency Notification Messages," *Thomas Jefferson University*, 29.

⁷⁵ *Ibid*, 37.

⁷⁶ *Ibid*, 41.

exactly, the Clery Act has affected things today, yet this could be an interesting area for further study. The discrepancy between the Clery statistics and self-reported statistics are widely accepted as the largest shortcoming of the Clery Act. However, there does not seem to be many temporal studies comparing trends in these statistics over the years. As stated, many students are unaware of the Clery Act and Clery reportable crimes. However, as this awareness grows, one would expect to see Clery crimes reported annually increase.

Ideally, increased volume of Clery reported crimes would coincide with a decrease in self-reported crime rates, which would show that the gap between reported and actual crime rates was lessening, while also showing that the overall crime rate was decreasing. In general, there is ample room to examine how these statistics relate to one another, and not simply how different they remain in relation.

Worryingly, research into and literature surrounding the Clery Act has been in decline in the past years. Janosik and Gregory note this trend as troubling and argue that ample room for research on the Clery Act's effectiveness and implementation remains. Comparing their research in 2007 to 2013, Janosik and Gregory found nearly 100,000 fewer citations online, and many citations that were found being from reports or news articles, not scholarly research.⁷⁷ This literature review has hoped to not only provide a succinct overview of the scholarly works surrounding the Clery Act, but has also hoped to show that continued and increased areas of study with relation to the Clery Act are readily available, particularly in the realm of substantive success and the potential relationship between Clery Act reporting numbers and self-reported victimization data over time, as oppose to a focus on discrepancy at any given moment.

⁷⁷ Dennis Gregory and Steven Janosik, "Research on the Clery Act and crime reporting: Its impact on the literature and administrative practice in higher education," in *Campus crime: Legal, social, and policy perspectives*, ed. Bonnie Fisher and John Sloan (3rd ed., pp. 46-62). (Springfield, IL: Charles C. Thomas), 46-62.

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