



UNITED STATES DEPARTMENT OF EDUCATION
Office Of Student Financial Assistance Programs
Institutional Participation And Oversight Service
Southwest Case Management Division—San Francisco Team
50 United Nations Plaza, Room 266, S.F., CA 94102
(415) 556-4295

FILE COPY

Mr. James Dolganis
Vice-President Campus Security
Office of the President
University of California
1111 Franklin Street
Oakland, California 94607-5200

October 11, 2000

FIRST CLASS CERTIFIED MAIL
RETURN RECEIPT REQUESTED

P 241 202 226

Dear Mr. Dolganis:

Per our conversation, attached are copies of three complaints we have received regarding implementation of the Clery Act at the University of California (UC) campuses. In general, they address the issue of campuses underreporting crimes, specifically, the failure of the campus security reports to include all crimes from all appropriate sources. The complaints also address the misreporting of crimes, specifically, crimes included in the reported statistics are not categorized properly. Attached to one complaint were the series of articles reported in the Sacramento Bee on September 24th and 25th of this year. The information in those articles was part of the complaint.

Some of the specifics of the complaints include that UC Riverside excluded rapes from the statistics it reported, UCLA kept no statistics from its disciplinary proceedings, two thirds of the campuses, including UC Davis omitted sexual assaults reported to university sources other than police. Examples of misreporting crimes include UC Riverside which did not report the rape of a man as a sexual assault, and UC San Diego which categorized sexual assaults as physical abuse.

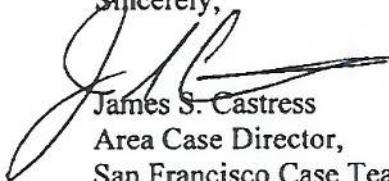
In addition to the specific complaints, as you are aware, the entire issue of campus security in California has recently received increased attention in both the media and from organizations that focus on such issues. In this regard, we would also like to discuss this issue. For the most part, the issue raises focus on underreporting and misreporting of campus crimes.

We look forward to working with your representative from the University of California system to address the specific issues in the complaints and to address the broader issues of application of the requirements of the Clery Act. We believe that this collaboration

will provide a forum for the U.S Department of Education and UC to address these and other campus security issues that might require attention and/or clarification. If necessary, we will work with individual campuses so that they can implement all the requirements of the law.

I appreciate your willingness to work with us on these issues to ensure the safety and security of your student population.

Sincerely,



James S. Castress
Area Case Director,
San Francisco Case Team
Case Management and Oversight
Schools Channel
Student Financial Assistance
U.S. Department of Education

cc: Mr. S. Daniel Carter
Vice President,
Security on Campus, Inc.
7505 Granada Dr.
Knoxville, TN 37909-1730

Ms. Jane Glickman
Office of Public Affairs
U.S. Department of Education
Federal Building No.6
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Attachments.



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VIA FACSIMILE

May 11, 2000

Mr. Jim Castress, Area Case Director
c/o Ms. Loni Hancock, Sec.'s Reg. Rep.
U.S. Dept. of Education, Region IX
50 United Nations Plaza, Room 205
San Francisco, CA 94102-4987

Dear Mr. Castress:

A recent article "Quality of Campus Justice Varies Widely" published in the May 10th *Los Angeles Times* contains information that indicates several colleges and universities in California may be in violation of 20 USC 1092 (f) otherwise known as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act." Copies of the article and the security disclosures from one of the mentioned schools are included in this transmission.

Pursuant to "Dear Colleague" letter GEN-96-11 your office has responsibility for reviewing complaints brought under this Act and we ask that you look into these matters.

Although there is no obligation under the Act to publish individual statistics for student disciplinary actions, as the article notes, all campus security authorities are required to report statistics, not just campus police. Two of the schools, UCLA and Cal. State Fullerton, surveyed for the article indicated that they kept no statistics from their disciplinary proceedings.

The director of UC-Riverside's student conduct office, J. Lance Gilmer, is quoted as saying that there "is no doubt that colleges are underreporting crimes." He specifically indicates that he is aware of 6 rapes that were omitted from last year's statistics. A quick review of UCR's disclosures (which are "provided in compliance" with the Act) seems to indicate that they are not reporting using the proper crime categories and may be excluding offenses known to campus officials other than police.

Please take the time to review the issues raised by this article and work with the schools involved to ensure that they are in compliance. Should you have any questions please don't hesitate to call on me directly at (865) 693-4316. I would also appreciate being apprised of any actions that you take regarding this complaint and receiving copies of any related documents under the Freedom of Information Act. Thank you for your time and attention to these matters.

Sincerely,

S. Daniel Carter

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Wednesday, May 10, 2000

Quality of Campus Justice Varies Widely

Rules: Most colleges surveyed use secretive panels to handle student misdeeds. Results differ.

Special to The Times

With reports of misconduct on the rise at many California colleges and universities, campus judicial systems are quietly handling thousands of cases each year ranging from plagiarism and petty larceny to physical assault and rape.

Drunken Pomona College students went joy riding in the dean's golf cart. Chico State dorm residents were nabbed in a drug sting. A pair of UC Santa Cruz students, dubbed Bonnie and Clyde, were arrested for two armed robberies.

When students are accused of such offenses, the stakes are high because costly educations, careers and school reputations are hanging in the balance. In some cases, students hire lawyers--and one enlisted a handwriting expert--for campus disciplinary hearings.

To mete out punishments, virtually every school uses a quasi-judicial arm that convenes behind closed doors. Students and faculty who have little legal training serve as investigators, prosecutors and judges. They usually operate independent of police and courts, and seldom refer cases for criminal action.

The maximum penalty imposed by campus courts is expulsion. But records and interviews show that the quality of justice and severity of sanctions vary from case to case and place to place, raising what critics say are fundamental questions of fairness.

At some schools, throwing a punch can result in as little as counseling, while at UC Riverside a student is suspended one quarter for each blow. Penalties for date rape can be as severe as expulsion or as lenient as writing a reflective essay.

Additionally, these secretive systems deprive students and parents of information about misconduct, and sometimes crime, on campus. Of 15 public and private schools surveyed for The Times, only UC Davis and USC publicly report details of misconduct hearings, although both withhold students' names. Only a handful routinely release statistics, and two keep none at all.

University administrators acknowledge that their judicial systems are not perfect, but they say they provide a swift means of maintaining order, ethical standards and codes of conduct. They also say the law requires them to protect the privacy of victims and perpetrators whose futures might be harmed by publicity.

"A lot of them are good students, and they panicked and made a bad decision at a hard time in their life," said Nancy Morrison, assistant to the dean of students at Stanford University.

The federal Crime Awareness and Campus Security Act of 1990 requires campus security departments to compile and publish statistics on crime, without differentiating between students and nonstudents. There is no similar requirement for schools to reveal the extent and type of student misconduct handled internally.

As part of a six-month examination of campus judicial systems, reporters from the UC Berkeley Graduate School of Journalism obtained previously unpublished statistics and interviewed officials. The survey found:

* Eight of 13 schools that tally misconduct cases report an increase in recent years, which officials say is part of a long-term trend.

* The number of cases at each school ranges from about a dozen to more than a thousand per year, and the vast majority of students are found culpable and disciplined.

* Cheating and alcohol or drug use were the most common offenses, and each has increased recently at half of the eight schools that broke down violations.

* Student conduct boards resolved almost 300 cases of physical assaults and threats of violence last year. In addition, they dealt with at least 16 complaints of violent sexual assault, with eight reported by UC Berkeley.

There is often a gap between the number of sexual assaults reported to campus women's centers and the number appearing in official university crime or misconduct statistics. At UC Irvine, for instance, no rapes were reported

to law enforcement in the 1998-99 school year, but the woman's support scales tipped to 15.

Noting that rape is an underreported crime, university officials say student victims often are reluctant to go through the pain and stress of pursuing either a misconduct case or a criminal prosecution.

"There is no doubt that colleges are underreporting crimes, especially rape," said J. Lance Gilmer, director of the student conduct office at UC Riverside. He said he knows of half a dozen alleged rape cases last year that were not handled by his office and did not show up in campus crime statistics.

Since the founding of America's first colleges, campuses generally have considered misconduct an in-house affair to be quietly resolved to protect the integrity of the institutions and the privacy of students. But, across the nation, campus courts recently have come under fire for allegedly failing to protect the very people they are designed to safeguard.

A case involving the alleged rape of a female student by two football players was heard by the Virginia Tech University student conduct office several years ago. After the university reversed a one-year suspension of one player, the woman sued—and the case is now before the U.S. Supreme Court.

"It was only when these bodies started dealing with more serious crimes that people became interested," said Mark Goodman of the Student Press Law Center in Virginia, a nonprofit group that advocates increased public disclosure of student judicial proceedings.

Little Training for School Investigators

Chico State freshman Mike Clausen was sleeping in his dorm on the morning of Nov. 14, 1996, when campus police banged on his door and ordered him to open up. Clausen was led away in handcuffs as television cameras rolled.

He was trapped in a drug sting orchestrated by an undercover campus police officer who had posed as a student. The officer had attended classes, bought liquor for students and had a "social relationship" with a female student. Citing the officer's questionable behavior, the district attorney refused to prosecute Clausen and nine other students in connection with selling marijuana.

However, Chico State relied on the same flawed investigation in seeking to bar Clausen from the university for several years. He hired a lawyer and, after negotiations, accepted a one-semester suspension. "If we took it to a [campus] judicial hearing . . . basically you're left standing there defending yourself," said Clausen, now a senior. "It's like David and Goliath."

This case reflects a trend among universities. Many campus officials report an increase in student misbehavior that could rise to criminal conduct. At Chico, drug offenses steadily increased from 69 in 1995-96 to 114 last year. At UC Santa Cruz, a senior and his freshman girlfriend were expelled for robbing two local stores for "thrills"—and a judge sentenced them to prison in March.

At UC Riverside, the student judicial office has investigated gun possession, with some cases involving members of fraternities and Southern California street gangs.

"Like everyone, I used to view colleges as safe havens," said Gilmer, the school's student conduct chief. "I never thought about people . . . raping, assaulting or fighting. I never thought that existed here. The myth I had been living under was just that. A myth."

Most schools do not routinely refer potentially criminal offenses by students to local police for investigation. Instead, they inform crime victims that they can press criminal charges if they wish.

"They can pursue it [an allegation] through our system," said Sandra Rhoten, associate dean of students at Cal State Fullerton. "They [also] can pursue it through the criminal system."

The investigation of serious misconduct, even rape, is often left to students and school officials who have little training, time and resources. They do their best: One official plays good cop-bad cop when interviewing students. To maintain the element of surprise, student investigators at another school summon fellow students for interviews without telling them whether they are witnesses or suspects.

Yet investigating some misconduct requires help from law enforcement. Two years ago, a UC Irvine freshman told campus police that a classmate had bullied him in attempts to extort money. Collaborating with student conduct officer Kelly Willis, campus police outfitted the victim with a tape recorder. After the shakedown was captured on tape, the threatening student was expelled.

Panels sometimes try to resolve serious cases that are difficult to sort out.

At Pomona College, the judicial affairs committee addressed a 1997 acquaintance rape complaint, based on the personal accounts of the alleged assailant and victim. The committee could not reach a decision on the man's guilt, splitting 4-4 along gender lines. "It was very junior high-esque," said Simon Morfit, a Pomona senior and friend of the plaintiff. "She was really distressed."

Panels Usually Contain Students and Faculty

Some students jokingly call these hearings kangaroo courts. Rumor, mystery and some fear surround them. At Caltech in Pasadena, the Board of Control hears cases into the wee hours, which board members say is for convenience but which some students find intimidating.

Like criminal and civil cases, most student misconduct gets resolved through negotiation before it reaches trial. But other incidents, especially when the allegation is contested, go to a hearing. Of the schools surveyed, only Stanford, Pomona, Caltech and Pepperdine—private institutions—hold hearings on the majority of cases.

Typically, students and faculty serve on the judicial panels, although Pomona and Caltech have all-student

boards. At some schools, the panel's decisions are reviewed by a dean or another official.

A local lawyer serves as a judge at Chico State, but all except one of the 325 misconduct cases last year were resolved informally by student affairs coordinator Lizanne Leach. "Initially, I make a decision about a sanction," she said. "If the student accepts that, then we're finished with it."

Members of the school panels receive little training in how to assess evidence. Most panels only study the student conduct code. At Pomona, the training consists of a day's lecture by an attorney about using the "Socratic method" to seek truth.

"There are a lot of untrained people," said mathematics professor Ami Radunskaya, who recently served as the nonvoting chairman of Pomona's Student Affairs Committee. "We are not judges and don't have a law degree."

The campus hearings apply the same standard of proof used in civil courts: the preponderance of evidence. But judicial boards do not let lawyers argue on behalf of the students.

Although attorneys sometimes are allowed to attend hearings as advisors, their presence can hurt rather than help.

"A stupid move," said former Stanford judicial panelist Ethan Kurzwiel, referring to a student who brought his attorney yet was found guilty of cheating. "He presented a legal defense.... The panel was offended by it."

Campus newspapers have long complained about lack of access to disciplinary hearings.

For this article, reporters requested access to judicial hearings at each campus. The only school to consent was Pepperdine University in Malibu, but the school would open a hearing only for relatively minor dormitory cases that ranged from excessive noise and drunkenness to being partially naked with a member of the opposite sex.

Officials at most schools refuse to even discuss cases, citing the Family Educational Rights and Privacy Act. "The federal law does not want us to violate student rights to confidentiality, even to parents, attorneys or any faculty member," said Douglas L. Zuidema, student conduct office manager at UC Berkeley.

Critics contend that schools hide behind a veil of secrecy to protect their own interests, including the institution's reputation. "This doesn't have as much to do with the privacy as it does with the fear that they will lose control of the [disciplinary] system if the public knows what's going on," said Goodman of the Student Press Law Center.

It's not only the public that can be deprived of information. At Chico State, a male student slapped Rhiannon Clow, 23, in an art classroom in February.

A school official escorted her to the campus police to file a complaint, but the matter was handled administratively.

Clow, however, said she was not invited to the meeting at which her complaint was resolved. And she was dismayed when her attacker was readmitted to class within a week.

When she asked what punishment he received, she said, officials told her that was private but assured her there was no danger: The male student could not be near her without an instructor present.

"If I see him, it makes me feel uncomfortable," Clow said. "I have class with him at night as well. I don't feel they did as much as they should."

Professor Vernon Patrick, chairman of the art department, said the school imposed "stringent conditions" to protect her but also had a duty to guard the assailant's privacy and well-being. "We were actually concerned about him," he said.

Punishment Can Vary Dramatically

Complicated cases routinely cross the desk of Jeannine Wilson, director of student judicial affairs at UC Davis. But she is still haunted by an acquaintance rape case several years ago.

A female student was attacked by her live-in boyfriend during an argument. She went to Wilson seeking help, but refused to bring the case before a hearing or to the police. Instead, she only wanted her boyfriend to get counseling. Wilson felt that the victim's request tied her hands.

During a meeting with Wilson, the boyfriend admitted the rape and agreed to undergo "anger management" classes and counseling, and write a reflective essay. And he would be expelled if he had additional disciplinary offenses.

Wilson said she wonders whether she did the right thing. "I'm not saying [the outcome] is perfect," she said. "But it may actually have been the only reasonable result for this extremely difficult case."

In a similar case at UC Berkeley, a male student raped his ex-girlfriend in 1996 and received no punishment; the victim only wanted him checked for AIDS. But at UC Riverside, a male student was suspended for the 1998 school year for attacking his girlfriend.

UC campuses all have similar conduct codes. But, like private schools, each campus determines its own procedures and sanctions.

"A lot of policies in the university system are left up to individual campuses," said David Birnbaum, the university counsel. The campuses "often are different in their physical settings"--some urban, others suburban.

Cheating can be punished by expulsion or almost nothing at all. Caltech, ranked No. 1 academically by U.S. News & World Report this past year, docks students points for questions on which they cheated.

At UCLA this year, a graduate student received a one-semester suspension for plagiarism. The student also was ordered to rewrite the paper or write a paper about plagiarism, and perform 300 hours of community service.

The philosophical underpinning of these panels is based as much on educational values and personal growth as exacting justice and a pound of flesh.

"We try to avoid the word 'punishment,' though sometimes a decision does resemble punishment," said Caltech Dean Jean-Paul Revel. "The idea is not to rap the student's knuckles."

The emphasis on education, critics say, can come at the expense of fairness.

"While [education] is important, the emphasis should be on due process," said S. Daniel Carter, vice president of Security on Campus, a nonprofit Pennsylvania watchdog group created by the parents of a female student killed at Lehigh University in Bethlehem, Pa., in the mid-1980s.

Last year Pomona's campus court meted out one punishment widely seen as poetic justice. The Phi Delta fraternity had forced pledges to drink alcohol and set up a point system for sexual conquests and photos taken of female students in lewd positions. The penalty: The fraternity was suspended for a year and could be reinstated only if females were allowed to join. It disbanded.

Two other hazing cases at Pomona, both involving the soccer team, had startlingly different outcomes. In the first, the only person punished was a freshman who had to be rushed to the hospital for alcohol poisoning. He was barred from all events at which alcohol was served.

In the second, eight players were punished for forcing rookies to down shots of liquor, shave their heads and dress in diapers. The veteran players were put on probation and required to meet with substance abuse counselors and to plan two alcohol workshops.

"The problem with the system is that there are discrepancies in the sanctions," said Andrew Knuckle, a senior and panelist at Pomona. "We can handle cases like cheating, but for more serious cases . . . we need more direction."

Cases Handled by Student Conduct Offices

Misconduct reports at many California colleges and universities have risen in recent years, according to a survey for The Times. Statistics for the 1998-99 school year, below, show that the number of cases handled by campus judicial systems varies widely. It does not necessarily follow that schools with the most cases have the most misbehavior. The number is influenced by various factors, including school size, standards of conduct, the school's vigilance and reporting methods. For example, alcohol and drug violations at schools such as Stanford and Caltech often are handled and tallied by residential offices separate from campus judicial systems. Here are some categories of violations

School Caltech*

Enrollment: 901

Cases: 24

Number of cases per 1,000 students: 27

Cheating: 21

Alcohol violations: 0

Drug violations: 0

Violent sexual assaults: 0

Physical assaults/threats of violence: 0

Chico State

Enrollment: 14,983

Cases: 325

Number of cases per 1,000 students: 22

Cheating: 29

Alcohol violations: 103

Drug violations: 114

Violent sexual assaults: 0

Physical assaults/threats of violence: 25

Cal State Fullerton

Enrollment: 25,613

Cases: na

Number of cases per 1,000 students: na

Cheating: na

Alcohol violations: na

Drug violations: na

Violent sexual assaults: na

Physical assaults/threats of violence: na

Pepperdine*

Enrollment: 3,035

Cases: 241
Number of cases per 1,000 students:
Cheating: 79
Alcohol violations: 1
Drug violations:
Violent sexual assaults: na
Physical assaults/threats of violence: na

Pomona College*
Enrollment: 1,453
Cases: 15
Number of cases per 1,000 students: 10
Cheating: na
Alcohol violations: 6
Drug violations: 0
Violent sexual assaults: 2
Physical assaults/threats of violence: 0

Stanford
Enrollment: 14,144
Cases: 27
Number of cases per 1,000 students: 2
Cheating: 27
Alcohol violations: 0
Drug violations: 0
Violent sexual assaults: 0
Physical assaults/threats of violence: 0 *

UC Berkeley
Enrollment: 31,011
Cases: 496
Number of cases per 1,000 students: 16
Cheating: 148
Alcohol violations: 72
Drug violations: 15
Violent sexual assaults: 8
Physical assaults/threats of violence: 126

UC Davis
Enrollment: 24,866
Cases: 1,037
Number of cases per 1,000 students: 42
Cheating: 421
Alcohol violations: 154
Drug violations: 33
Violent sexual assaults: na
Physical assaults/threats of violence: 41

UC Irvine†
Enrollment: 16,654
Cases: 200
Number of cases per 1,000 students: 12
Cheating: 68
Alcohol violations: 21
Drug violations: 14
Violent sexual assaults: 1
Physical assaults/threats of violence: 5

UCLA
Enrollment: 30,500
Cases: na
Number of cases per 1,000 students: na
Cheating: na
Alcohol violations: na
Drug violations: na

Violent sexual assaults: na
Physical assaults/threats of violence: na *
UC Riverside
Enrollment: 10,602
Cases: 269
Number of cases per 1,000 students: 25
Cheating: 131
Alcohol violations: 8
Drug violations: 10
Violent sexual assaults: 0
Physical assaults/threats of violence: 36

UC San Diego
Enrollment: 19,370
Cases: 1,854
Number of cases per 1,000 students: 96
Cheating: 73
Alcohol violations: 762
Drug violations: 48
Violent sexual assaults: na
Physical assaults/threats of violence: 53

UC Santa Barbara
Enrollment: 19,363
Cases: 87
Number of cases per 1,000 students: 5
Cheating: 13
Alcohol violations: 0
Drug violations: 0
Violent sexual assaults: 0
Physical assaults/threats of violence: 1

UC Santa Cruz
Enrollment: 10,981
Cases: 580
Number of cases per 1,000 students: 53
Cheating: 11
Alcohol violations: 166
Drug violations: 16
Violent sexual assaults: 2
Physical assaults/threats of violence: 11

USC
Enrollment: 25,000
Cases: 753
Number of cases per 1,000 students: 30
Cheating: 145
Alcohol violations: 137
Drug violations: 37
Violent sexual assaults: 4
Physical assaults/threats of violence: na

Notes: UCLA and Cal State Fullerton officials say they keep no statistics and declined to compile them; "na" means data not available.

- * Undergraduate only.
- Includes violations at dorms.
- + 1997-98

Source: Individual schools
Compiled by: Reporters at UC Berkeley Graduate School of Journalism

This article was reported and written by Chris Jenkins, Abbi Kaplan, Sam Kennedy and Marian Liu for a UC Berkeley Graduate School of Journalism course taught by Times projects editor Tim Reitman.
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and literature on crime prevention and personal safety; are available through the Department's investigations/crime prevention office.

In order to increase awareness of campus safety at UCR, incidents of criminal activity within the campus community are publicized in many ways: distribution of the *UCPD Annual Report and Crime Statistics*; maintenance of an ongoing "press log"; dissemination of Community Crime Alert Bulletins (posters); the "Rap Sheet" column in the *Highlander* student newspaper; an Internet Web page (<http://www.police.ucr.edu>); "Crime Watch" columns in campus housing newsletters; regular police activity reports to campus housing administrators; and through crime prevention programs.

APPENDIX D

Campus Crime Statistics

While crimes do occur on campus, the rates of both violent crime and property crime are lower than in the surrounding community. The following data is provided in compliance with the Federal Student Right-to-Know and Campus Security Act, and similar California legislation. Additional data, along with required campus policy and program information is available. For further information, contact the UCR Chief of Police, (909) 787-4427.

Reported incidents of crime at UCR

Reported incidents of violent crime comparing UCR to the larger area

Reported incidents of property crime comparing UCR to the larger area

Violent and property crime arrests

Arrests for other offenses

See Subject Abbreviations for interpreting course listings.

[1999-2000 UCR Catalog main page](#)

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Fall 2000 class listings are available now.
See the [Schedule of Classes](#)

Visit the [UCR Calendar of Events](#)
This campus-wide calendar lists performances, special seminars, meetings, and special announcements of interest to the campus community.



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October 2, 2000

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Dear Mr. Castress:

As you may know, the "Sacramento Bee" recently ran a series of articles detailing alleged campus crime reporting deficiencies under 20 USC § 1092(f), the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act," at all nine of the University of California's campuses. The series details the following allegations:

- Two-thirds of the campuses, including UC Davis, omitted sexual assaults reported to university sources other than police. Some universities also didn't gather crimes occurring at off-campus sites such as fraternities and those reported to medical centers.
- In some cases, crimes were miscategorized. UC Riverside police say men cannot be raped; UC San Diego classifies sexual assaults under the broad heading of "physical abuse."
- UC Irvine and UC Riverside failed to compile detailed crime statistics as required by the Clery Act. Instead, the campuses used less-exhaustive FBI statistics.

Given the seriousness of the allegations made in the "Rape: An invisible epidemic" series of articles we are formally asking the Department to initiate a system-wide program review of compliance with the campus security regulations by each of these schools. We previously filed a complaint against the Riverside campus on May 11th.

We are particularly concerned about how administrators at the Davis campus have interpreted the law's regulations to justify excluding certain crimes. A separate complaint has been prepared to address compliance at the Davis campus and it is enclosed.

We hope that we can count on the Department to resolve these concerns promptly.

Sincerely,

S. Daniel Carter
A National Tax Exempt Organization 501 (c) (3)

Please Reply To:
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**Complaint Of Non-Compliance With The
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
(Crime Awareness and Campus Security Act of 1990)**

20 USC § 1092(f); 34 CFR 668.47 [July 1, 1994-June 30, 2000]

October 2, 2000

**Period Covered By Complaint: Calendar Years 1996, 1997, 1998
Campus Security Report Due: September 1, 1999**

Participating Institution

**The University of California, Davis
One Shields Avenue
Davis, CA 95616
<http://www.ucdavis.edu/>**

Brought By

**Security On Campus, Inc.
601 South Henderson Road, Suite 205
King Of Prussia, PA 19406-3596
<http://campussafety.org/>**

Filed With

**U.S. Dept. of Ed. Region IX Ofc.
50 United Nations Plaza, Room 266
San Francisco, CA 94102-4987
<http://www.ed.gov/>**

Introduction

On September 24th and 25th of this year "The Sacramento Bee" (<http://www.sacbee.com/>) newspaper published a series of articles entitled "Rape: An invisible epidemic" by reporters Terri Hardy and Matthew Barrows alleging various campus crime reporting deficiencies under the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act" at the Davis campus of the University of California. Copies of these articles are enclosed for your review.

This complaint summarizes those allegations and addresses certain of the institution's interpretations of the Act that we believe to be incorrect. We believe that the seriousness of the allegations warrants a prompt, on-site program review of past and present compliance with the Act and the relevant implementing regulations.

Additionally, in response to these allegations the administration of the Davis campus has also written to the U.S. Department of Education headquarters in Washington, DC encouraging "the Department to visit our campus to review our crime reporting practices." We hope that you will be able to do this in the very near future.

Jurisdiction

The U.S. Department of Education's Region IX office has jurisdiction over this matter pursuant to "Dear Colleague" letter GEN-96-11 issued in May of 1996. In relevant part it states that an "individual desiring to file a complaint alleging that an institution is not complying with these regulations should contact the Director of the Regional Office that serves the State in which the institution is located."

Crime Statistics Not Accurately Disclosed

The University of California, Davis allegedly "omitted sexual assaults reported to university sources other than police" in their annual campus crime statistics according to the September 24th article "UC keeps sex crimes in shadows." Although not alleged, it is possible that crimes other than sexual assaults were also omitted.

According to "UC Davis touts its charms, downplays its violence" which ran the next day:

At UC Davis, student victims treated for sexual assault at hospitals, or who reported a crime to a counselor, a dorm adviser or a coach, have not been counted unless they also pursued the matter with campus police. Even if the student reported the crime to the campus administration and internal disciplinary action was taken, the crime wasn't included in the campus's Clery report.

The disclosure in annual statistics of incidents reported to all campus security authorities, defined as "any official of the institution who has significant responsibility for student and campus activities" not just campus police, was at the time of the disclosures in question required by 34 CFR 668.47(a)(6)(i).

In not disclosing these statistics the administration of the Davis campus is relying upon guidance included in the "preamble" of the original Campus Security Act regulations published in the April 29, 1994 "Federal Register" which on page 22318 states:

The occurrence of a crime on campus need not be disclosed to students and staff under these regulations unless the appropriate law enforcement officials conclude that the crime did occur with the same degree of certainty they would require for purposes of reporting under the FBI's Uniform Crime Reporting System.

In a May 11, 2000 letter written to Terri Hardy, one of the authors of the "Sacramento Bee" articles, Stan Nosek, the institution's Information Practices Coordinator cites this guidance extensively. The institution's police department also seems to rely heavily upon it, Capt. Michael Corkery, for example, said in the series:

If we can't talk to the victim, we can't report it as a crime.

We believe, however, that the interpretation applied by the administration of the Davis campus is in error.

Given the totality of guidance provided by the Department we interpret the guidance they cite to mean that a campus law enforcement unit may review information provided by other campus security authorities to determine if the necessary elements of each crime are met not that they are required to interview witnesses or otherwise adhere to UCR standards exclusive to police agencies. Any other interpretation would render the requirement that other officials report effectively useless and can not be supported.

Evidence of our interpretation is found in "Dear Colleague" letter GEN-96-11 which makes it clear that:

An institution is not relieved of compliance with the reporting requirements of the campus security regulations when the institution refers a matter to a disciplinary committee, rather than to the institution's law enforcement unit or directly to the local authorities.

It is also evidenced in the Campus Security Act program reviews undertaken by the Department since 1996. The Department, for example, cited Miami University of Ohio for failing to collect this information in a 1997 Program Review (PRCN 199740814014):

The institution failed to properly gather the required crime statistics from all pertinent sources. All campus officials with significant responsibility for student and campus activities are not surveyed for data for possible inclusion in the report, as required by 34 CFR 668.47(a)(6).

Here the Department is clearly requiring institutions to survey their staff, not individual victims who may have reported an incident to one of those staff members.

The most recent implementing regulations, published in the Federal Register on November 1, 1999 (vol. 64, no. 210), also give credence to our interpretation:

We reiterate the language of Sec. 668.46(c)(7) that requires an institution to use UCR guidance when defining and classifying crimes.

The FBI's Uniform Crime Reporting (UCR) handbooks, both the 1984 standard edition and the National Incident Based Reporting (NIBRS) edition, serve as the source of the crime definitions used by the Clery Act's implementing regulations. That is straightforward and not at issue here. What "classifying" means here, however, is crucial.

"Classifying is determining the proper crime categories in which to report offenses in UCR," according to the handbook. This type of guidance would include determining which crime to report if more than one type of crime happened during a single incident.

Here it is important to note that the discussion in the federal register refers to commenters asking "that the preamble make clear than an institution must use both the UCR definitions and standards when reporting crime." The term "standards" was not included in the response.

The Secretary clearly decided not to require that institutions use the UCR "standards" instead requiring them to use only the guidance regarding definitions and proper classification.

Previous regulatory guidance issued in 1994 which stated that institutions should use UCR definitions had not proven sufficient to address concerns about certain situations such as when more than one crime happens during a single incident. The regulations themselves never required, and do not now, the use of UCR standards however.

Use of the UCR "standards" which are designed exclusively for law enforcement agencies would not be appropriate in this context where additional institutional officials are clearly being required to report. We believe that this careful choice of words was deliberate and should be adhered to.

Nosek also argues that the annual campus crime statistics need not include crimes reported to institutional personnel who have "significant counseling responsibilities." In justifying the exclusion of incidents reported to campus counselors he cites 34 CFR 668.47(f) which provides in relevant part that the term "campus security authority" includes:

An official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.

Guidance contained in "Dear Colleague" letter GEN-96-11, however, makes it clear that the Secretary of Education only intended this exception to apply to the "timely warning" requirements and not the annual statistics:

Campus officials with "significant counseling responsibility," however, are not subject to the timely warning requirement...This exception to the timely warning requirement does not apply to the institution's statistical reporting obligations. All officials with significant responsibility for campus and student activities are required to provide information for preparation of the annual statistical report.

This view is also clearly articulated in the Campus Security Act program reviews undertaken by the Department since 1996. The Department, for example, cited Moorhead State University (Minnesota State University, Moorhead) for failing to collect this information in a 1996 Program Review (PRCN 199630513007):

For example, occurrences of covered crimes reported to the "MSU Counseling Center" were not collected and included in the annual campus security reports' statistics. Officials of the institution involved in student counseling are not excluded from the institution's statistical reporting obligations (counselors are excluded only from the timely warning requirements of 34 CFR 668.47(e)).

Additionally, in 1998 the American Psychological Association successfully asked the Congress to amend the campus security reporting obligations to secure an exception for "privileged" information so that professional psychological counselors would no longer be required to report any information. The new guidance found in the current implementing regulations detailing that professional and pastoral counselors do not have to report is based on this amendment.

If there had been no obligation for institutions to report statistics known to campus counselors in the past, as the institution argues, there would have been no need for either the statutory or regulatory amendments.

Conclusion

The allegations raised by the "Sacramento Bee" series "Rape: An invisible epidemic" are very serious and we hope that you will act on them quickly. Students are put at unnecessary risk when information about campus crime is kept from them in this manner because they are unable to make informed decisions about precautions that they may choose to take.

This situation is especially serious because other schools in California and across the country will be closely watching. If this institution is permitted to exclude incidents based on the criteria they have established, other schools will likely follow suit, thus weakening this critically important law.

In addition to copies of the newspaper articles, copies of correspondence from the institution are also enclosed for your reference. We believe, though, that a full review of institutional records, including the annual campus security reports, will be necessary to resolve this complaint. The newspaper reporters did not obtain access to all of the records that would be required to fully review all compliance issues, but the Department would be permitted to review these records as part of a full on-site program review.



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Mr. Jim Castress, Director
Area Case Management Team
U.S. Dept. of Ed. Region IX Ofc.
50 United Nations Plaza, Room 266
San Francisco, CA 94102-4987

Dear Mr. Castress:

The University of California, Davis Police Department recently provided us with approximately 70 pages of material concerning their efforts to comply with the federal campus security disclosure requirements. I have enclosed copies of this complete set of documents and ask that you consider it a supplement to the materials we filed yesterday regarding alleged campus crime reporting deficiencies under 20 USC § 1092(f), the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act" at nine UC campuses.

Although they have begun more extensive reporting of crime statistics reported to campus security authorities other than the police, we remain concerned that the Davis campus may not yet be in full compliance with the requirements. Among other concerns, they assert that the crimes reported to these other officials are "incidents" and not crimes.

Published accounts have stated that these expanded disclosures are being undertaken "voluntarily" by the institution, but we contend that they are, and have been, obligated to disclose these statistics under the provisions of the federal campus security disclosure law. We hope that the Department will be able to help ensure that these disclosures are complete and are continued in the future.

The issues raised by the "Sacramento Bee" articles are very important to us, and are also of great interest to the higher education community. We would greatly appreciate being kept apprised of your progress in this review, and under the Freedom of Information Act request that you provide us (at the Knoxville, TN address listed above) with copies of any and all correspondence or other documentation produced subject to our complaints.

Thank you in advance for your time and attention to these important issues.

Sincerely,

S. Daniel Carter

A National Tax Exempt Organization 501 (c) (3)

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**Southwest Case Management Division
Transmittal Sheet**

School: OPE ID#

ACN: Issue Date (Month/Day/Year)
Assign Date

CASE MANAGEMENT DOCUMENTS FOR SIGNATURE/APPROVAL:

- | | |
|---|--|
| <input type="checkbox"/> Recert TR Ltr | <input type="checkbox"/> Draft Correspondence |
| <input type="checkbox"/> Recert Approval (Ltr _PPA) | <input type="checkbox"/> Inspector General |
| <input checked="" type="checkbox"/> Other <input type="text" value="Letter"/> | <input type="checkbox"/> Office of the General Counsel |
| | <input type="checkbox"/> Control Letter |
| | <input type="checkbox"/> Other <input type="text"/> |
| <input type="checkbox"/> Audit | |
| <input type="checkbox"/> FAD/TR Letter | Correspondence Type (C or X) <input type="text"/> |
| <input type="checkbox"/> ARB ACD/Code Sheets | |
| <input type="checkbox"/> Attachments | |
| <input type="checkbox"/> Close-out Audit/Audit Tracking Letter | |
| <input type="checkbox"/> Pell Adjustment (Z, Q*, P*) *Closed | <input type="text"/> |
| <input type="checkbox"/> Other <input type="text"/> | |

Functional Specialist Co Team Leader

DATE	FROM	TO	SUBJECT	INITIALS	DATE
10/11/00	Rex Mandel	Jim Castress	Letter to UC security contact		
10/11/00	MSe	Jm			
10/11/00	JSC	SMY			
OCT 12 2000	M		WRC		

Return To comments:

SUNDAY

September 24, 2000

The Sacramento Bee

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www.sacbee.com

RAPE
Universities want you to think their campuses are like mom and apple pie—but students are getting raped, mugged and shot and we don't know about it.

"

U.S. Rep. Howard "Buck" McKeon, R-Santa Clarita

UC keeps sex crimes in shadows



Bee photograph/
José M. Corzo

Jennifer Beeman, head of the UC Davis violence prevention program, says campuses suffer from an "epidemic" of violence against women.

First of two parts

By Terri Hardy and Matthew Barrows
Bee Staff Writers

Four men carjack a UC Berkeley student two blocks from campus, lock the woman in her trunk, drive her away, then rape her. It didn't count.

A man tries to rape his former girl friend in a grassy area on the UC Davis campus. Later that day, he sexually assaults her at her home. It didn't count either.

Two men attack a female UC Riverside student jogging at the university football stadium. They hit him on the head with a pole, drag him into the bushes, tie him up and force him to perform oral sex.

Again, didn't count. These are no phantom victims. The crimes were reported to authorities, yet do not appear in campus sexual assault statistics.

A five-month Bee investigation—including dozens of interviews with university officials, lawmakers, members of watchdog organizations and victims, as well as an extensive document search—found that reports of rapes and sexual

assaults at University of California campuses are seldom made public each year despite a decade-old federal law created to force colleges to do so.

Lawmakers and watchdog groups say prestige-conscious universities historically have hidden their campus crimes, leaving in the dark those who have a right and need to know: parents, students and employees.

"Universities want you to think their

Dig below the numbers to gauge a school's safety

By Matthew Barrows
Bee Staff Writer

Parents and students can scrutinize university crime statistics, but numbers aren't the only way to gauge school safety, say college counselors and campus security officials. "It's reasonable to look at the statistics, but I wouldn't base a decision on them," said Pilar Jennings, director of college counseling at Princeton Review. "They need to see the school ... that's going to give them the best sense" of what's happening on campus.

High crime statistics don't necessarily mean the school is dangerous, officials cautioned. Universities that do a

better job of making students aware of crimes will have higher numbers. One of the first questions parents and students should ask when touring a campus, said Lt. Adam Tejada with the UC Berkeley Police Department, is whether the school has its own police force or hires security guards.

"That might make a difference to me," he said. "Is the first person there someone making \$10 an hour (who) got six hours of (security guard) training ... or is someone who's been through a whole police academy?"

Tejada said parents also can contact the local police about crime outside the campus boundaries, asking for statistics in those areas and the number of

officers patrolling areas off campus. Another concern among parents is residential housing, Jennings said. Dormitories should have alarms and students should be required to have identification to enter those areas, she said. Parents should ask whether there's a full-time attendant keeping track of residents at on- and off-campus student housing in urban and areas.

Other questions to ask:

■ Do urban schools offer seminars on safety and street smarts? Is there a seminar for using public transportation?

A national watchdog group called Security on Campus Inc. also offers a brochure containing campus safety tips and ways to evaluate prospective schools for safety. The group's Web address is www.soconline.org.

This month, the Department of Education launched its own Web site, <http://ope.ed.gov/security/>, containing crime data from more than 6,000 colleges and universities.

And when it comes to mulling over

they'd be more suspicious of schools with low numbers than high ones. Jennifer Beeman, who runs UC Davis' Campus Violence Prevention Program, said nearly all colleges and universities struggle with how to handle acquaintance rape and other sex crimes.

High numbers in those categories indicate that victims know where to turn, shows victims they are not alone in coming forward and reveals a university actively trying to prevent the problem, she said.

"I wouldn't want to send my kids to a college that reported no rapes," Beeman said. "What that tells me is that students on campus aren't getting the full story."

campuses are like mom and apple pie—but students are getting raped, mugged and shot and we don't know about it," said U.S. Rep. Howard "Buck" McKeon, R-Santa Clarita, who has pushed for stronger campus safety measures. Though top administrators in UC's Office of the President acknowledge they do not audit campus crime statistics,

Please see RAPE, page A10

From page A1

they categorically deny there are systemwide problems or any significant violations of the law.

"All the input and interaction we've had with campuses has led us to believe we are substantially in compliance," said Martha Winkler, executive assistant to the acting associate vice president of information, resources and communications. "We believe our campuses are making a good faith effort."

The Bee's scrutiny of the federal campus crime reporting law, called the Clery Act, at nine UC campuses found a system in disarray, with almost no oversight by the government or UC President Richard Atkinson's office. Violations include:

■ Two-thirds of the campuses, including UC Davis, omitted sexual assaults reported to university sources other than police. Some universities also didn't gather crimes occurring at off-campus sites such as fraternities and those reported to medical centers.

■ In some cases, crimes were miscategorized. UC Riverside police say men cannot be raped; UC San Diego classifies sexual assaults under the broad heading of "physical abuse."

■ UC Irvine and UC Riverside failed to compile detailed crime statistics as required by federal law. Instead, the campuses used less-exhaustive FBI statistics.

The result: annual crime reports provided to students and parents that create a misleading portrayal of safety at UC campuses, said S. Daniel Carter, vice president of Security on Campus Inc., a national watchdog organization.

"At schools, especially rural schools, that don't appear to have the threat of crime, students are lulled into a false sense of security that can leave them unprepared," said Carter, who has participated in negotiations with the federal government over the implementation of the law. "Students and parents can't make informed decisions about where to go to school or what precautions to take."

The Bee first looked at how sexual assault statistics were reported at UC Davis, after a student was stabbed and thought to have been raped in her campus apartment in April. Police later determined that the woman had not been sexually assaulted.

To view those statistics in context, The Bee's probe was broadened to include all UC campuses.

In the most recent statistics compiled to comply with the federal law, the nine UC campuses in 1998 reported a total of 60 forcible sex offenses, including rapes.

That same year, the Bee found at least 190 cases of rapes and forcible sex offenses reported to officials other than campus police at those nine campuses. Without better reporting practices, it's virtually impossible to tell how many would meet the Clery requirements and the figure is by no means comprehensive.

It does not include any of the 186 people who sought counseling at UC Davis' campus violence-prevention program, for instance, because university officials said they don't know how many were victims of sexual assault as opposed to domestic violence or stalking.

It doesn't include any of the 45 physical abuse cases reported to UC San Diego's internal student discipline body in 1998, because the university does not separate out sexual assaults. It also does not include 27 rapes or attempted rapes reported to the Santa Barbara County Sheriff's Department in the predominantly student community of Isla Vista adjacent to UC Santa Barbara.

The American Medical Association reports that one out of every four college-age women is a victim of rape. But experts say as few as 10 percent of rape victims report the crime. And Carol Mosely, the coordinator of UC Santa Barbara's rape prevention education program, said victims rarely want to tell law enforcement officers.

In 1998, just six forcible sex cases were reported to police at her campus.

"If I reported what I really thought was going on, I would report 500 sexual assaults every year," Mosely said. "People may think I'm making this up, that I'm some sort of Femi-nazi or something. But these numbers that we see in these reports just aren't realistic. They're a drop in the bucket."

Gail Abarbanel, director of the Rape Treatment Center at Santa

Monica-UCLA Medical Center and co-author of a book about sexual assault on campus, contends that with so few victims reporting, crime statistics are essentially worthless. On the other hand, Mosley said that even though the reports will never be comprehensive, students have the right to as much information as possible.

Underreporting of sexual assault not only poses a problem for law enforcement officers, who can't pursue prosecution, it also leaves an information gap for even the most diligent universi-

ties.

But The Bee found that many universities obscure the numbers by ignoring or omitting what little information they do have.

Carter, of the campus watchdog group, said a systemwide investigation into the nine UC campuses is warranted and should be conducted by the U.S. Department of Education — the agency charged with implementing and monitoring the Clery law. Already this year, his group has filed a complaint against UC Riverside, claiming that the school fails to include in its crime statistics sexual assaults dealt with through student disciplinary proceedings, as the law requires.

Based on The Bee's findings, Congressman McKeon, who has fought for the federal Education Department to step up enforcement of the federal law, vowed to investigate problems with UC compliance.

"It's not too much to ask (universities) to inform students about serious crimes," McKeon said, adding that the Education Department's "incompetence" in pursuing violations has only exacerbated the problem.

Education Department spokesman Jane Glickman defended the agency's performance, saying it does not "cavalierly" cite or fine colleges, preferring to emphasize assistance to schools over sanctions.

Rape: False sense of security given

Tarnished image

All those zeroes. No rapes, no attempted rapes. To Amber Twitchell, the low crime statistics at UC Davis, the small-town charm, the assurance of safety offered peace of mind.

Twitchell was on the Internet in late 1999, comparing statistics posted on each UC campus's Web site. UC Davis was the clear winner.

A few weeks earlier, Twitchell, a sophomore at UC Santa Barbara, was raped in her off-campus house by two men after a party. After a few counseling sessions on campus, Twitchell knew she wanted a fresh start at another school.

Within a month, she enrolled at UC Davis. Almost immediately after her arrival, she said she discovered those soothing statistics were inaccurate.

"The first friend I made had been raped in her dorm room, but it never appeared in those numbers," Twitchell said. Although her friend told a rape counselor about the incident, it doesn't appear in the campus reports because she never went to police.

Said Twitchell: "Sexual assaults are a problem everywhere, regardless of what those Web pages tell you."

The Bee usually does not name rape victims, but an exception was made for Twitchell because she has used her personal experience as part of her crusade for better reporting.

Ask campus police officials or rape counselors, and they acknowledge that sexual assaults are underreported on UC campuses. Jennifer Beeman, program manager for UC Davis' campus violence prevention program, said sexual assaults against women on college campuses are a "largely invisible epidemic."

But campus statistics available to students suggest the crime hardly occurs at all. In fact, the UC Davis Web site that won over Twitchell does not make crime statistics easy to find and highlights the lower FBI numbers for rapes and attempted rapes. There is a separate link to the Clery report, but Twitchell never found it.

Only after months of questioning by The Bee, on the eve of publication of this investigation, did UC Davis publicly release more comprehensive Clery data for the first time ever, showing 15 forcible sex offenses on or near campus, compared with four in 1998.

Real numbers often aren't published because it could tarnish a campus's image, according to one UC campus official, who re-

quested anonymity.

"No one wants to be the Compton of the UC system," the source said, referring to the Southern California city's reputation for high crime.

Lance Gilmer, student conduct coordinator for UC Riverside, said he and his colleagues from other campuses are frustrated by administrative decisions to publish crime reports devoid of statistics collected by women's centers, residence halls and judicial affairs — the campus office that rules on internal disciplinary cases.

"Universities aren't reporting like they're supposed to, and we all know it," Gilmer said. "It's just that no one is forcing them to do it."

Several experts noted that higher rape numbers aren't necessarily a warning of something terribly wrong on campus. Instead, they indicate a system where victims are comfortable enough to come forward.

Parents' crusade

In 1986, freshman Jeanne Clery was raped and strangled by a fellow student in her Lehigh University dorm room. Her parents, Connie and Howard Clery, said they subsequently learned that the Bethlehem, Penn., college wasn't forthcoming about crimes on campus — a problem echoed at universities across the country.

Joined by the families of other

slain students, they helped pass a 1990 law. And with settlement money received from Lehigh University, the Clerys formed the watchdog group Security on Campus.

"Who could imagine that colleges don't care about the safety of their students nearly as much as they care about their images?" Connie Clery said.

The Clery Act requires every college to publish an annual report for several crime categories along with statements of security policies — or risk losing federal funding. The report must be distributed to each student, prospective student and employee.

Over the years, the law evolved. To address concerns that colleges were keeping crimes under wraps, it was amended to specifically include incidents that occur in public areas adjacent to each campus and cases referred to administrators for internal discipline. The law also was weakened, however, when some counselors were excluded from the reporting requirement because of confidentiality concerns.

What has never changed is the requirement that statistics be gathered from an array of campus sources that could include deans, residence advisers and coaches. That stipulation grew out of the recognition that students are likely to report a crime to someone other than police, said Maureen McLaughlin, deputy assistant secretary for policy, planning and innovation for the

U.S. Department of Education. Broadening the pool of data provides a more comprehensive look – and higher numbers – than the yearly statistics campus police already compile for the FBI. The FBI numbers include only the crimes reported directly to campus police and only crimes under their jurisdiction.

A rape at an off-campus fraternity, for instance, would not be counted in those statistics, but would be in Clery reports.

Top administrators from UC's Office of the President defend systemwide omissions from the Clery statistics. Nancy Coolidge, coordinator for government relations in the student academic services, said the administration believes the federal law did not require other sources to be included until this year – a conclusion that Education Department officials say is incorrect.

"It was a key provision from the beginning," McLaughlin said.

Even when portions of the law were read to UC officials underscoring those requirements, they continued to deny that campuses are in violation.

Yet in 1994, UC's Office of the President sent a letter to campuses noting that federal regulations mandate reporting by campus police and other campus authorities.

The president's memo left it to each campus to decide what other school authorities "if any, should be responsible for accepting crime reports."

Education Department officials, however, maintained there should be no confusion. For years, the agency has made it clear to campuses that statistics must be gathered broadly – through letters, workshops and meetings, McLaughlin said.

Mark Goodman, executive director of the Student Press Law Center, a nonprofit agency active in amending the Clery Act to close loopholes, accused some universities of intentionally misinterpreting their reporting obligations.

"They chose not to include information from other sources as a way to report the bare minimum, as a way to avoid embarrassment," Goodman said. "They'd prefer not spreading the word, particularly about sexual assaults."

'Fat, dumb and happy'

Nowhere in the UC system are Clery violations so pronounced as at UC Riverside and UC Irvine. Over the last 10 years neither of the two schools compiled any Clery statistics, instead republishing FBI numbers.

When presented with that information, top campus officials at those two campuses acknowledged they misunderstood the law.

Kathy Hooven, UC Irvine's campus chief of police, said she has received updates on changes to the federal law but never realized her office was required to gather the extensive data.

"We knew victims were reporting elsewhere," Hooven said. "But I was sitting here fat, dumb and happy, not aware we were supposed to put all that information in one place."

UC Riverside's student services department was responsible for compiling the report and ensured campus police each year that it had the task under control," said Steven Staggs, assistant chief of police.

"We've become aware there are a lot more components to this and student affairs was not reporting correctly," Staggs said. "It's a critical, critical issue and we don't want to give the appearance that we want to underreport, mislead or hide anything."

Irvine and Riverside officials said that as a result of questions raised by The Bee, they would be changing their procedures.

At UC Berkeley, campus police Lt. Adán Tejada said university police chiefs have been told on several occasions that they are responsible for compiling both Clery and FBI statistics. However, he said, faced with limited resources and myriad responsibilities, campus police decide they have little time to spend preparing the Clery report.

"It's about cost-benefit analysis: What happens if you don't do it and what are the chances you'll get caught," Tejada said. "Let's face it, who would you rather (tick) off, the FBI or the Department of Education?"

The guessing game

Lax enforcement by the federal education department has allowed colleges across the country to get away with breaking the federal law.

In the 10 years since the law's inception, the education department has fined only one campus for violations and department officials were unable to say how many in-depth reviews they have conducted. Glickman, the U.S. Department of Education spokeswoman, estimated there have been "approximately 10" such reviews.

There is no set schedule for reviewing campuses and no UC campus has ever undergone a review, although a review or site visits currently are being considered because of recent complaints.

McLaughlin said the department typically focuses on institutions that are at risk of defaulting on student loans.

Out of 6,600 campuses the department oversees, there had been 367 routine audits and program reviews as of July 28, 2000. Most were of technical or trade schools with "mostly minor" violations, Glickman said.

"The DOE seems to selectively enforce what they want to enforce – and they don't seem to want to enforce this law," said Congressman McKeon, who co-sponsored a resolution in 1998 calling for tougher oversight.

Explanations quickly turn into finger-pointing.

Please see RAPE, page A17

Rape: Schools say regulations unclear

From page A16

McLaughlin said the education department takes its oversight responsibilities "very seriously."

University officials and campus police repeatedly complained in interviews that compliance is nearly impossible because they cannot get the Department of Education to clarify the regulations.

Instead, university officials said they have been forced to play a guessing game: examining the department's reviews of other campuses for clues about how to follow the law.

"That's how we find out what we're supposed to be doing: We watch other people getting in trouble," said Jeanne Wilson, director of judicial affairs for UC Davis and among those responsible for compiling the campus's Clery report.

Final guidelines for implementing the law, including definitions of crimes, weren't available to campuses until 1994. Then, citing lack of resources, the Education Department missed a 1995 deadline to issue a progress report to Congress.

The first real data came from another source. In 1996, two University of Cincinnati professors, Chunmeng Lu and Bonnie Fisher, published a study of how colleges were responding to the law and found "a consistent pattern of noncompliance."

The next year, the General Accounting Office, Congress' investigative arm, charged in a report that the department had been slow to oversee the law and had "only recently begun a systematic effort to monitor compliance."

In response to the criticism, the department this month launched a Web site to publicize campus crime statistics, <http://ope.ed.gov/security>. So far, only UC Santa Cruz is included.

With little help available from the education department, some university officials believe that the University of California should step in.

Mike Sorenson, crime prevention officer at the University of California, San Francisco, said the Office of the President should

make it clear that the report is a priority.

"Campuses try their best, but if you really want to comply with Clery it requires one person working on this full time all year," Sorenson said. "Instead, people worry about it during spring break or summer vacation. It's put out under a crisis environment."

Search for loopholes

UC officials gathered behind closed doors in Oakland last December with the system's attorney. A chief topic of discussion, according to UC Berkeley's Tejada: widespread violations of the Clery law and congressional pressure to impose fines.

University officials recognized that changes needed to be made, Tejada said. Subsequently, officials from five campuses told The Bee that numbers in this year's report will be higher, reflecting statistics from several campus officials and from crimes in areas surrounding the campus.

While they agree the federal law is well-intended, few educators and law enforcement officials like it. They contend that unclear language and several subsequent amendments have rendered it difficult to understand and impossible to follow.

Victims, safety advocates and several lawmakers blame colleges for creating the need for those amendments themselves by searching for loopholes to hide crimes.

Perhaps the most infamous example involved not a rape, but a shooting at the University of Pennsylvania. Campus police excluded the shooting of Patrick Leroy from its 1996 report because Leroy was shot on a city walkway that ran between two campus buildings.

After public outcry, Congress amended the Clery law in 1998, making it clear that colleges must include crimes from areas immediately surrounding campus.

The same year as the Leroy shooting, four men approached a 20-year-old student unlocking her car parked two blocks from

the UC Berkeley campus. The men locked her in her trunk, drove her away from the area and raped her. The crime did not appear in the Clery statistics, police said, because in 1996 the law did not specify that areas surrounding the campus had to be included.

If the carjacking and rape happened there today, Tejada said, the crime would appear in the statistics.

At UC Riverside in 1997, the man forced to perform oral sex on the campus track reported the crime to police. Instead of classifying the crime as a forcible sex offense, it was listed as an aggravated assault. The only explanation proffered by police: Men can't be raped, said Jack Chappell, campus spokesman.

"That's unconscionable," said Carter, adding the law's definitions were not gender specific. "It's clearly a device the campus is using to get out of reporting a serious crime."

In testimony before Congress, watchdog groups and victims said colleges also hide crime numbers by dealing with them through secret internal disciplinary measures.

At UC San Diego, the problem persists, campus police said. Sex offenses reported by campus officials vanish, reports indicate. If they are used in the Clery report at all, they are classified as

RAPE IS A SEX CRIME
THAT IS NOT
REGARDED AS A
CRIME WHEN IT
LOOKS LIKE SEX

JUNE 2, 1995 DAVIS

Jennifer Beeman keeps a collection of posters, pins and other objects on the wall in her UC Davis office that portray her views on the subject of sexual assaults against women. She says counselors are reluctant to report the number of victims they see for fear of discouraging victims from reporting.

"physical abuse" - a category that includes everything from pushing to rape, said Nick Aguilar, director of student affairs and judicial affairs, which handles internal student discipline cases.

The practice continued even after Detective Sgt. Robert Jones, the UC San Diego campus police officer in charge of the Clery report, said he asked Aguilar to retool his classification process to match federal law by reporting sex offenses as a separate category. This year, Aguilar agreed and said he hopes the process can be completed for the 2001 report.

UC San Diego doesn't collect crime statistics from the school's medical center because it is "too far away" from the La Jolla campus, Jones said. UCLA doesn't receive rape statistics from UCLA's medical center - where most sexually assaulted students are treated - because the medical center doesn't separate out which patients are students.

Information on crimes occurring at off-campus fraternities and sororities, as well as areas surrounding the campus, usually is provided by local police. But only two schools, UC Berkeley and UC Santa Barbara, get complete information from local police and include those sexual assaults in their reports.

UC officials said it's almost impossible to persuade busy police departments to compile spe-

cial statistics for them, especially since there is no penalty for non-compliance.

UC Davis officials, for instance, said they knew nothing about a case in 1998 where a woman reported that her former boyfriend attempted to rape her in a park on campus, then later raped her at her apartment. The Davis Police Department provided the information to The Bee.

Protecting victims

Each year, UC counselors see scores of sexual assault cases, but most are not counted in the Clery report.

Beeman said UC Davis counselors are reluctant to report how many clients they see, fearing that the practice will scare victims from reporting.

"Rape counselors hide behind their privilege of confidentiality," charged UC San Francisco's Sorenson.

Amy Levine, the new director of the Center for Gender Equity at UC San Francisco, said she would be willing to provide data to the campus police - if she had it. However, she said that before she was hired this spring, no one at the center had collected information on sexual assault victims for 10 months.

UC Berkeley police said they get annual statistics from the campus rape crisis center. But

Paula Flamm, director of social services - the campus department that counsels rape victims said she provides police with an incomplete report because she is concerned about jeopardizing client confidentiality.

Last year, Flamm said she didn't give a report to the campus police at all.

"They never asked for it," she said.

At six campuses - San Diego, Santa Cruz, Davis, Irvine, Riverside and UCLA - university officials maintained that counselors always have been exempt from reporting. UC's Office of the President echoes that stance.

However, the education department's Glickman said statistics from counselors should have been included in the Clery reports until July 1, 2000, when amendments excluding some counselors went into effect.

"Without counseling center data, you've nowhere near an accurate picture of what is going on at a campus," said Carter, of the national watchdog agency.

Amber Twitchell, the student who moved from Santa Barbara to Davis, said she isn't waiting for college officials to unveil accurate statistics.

Twitchell decided if the truth ever was going to become public, it would have to come from students. She and several others are seeking funding from UC Davis to publish a quarterly newsletter detailing resources, safety tips and victims' experiences.

She envisions that her group's information will be placed in classrooms, alongside the student newspaper. Though many campuses distribute their Clery reports to students, the document often gets overlooked among voluminous admission information, students say.

Publicity about the under-reporting problem might even encourage more victims to come forward, Twitchell hopes, and prompt the campus to provide more resources to help them.

"I think there is a sort of community denial about rape," Twitchell said. "Unless people are aware that it happens, it will only get worse."

Monday: The full story behind sexual assault reporting at UC Davis, where see no evil, hear no evil, report no evil, has long been the practice.

Rape: False sense of security given

CSUS broadens scope of reporting

Though The Bee's investigation on crime-reporting violations focused on the nine University of California campuses, the problems uncovered are common at schools throughout the country.

Until this year, California State University, Sacramento, like many UC campuses, only included crime statistics that had been reported to campus police and the student affairs department, said David Braverman, the school's vice president of student affairs.

The 1999 report, for instance, showed just four forcible-sex offenses, all on campus: one rape, one act of sodomy, two incidents of "forcible fondling."

Braverman said statistics due in October will come from an array of campus authorities — from the athletics department to residence advisers — and for the first time will include crimes that occur at off-campus university buildings such as the aquatics center at Lake Natoma.

In July, a rape crisis organization that works with victims in Sacramento County notified the U.S. Department of Education of problems with CSUS' Clery report.

Women Escaping a Violent Environment (WEAVE), in its July 5 letter, said the university

failed to describe its policy for ensuring the rights of sexual assault victims, state how it monitors alcohol violations at student organizations off-campus and provide statistics each year to students.

Jessica Higgins, a WEAVE sexual assault community educator and a CSUS graduate student, wrote in the letter, "I have been a student for two years at CSUS and have never received (the Clery) report. After an informal interview with numerous students on campus, I can find no evidence that they have distributed the report as the code directs."

Those complaints are still being reviewed by the U.S. Department of Education, said spokeswoman Stephanie Babyack, and it hasn't yet been determined whether to do an in-depth examination.

In the meantime, however, progress is being made, according to WEAVE. CSUS posted the crime statistics on its Web site for the first time last year, and copies of the report are available at several campus locations. Students are told where to find the report in several publications, including the school's schedule of courses, the school catalog and the university newspaper.

UC campus sex crime statistics

University of California campuses are required by federal law to compile two annual crime reports containing statistics on rape and other sex offenses. The first, the FBI report, counts only those crimes reported to police. The second, the Clery report, should have data from a variety of university officials including campus police. The Bee collected additional numbers from those sources — rape centers, local police, academic affairs personnel and others — most of which did not appear in the Clery reports.

	1999	1998	1997	1996	Notes
Berkeley (enrollment: 31,347)					
FBI report: rapes, attempted rapes	1	3	2	2	
FBI report: forcible sex offenses	1	1	7	3	
Clery report: rapes and forcible sex offenses	n/a	22	24	24	
Bee findings: university refused access	n/a	n/a	n/a	n/a	
Davis, includes UCD Medical Center (enrollment: 25,092)					
FBI report: rapes, attempted rapes	1	0	0	0	
FBI report: forcible sex offenses	5	6	5	4	
Clery report: rapes and forcible sex offenses	n/a	4	8	0	
Bee findings: Davis Police Department	6	8	2	7	
Irvine (enrollment: 19,149)					
FBI report: rapes, attempted rapes	2	1	2	3	
FBI report: forcible sex offenses	1	2	1	0	
Clery report: rapes and forcible sex offenses	3	19	3	3	Uses FBI stats
Bee findings: Campus Assault Prevention Program	21	21	15	18	Academic years used
Riverside (enrollment: 11,577)					
FBI report: rapes, attempted rapes	1	1	2	1	Uses
FBI report: forcible sex offenses	1	3	2	4	Center data is for
Clery report: rapes and forcible sex offenses	2	4	4	5	FBI
Bee findings: Women's Resource Center, Judicial Affairs	45	36	12	n/a	stats
Los Angeles (enrollment: 36,350)					Women's Resource
FBI report: rapes, attempted rapes	5	6	5	6	Center data is for
FBI report: forcible sex offenses	15	9	2	4	Half year
Clery report: rapes and forcible sex offenses	n/a	15	7	9	Judicial
Bee findings: Women's Resource Center	60-90	60-90	60-90	60-90	Affairs data only
Santa Barbara (enrollment: 20,056)					
FBI report: rapes, attempted rapes	5	1	0	1	
FBI report: forcible sex offenses	0	2	3	4	
Clery report: rapes and forcible sex offenses	n/a	6	16	2	
Bee findings: rape center	39	54	36	n/a	
Santa Cruz (enrollment: 11,302)					
FBI report: rapes, attempted rapes	2	2	2	1	
FBI report: forcible sex offenses	0	0	4	1	
Clery report: rapes and forcible sex offenses	1/2	2	4	6	
Bee findings: Title IX office	9	7	6	29	Academic years used
San Diego (enrollment: 19,894)					
FBI report: rapes, attempted rapes	0	1	2	2	
FBI report: forcible sex offenses	0	4	2	3	
Clery report: rapes and forcible sex offenses	2	4	4	3	
Bee findings: university refused access	n/a	n/a	n/a	n/a	
San Francisco (enrollment: 3,490)					
FBI report: rapes, attempted rapes	0	0	1	0	
FBI report: forcible sex offenses	0	0	0	0	
Clery report: rapes and forcible sex offenses	n/a	0	1	0	
Bee findings: rape center	2	6	6	6	Estimates of reported incidents

Sources: UC campuses, Bee research

Bee graphic

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UC Davis touts its charms, downplays its violence

Second of two parts

By Terri Hardy and Matthew Barrows
Bee Staff Writers

When prospective students take the official tour of the UC Davis campus, a guide points out two large sculptures. The egg-shaped heads, titled "Hear No Evil, See No Evil," rest on the lawn near the administration building.

The sculptures are the final stop on a tour during which visitors are regaled with detailed descriptions of campus art, and glowing accounts of academic programs and housing alternatives.

But they learn little about campus crime. "UC Davis is the safest of all the UCs," the tour guide had said early in her scripted speech. Bike theft is the biggest

headache for students, the guide offers. Prospective students are told to buy a good bicycle lock.

In the highly competitive admissions race, UC Davis uses its safe, friendly, small-

town image as a key selling point not only on walking tours, but also in brochures and on the university Web site.

But a Bee investigation found that the university had consistently under-

ported sexual assaults, among the most common crimes on campus.

Recently publicized statistics showed only one rape on campus since 1995. Yet

the university wanted to get a federal grant for its violence prevention program last summer, it described an epidemic of violence against women at the school, saying nearly 200 women had received counseling or advocacy.

Students against women in the previous year.

UC Davis police and administrators defended their reporting practice, but at the same time they conceded students and parents have not been provided with adequate safety information. After months of inquiries by The Bee, campus officials released new – and more comprehensive – numbers on Friday. Students and a former instructor who

Please see SAFETY, page A10

Clergy Act spells out what is required of colleges

Here are definitions from federal implementation guidelines:

► What is a forcible sexual offense?

"Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent." Includes forcible rape, forcible sodomy, sexual assault with an object or forcible fondling. (Uniform Crime Reporting Program, published in the 1994 federal register.)

local police agencies or to any official of an institution who has significant responsibility for student and campus activities." 34 CFR 668.47(a)(6)(I).

Other Clergy Act requirements:

► Public crime logs. The college or university must "make, keep and maintain a daily log, written in a form that can be easily understood, recording all crimes reported" to campus police. The log must be physically available for "public inspection." 20 USC 1092(f)(4)(B)(I)

ered to be a threat to other students and employees." 20 USC 1092(f)(3).

Department of Education statements in the 1994 federal register:

■ ■ ■

► Why must institutions disclose their procedures for preparing the annual crime report?

"This disclosure serves two important purposes. It informs the students about how and from what sources the report is prepared. Many students may not be aware that a formal police report or investigation is not needed in order for a crime report to be included in the statistics. This disclosure also requires an institution to consider what officials or offices must be canvassed in order to complete a report. Incorrectly, some institutions believe that only formal police reports need to be included; the disclosure allows the reader to conclude that all of the proper offices have been canvassed."

► Who must report crimes?

"Statistics concerning the occurrence on campus of the (specified) criminal offenses reported to

► Timely reports.

The law requires schools to make "timely reports to the campus community on crimes consid-

Safety: UCD won award for security in '96

From page A1

worked with sexual assault victims said that, until now, as far as the university was concerned, the truth was not fare for public consumption.

The student tour guide at UC Davis, for example, had no information about the brutal stabbing in April of a 20-year-old sophomore in her on-campus apartment. At the time of the crime, which police then believed also may have involved rape, university Police Chief Calvin Handy downplayed the threat of violence to other students, stressing that UC Davis was among the safest college campuses in California.

As proof, the university passed out FBI statistics that showed only one rape or attempted rape from 1995 to 1998 on the main campus.

But Karla Grant couldn't believe what the university was saying.

Grant, who taught self-defense courses through the campus's rape counseling center for 19 years, recalled her dismay when reading news stories containing the statistics and the chief's safety claims.

"They have a lily-white, all-is-well attitude," Grant said. "I was stunned that that type of information was given by a university that knows better."

In 1998 alone, UC Davis' Campus Violence Prevention Program counseled 186 women, mostly students, who said they were victims of sexual assault, domestic violence, stalking and hate crimes, records show.

And every year, in a poll of her self-defense students, Grant found about 50 percent said they had been sexually assaulted in college. Handy's assertions about UC Davis safety struck her as "misinformation," Grant said.



Jennifer Beeman, program manager of the campus violence prevention program at UC Davis, agreed that the situation on campus has been starkly different from the official crime statistics.

In an application for a half-million-dollar grant, Beeman detailed the threat of crime: "While noted for its rural setting and bucolic image, UC Davis – as does every other college campus in America – suffers from a largely invisible epidemic of campus violence against women."

Beeman acknowledged that Handy's public recitation of misleading statistics painted an inaccurate picture, even though she and other administrators maintained the reports he based them

on met the requirements of the law.

"It was a case of truly in these years there were not rapes reported to the police; but there were rapes," Beeman said.

Sexual assaults are the most difficult crimes to capture statistically, experts agree.

The American Medical Association reports that more than one in four college-age women have been the victim of rape or attempted rape. Other experts say that as many as 90 percent of sexual assaults go unreported by victims.

Adding to the reporting gap, universities historically are reluctant to publish crime data. In 1990, the Campus Security Act, later renamed the Clery Act, was enacted, requiring all postsecondary institutions to put together exhaustive crime reports or risk losing federal aid.

Recognizing that few students actually report crimes to the police, the Clery Act mandated that colleges compile statistics from several campus authorities, according to Maureen McLaughlin, deputy assistant secretary for policy, planning and innovation for the U.S. Department of Education.

The Clery Act is named after Jeanne Clery, a college student who was raped and murdered in 1986 in her Lehigh University dorm room. Clery and her parents selected the school, in the rolling countryside of Bethlehem, Pa., because of its apparently safe, warm atmosphere.

Only after the murder did Clery's parents learn that the campus was not as safe as it seemed. Over a three-year period the tiny campus of 5,400 had been the site of 38 violent offenses, including rape, robbery and assault – information not published by the university.

Joined by parents of other murdered students, Clery's parents, Howard and Connie, pushed for passage of an exhaustive crime statistics reporting law.

After the on-campus attack at UC Davis in April, students said they were shocked that that type of assault could occur in their city. Many said they had come from San Jose, Oakland or San Francisco to escape the threat of crime.

Said Michelle Vollmer, then a first-year student from San Diego: "I have lots of friends who go to other schools and they're always telling me crazy stories about what's happening there. Safety isn't the only reason (she enrolled at Davis), but it's definitely one of

them."

Despite passage of the federal law, UC Davis – like other UC campuses – continued to exclude statistics prepared by any campus authority other than campus police. As a result, crime numbers remained artificially low.

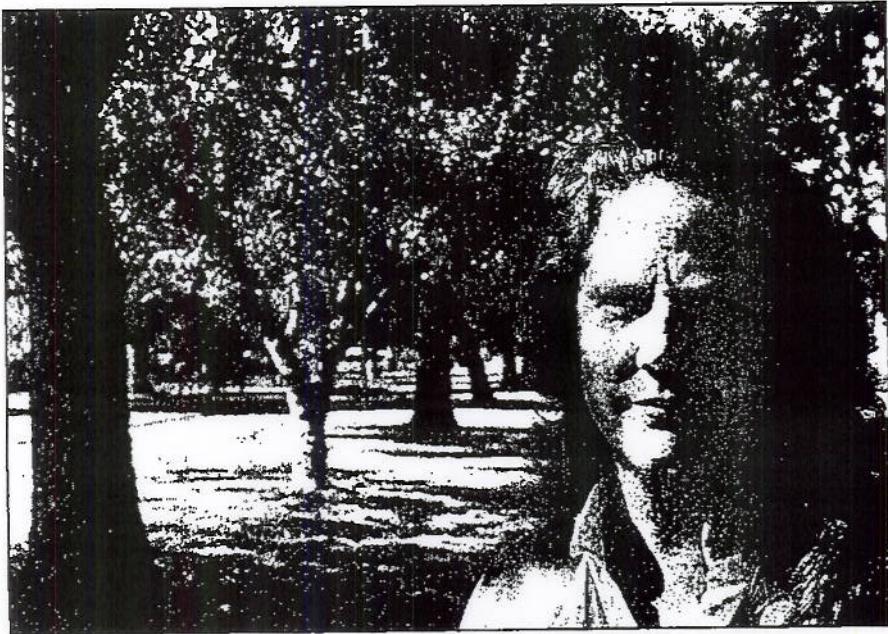
In an interview with The Bee, UC Davis officials in charge of the Clery statistics – Beeman; Jeanne Wilson, director of student judicial affairs; and Capt. Michael Corkery of the UC Davis police – said they weren't required by law to collect information from other sources.

Yet in 1994, then-UC President J.W. Peltason sent a 12-page letter to every UC school explaining the law, including the provision that requires reporting by officials other than campus police.

But without a face-to-face interview with a victim, Corkery said police can't determine if an incident has the needed elements to be classified as a crime.

"If we can't talk to the victim, we can't report it as a crime," he said.

Even though the law allows some exclusions – crimes that happen in an off-campus, privately owned building, for example, are not counted – student advocates and campus watchdog groups contend universities have created their own exceptions.



Bee photograph/Anne Chadwick Williams

Karla Grant, who taught self-defense classes at UC Davis for 19 years, says she polled her students and found 50 percent said they had been sexually assaulted.

SECURITY ON CAMPUS

At UC Davis, student victims treated for sexual assault at hospitals, or who reported a crime to a counselor, a dorm adviser or a coach, have not been counted unless they also pursued the matter with campus police. Even if the student reported the crime to the campus administration and internal disciplinary action was taken, the crime wasn't included in the campus's Clery report.

S. Daniel Carter, vice president for the national watchdog organization Security on Campus, said there needs to be an investigation of all University of California campuses' compliance with the Clery law.

Of particular concern to Carter's group are possible violations at UC Davis.

In 1996, Security on Campus gave UC Davis a national safety award for its openness in handling internal judicial proceedings. Carter noted that UC Davis splashes the award on its brochures and Web site — "They're the only university that does that," he said — and it stings him to think that the campus may not be up front in its report.

"If some place like UC Davis, which is believed to be very open compared to most universities, is in fact not complying with the law, that's of great concern," Carter said. "If UC Davis is violating the law, they will be stripped of the award."

Wilson contended that the campus has acted in "good faith" and tried to follow the federal law. But UC Davis officials in charge of the Clery report said unclear regulations, made even more indecipherable by frequent amendments and lack of direction from the Department of Education, make the law nearly impossible to follow.

"It takes a huge amount of work, it's extremely confusing and of little value," Wilson said. "We do want to give an accurate report to our students. It just takes awhile to put together the documents and do the training."

Though UC Davis officials defended their reasons for not complying with the law, they told The Bee they planned to "voluntarily" change their procedures anyway.

In the next Clery report, due in October, Wilson said they would expand their sources of information beyond campus police. However, even under the new system, sexual assaults not reported to police would be identified as sexual assault "incidents," not crimes, Wilson said.

In the end, that new report was released early, on the eve of publication of the Bee series.

It showed four forcible sex offenses on campus, the same as the year before, but added another 11 sex "incidents" on or around campus and six more on or near the university medical center in Sacramento.

In its release of the new numbers, the university said it was responding to recent changes in the Clery law requiring broader reporting. But federal Department of Education officials said the law always was intended to include information gathered by such campus officials as coaches, dorm leaders and deans. Amendments were made, they insist, after universities such as UC Davis failed to comply.

Last year, the federal grant application — the one that described an "invisible epidemic" of violence at UC Davis — earned the school \$543,000 for combatting crime on campus. A large chunk of the money will be used to hire a detective, a victims advocate and a counselor. All three will concentrate on crimes against women.

Beeman said the group's first task will be training university staff — from professors to residence advisers to coaches — to ensure those officials know how to react when a sexual assault victim comes to them. The training also will advise staff where to report the information, which could aid in prosecution of the crimes as well as improve the campus's reporting.

Starting with this year's report, the Clery law will no longer require university counselors to provide statistics. Psychologists and educators, worried about confidentiality, had pushed for that amendment.

However, Beeman said future statistics from UC Davis counselors will be collected anyway, using a system where numbers are reported anonymously through her office.

With the new reporting system, training and personnel, Beeman said she expects the school's sexual assault numbers to explode.

"My intention with this grant is that our numbers will increase dramatically," she said. "The success of our prevention program is not going to be that we have fewer numbers. Our success is going to be that our numbers go up."

Other universities across the country have come to the same conclusion and aggressively pushed for more comprehensive statistics. In many cases, such changes occurred only in reaction to student demands.

Frustrated by an administration they said was doing little to address sexual assault on campus, University of Virginia students in 1991 held a sit-in on the steps of the university's renowned rotunda.

As a result, the university hired a full-time coordinator to run its sexual assault education office. Today, Beeman said, it is viewed by many as one of the most ambitious and thorough systems in the country.

The University of Virginia's sexual assault education office reported 70 rapes or sexual assaults in 1998-99 at the 18,000-student campus. By contrast, UC Davis, with 25,000 students, reported no rapes and four forcible sexual assaults, according to the school's 1998 Clery report.

Claire Kaplan, who handles the University of Virginia's sexual assault reporting, said accurate crime statistics act as a foundation for better student protection. High numbers reflect a student body that knows where to go to report a crime and a university intent on preventing assaults and pursuing suspects.

Students also applied pressure this year at Columbia University in New York City after they noted the scant crime statistics provided by the university didn't match the litany of assault accounts at Take Back the Night rallies on campus. Furthermore, students discovered that hospitals serving the university were treating nearly five sexual assault cases a month.

"The university was saying either zero or one rape every year," said Sarah Richardson, president of Students Active For Ending Rape. "We knew something was very wrong."

So Richardson and her organization held demonstrations, drafted petitions and badgered university officials until they agreed to widespread improvements, including a full-time coordinator to oversee statistical reporting, better training for university personnel and more student education.

"There was a certain inertia involved," Richardson said. "No university wants to be the first university that says, 'Yeah, we had 15 rapes last year.' To be the first to report everything would be a devastating thing. Any school that's rated for poor safety ... what parent is going to send their child there?"

► FROM PAGE ONE



Bee photograph/José M. Osorio

Eloisa Colin, a peer/adviser counselor at UC Davis, listens to Jennifer Beeman, who heads the campus violence prevention program.

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September 26, 2000

Mr. LeRoy J. Rooker
Director, Family Police Compliance Office
U.S. Department of Education
Room 2W105
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Washington, D.C. 20202
fax: (202) 260-9001

Dear Mr. Rooker:

We understand that the Department of Education has already been apprised of articles published in the *Sacramento Bee* on September 24, 25 and 26, 2000, indicating that University of California campuses, including the UC Davis campus, fail to comply with Clery Act requirements concerning reporting of crime statistics. I have enclosed copies of those articles for your review. As indicated in the enclosed letter, the campus has asked for a retraction of the September 25th article, which focuses on the Davis campus, and substantial corrections to the September 24th article.

I believe the UC Davis campus complies with both the letter and spirit of the Clery Act and the Department's regulations that implement the Act. We encourage the Department to visit our campus to review our crime reporting practices. We would welcome any advice and assistance the Department may wish to offer.

Please feel free to contact me should you wish to discuss this invitation or to schedule a time for a site visit.

Thank you for your attention and assistance.

Sincerely,

Stan Neck Jr.
Janet C. Hamilton
Vice Chancellor -- Administration

cc:

Joe Dema, *Bee* City Editor
Terri Hardy, *Bee* Staff Writer
Matthew Barrows, *Bee* Staff Writer
Stephen Burns, *Bee* Assistant General Counsel
Janis Heaphy, *Bee* Publisher
Richard Atkinson, University of California President
Larry N. Vanderhoef, UC Davis Chancellor
Stephen Drown, UC Davis Campus Counsel
Calvin E. Handy, UC Davis Police Chief
Jennifer Beeman, UC Davis Violence Prevention Program Director
Maril Stratton, UC Davis Public Communications Director
Lt. Don Hopkins, City of Davis Police Department
Daniel Carter, Security on Campus, Inc.
LeRoy Rooker, U.S. Department of Education

UNIVERSITY OF CALIFORNIA, DAVIS

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LARRY N. VANDERHOFF
Chancellor of Davis

JANET C. HAMILTON
Vice Chancellor, Administration

OFFICE OF THE VICE CHANCELLOR-ADMINISTRATION
ONE SHIELDS AVENUE
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September 26, 2000

Joyce Terhaar
Managing Editor
Rick Rodriguez
Executive Editor
The Sacramento Bee
PO Box 15779
Sacramento, CA 95852

Dear Ms. Terhaar and Mr. Rodriguez:

After a careful review of the Sept. 24 front page report "UC keeps sex crimes in the shadows," and the Sept. 25 report "UC Davis touts its charms, downplays its violence," it is with regret that we write to tell you that our staff has found widespread inaccuracies throughout the reports. In addition, we have identified serious omissions of facts — facts that were provided by this campus to your reporters — that we believe prevent the readers of *The Sacramento Bee* from receiving a balanced perspective about what occurs at UC Davis with respect to sexual assault and crime reporting.

All involved in crime prevention and counseling at UC Davis agree that sexual assaults are a chronically underreported crime, not just within our campus community, but in communities throughout the state, nation and world. We are always deeply concerned about the safety of our students, particularly with regard to violence against women and sexual assault. Our campus has aggressively sought to communicate both the nature of crime at UC Davis and information about crime prevention. The issue deserves the attention and resources of a daily newspaper such as *The Sacramento Bee*, and indeed it is the newspaper's obligation, as it is a public university's obligation, to keep the public well-informed.

That said, the reporting in your articles indicates that the University of California, Davis, fails to comply with the Student Right-to-Know and Campus Security Act of 1990 (now known as the "Clery Act") and, in particular, states that UC Davis intentionally misrepresents the number of sex crimes that occur on the campus. We find *The Bee's* conclusions false and misleading to the public, to UC Davis faculty, staff, alumni, parents and most of all, to our students. This erroneous information has been further propagated in other media. The extent of the problems with both reports, and the damage done to UC Davis and its community, cannot be resolved with

simple corrections on the back page of *The Bee*. Therefore, we formally request that *The Bee* retract its entire Sept. 25 article "UC Davis touts its charms, downplays its violence," and further, that *The Bee* prominently and publicly correct all errors pertaining to UC Davis in the Sept. 24 article "UC keeps sex crimes in the shadows."

Outlined below are the factual errors, significant errors of omission, and further areas of context that were left out of the two stories — all of which are the basis for our unprecedented request for a retraction. While we commend *The Bee* for its decision to devote news space to this critical topic, we are disappointed that after a "five-month investigation," *The Bee* did not publish a more accurate, balanced report.

Documented significant errors of fact:

- The articles erroneously suggest that the Davis campus has improperly excluded reports of sexual assaults made to counselors from its annual report of crime statistics pursuant to the Clery Act. The articles also misstate the Clery Act provisions governing the responsibilities of counselors, indicating that until this year the law required that statistics from counselors be included in the annual reports. In a May 11, 2000, letter to Reporter Hardy, UC Davis Assistant Vice Chancellor Stan Nosek advised as follows:

"It should also be noted that the Department of Education has always excluded certain campus counselors from the requirement of reporting crime statistics. The [then] existing regulations, which remain in effect until July 1, 2000, define 'campus security authority' responsible for receiving reports of alleged criminal incidents 'as, among others, an official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.' 34 C.F.R. section 668.47(f). This provision was clarified, but not substantially changed, in the newly adopted regulations, which became effective July 1, 2000. 'Campus security authority' is defined in the new regulations as excluding such officials 'when acting as a pastoral or professional counselor.' 34 C.F.R. section 668.46(a). A 'professional counselor' is defined as 'a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his/her license or certification.' Id. The revised regulations reiterate the Department's position by indicating that '[a]n institution is not required to report statistics . . . for crimes reported to a pastoral or professional counselor.' 34 C.F.R. section 668.46(c)(6)."

Upon promulgating the most recent federal regulations implementing the Clery Act, the Department of Education further explained that "a counselor in a counseling center whose only responsibility is to provide care to students is unlikely to have significant responsibility for student and campus activities" and are, therefore, excluded from the definition of "campus security authorities" subject to the crime reporting requirements of the Clery Act. 64 Federal Register 59063 (November 1, 1999).

- The Sunday article incorrectly states that the annual UC Davis security report does not include any of the 186 people who sought counseling at the Davis Campus Violence

Prevention Program. The campus believes the Clery Act regulations can reasonably be interpreted as not requiring the inclusion in the annual report crimes reported by individuals seeking counseling through the UC Davis Campus Violence Prevention Program. Nevertheless, the campus does, in fact, include such reports (1) as a crime when the police can verify that a crime did occur and (2) as a non-verified incident when the elements of the crime cannot be verified. The Clery Act requires that only specified crimes be reported, not all contacts with University officials concerning criminal issues, such as requests for information. Although this year the campus has begun to voluntarily include in its Clery Act annual report statistics reflecting non-verified incidents, the Act requires the inclusion of only those incidents that can be verified as a crime. Reported incidents must be more than a simple allegation of criminal activity to merit inclusion in the report as a crime.

In his May 11, 2000, letter to Ms. Hardy, Asst. Vice Chancellor Nosek explained this issue to Ms. Hardy:

"In the explanation of the 1994 regulations published by the Secretary of the Department of Education, the Department explains that an incident disclosed to a campus administrator need not be included in the Annual Security Report unless the appropriate law enforcement officials conclude that the crime did occur with the same degree of certainty that they would require for purposes of reporting under the FBI's Uniform Crime Reporting System."¹⁴ 59 Fed. Reg. 22318 (April 29, 1994). [P] The Department further explains that the function of the campus administrators who receive information concerning such incidents 'is not to determine authoritatively whether a crime took place - that is the function of law enforcement professionals working within the criminal justice system - but . . . to report to the appropriate law enforcement personnel, either campus or local police, those allegations of campus crimes that the administrators conclude are made in good faith. . . . If the law enforcement personnel, upon further investigation, conclude that the allegations reported are not substantiated by the facts or the law, no campus crime need be disclosed as a statistic.' 59 Fed. Reg. 22315 (April 29, 1994). The Department has not altered this position in the revised regulations published on November 1, 1999."

- In addition, Ms. Hardy and Mr. Barrows were told in a face-to-face interview that *The Bee* taped, that the 186 people who sought assistance from the Campus Violence Prevention Program in 1998 did so for a wide variety of issues. These included sexual assault, sexual harassment, hate or bias-related incidents, domestic violence, dating violence, threats of violence, emotional or verbal abuse, stalking or other behaviors that were intimidating or frightening. These individuals were provided assistance regardless of whether the underlying incident met the definition of a crime, and regardless of where or when the incident occurred. This number also included friends, significant others or family members requesting help for themselves or for information to help their loved ones. It was further explained that the incidents for which women sought assistance may have happened this year, five years ago and on-campus, in an off-campus apartment, while at home on break or any other location. Of the incidents underlying the 186 counseling contacts, those that met Clery Act requirements were in fact reported.

- With regard to the Davis campus grant described in the article, we are disappointed that *The Bee* chose to misrepresent information about statistics, despite the fact that reporters were provided with clear information and the correct context regarding the narrative of our grant application that spoke of a "largely invisible" epidemic of violence against women on college campuses. The exact quote cited was "While noted for its rural setting and bucolic image, UC Davis - as does every other campus in America - suffers from a largely invisible epidemic of campus violence against women." The grant application narrative, of which Ms. Hardy has a copy, also details the vast body of research regarding violence against women and violence against college-age women in particular. In the same paragraph that *The Bee* repeatedly quotes, we address the disconnect between what is reported to the police and what women experience on campus. In addition, *The Bee* neglects to inform readers that our primary objective in the grant application is "to significantly increase self-reporting of violent acts against women at UC Davis, and to greatly increase the percentage of women who freely and voluntarily elect to report to the police and follow through with prosecution".

The reporters' failure to include any of this clarifying information in the articles, particularly after it was provided to them well in advance, reflects, at a minimum, an unbalanced story and appears to be non-objective reporting.

- The articles also unfairly imply that UC Davis violated Clery Act requirements by failing to include in its statistics incidents occurring at areas around the campus, including fraternities and the UC Davis Medical Center in Sacramento. In fact information from these locations was included in the UC Davis annual report. The articles also imply that UC Davis is remiss in its efforts to obtain relevant sexual assault information from local police agencies for inclusion in the annual report. In fact, in compliance with Department of Education guidance, the campus has made reasonable, good faith efforts to obtain such information from the police agencies having jurisdiction over property encompassed by the campus reporting obligation. See 64 Fed. Reg. 59064 (Nov. 1, 1999). We believe the local law enforcement agencies work with the Davis campus in providing this information to the best of their abilities. In the past, prior to the implementation of new computer processing systems, local police jurisdictions have lacked the capacity to respond to written requests for information concerning crimes occurring at specific addresses, despite the campus's written requests for such information. Technological improvements should enable such information to be gathered more easily in the future.
- With regard to Davis campus statistics, throughout the article the reporters fail to distinguish between those matters reported as "crimes," which are required to be reported under Clery, and "incidents," which have not been verified as crimes. Though these incidents are not required to be reported, the campus has elected to do so voluntarily in our current report.
- The Sept. 25 report provides misleading and inaccurate information regarding the 1998 and 1999 Clery statistics (citing four forcible sex offenses in 1998, 15 in 1999). In fact, for both 1998 and 1999, the same number of forcible sex offenses were reported as crimes for the campus (four) and the medical center (two), for a total of six forcible sex offense crimes in

each of the last two years. The only difference is the addition, in 1999, of 11 incidents, not verified by police, that were reported although not required to be included in the data.

- The campus explained in detail to Ms. Hardy that the Clery Act specifically limits the off-campus locations which are subject to Clery reporting. Thus, for example, crimes committed at off-campus fraternities and properties owned or controlled by the campus, and public property immediately adjacent to and readily accessible to campus must be reported, but crimes at private apartments, on downtown streets several blocks from campus or at distant locations not connected with the campus, are not subject to the Act. While it appears Ms. Hardy believes such incidents should be included in campus statistics, even though they have no connection other than the fact that the perpetrator or victim was a student, that is *not* the law.
- In the Sept. 25 article, *The Bee* alleges that UC Davis fails to include in its Clery information reports to campus officials other than campus police, and that "Even if the student reported the crime to the campus administration and internal disciplinary action was taken, the crime wasn't included in the campus's Clery report." First, Ms. Hardy was provided with documentation that several incidents were both processed through student discipline *and* reported in Clery, because they met the Clery reporting requirements. Second, she was provided with an explanation of why certain incidents were not included in our Clery report (although they were reported publicly elsewhere); they fall outside the requirements of the Clery Act.

Thus, the article implies that incidents were not reported in our Clery statistics in violation of the Act (which is not true) and that they were not reported at all (which is also not true). She was provided by fax, dated Sept. 8, information in response to her request for clarification of the 28 reports of suspected "physical abuse, including sexual assault or other physical assault" for academic year 1998-99. This memo provided specific examples of three aggravated batteries and two forcible sexual batteries that were referred to Student Judicial Affairs and included in the UC Davis campus Clery report for either calendar year 1998 or 1999. Ms. Hardy was also provided with clarifying information regarding the other 24 suspected cases, 20 of which resulted in discipline. The memo explains why each of the other 24 incidents was not subject to Clery, for example, because they were simple assaults (pushing, shoving, etc.) or because they happened at distant locations unconnected to the campus. Curiously, although Ms. Hardy criticizes UC San Diego for reporting a lump sum of 45 physical abuse cases, when provided with specific information by UC Davis, she fails to acknowledge or report it.

- Both the Sept. 24 and Sept. 25 reports repeatedly state that the campus does not collect information beyond the police for its Clery reports. That is incorrect. The campus has always collected information from campus security authorities other than the police (including Student Judicial Affairs and Student Housing) by meeting to discuss and review specific cases and statistics. Reports from other campus officials are regularly communicated to the police and to Student Judicial Affairs, and evaluated for inclusion in the Clery Act. Because of concerns of confidentiality, we have not in the past collected such information by written survey, nor does the law require such a survey. Nevertheless, the campus is implementing a

process for collecting information through written surveys to ensure that we receive accurate, non-confidential information in a timely manner.

- As the Clery Act requires, the information gathered has been reviewed by the police to ascertain whether the crimes could be verified for purposes of inclusion in the annual report. In fact, because the campus very strongly believes that crimes should be reported and vigorously prosecuted, we have found that relatively few incidents subject to Clery requirements that are reported to non-police Campus Security Authorities (other than confidential counselors) are unknown to the police.
- *The Bee's* report, and the accompanying chart on Sept. 24, are not based on statistics for sexual assaults that occurred in the specific geographic locations as defined by the Clery Act. The Clery Act requires reporting based on four specific locations, and the city of Davis police department supplies statistics for two of those areas: for non-campus buildings, such as off-campus fraternities, and public property immediately adjacent to campus and immediately accessible from it. The Clery Act does not require campuses to report statistics for offenses in all locations in their neighboring city. According a document provided by Lt. Don Hopkins of the City of Davis Police Department to both Ms. Hardy and the campus, there was one case in the City of Davis involving sexual assault of students in 1996, two in 1997, three in 1998 and two in 1999. How does *The Bee* explain the discrepancy in numbers attributed to the Davis Police Department in the Sept. 24 chart?
- Both reports make the statement "Only after months of questioning by *The Bee*...did UC Davis publicly release more comprehensive Clery data." In this statement, the reporters take credit and imply that UC Davis released this data specifically as a result of *The Bee* investigation. This is absolutely false and misleading. In fact, the campus had planned to release this Clery data in late September for many months (before Ms. Hardy was even employed by *The Bee*) in compliance with requirements that universities publish this information by Oct. 1. As is the policy of the campus, these statistics were released as soon as they were available and *The Bee* story timing (of which we were never certain) had no bearing on our release. This was explained to Ms. Hardy on Friday, Sept. 22, and apparently ignored.
- The Sept. 24 page A16 chart erroneously reads that UC Davis' 1999 Clery statistics were not available. They were made available, and provided to *The Bee* Friday morning, Sept. 22, in sufficient time to be included in the Sunday chart.
- The Sept. 25 report includes a quote from Jennifer Beeman that has been taken out of context. It says, "Beeman acknowledged that Handy's public recitation of misleading statistics painted an inaccurate picture, even though she and other administrators maintained the reports he based them on met the requirements of the law." In a tape-recorded interview, Beeman said, instead, that because most victims do not report rapes, without context the "accurate information" of the statistics leaves people with an "inaccurate perception." She never "acknowledged," implied or stated that Chief Handy provided misleading statistics.

Documented serious omissions of fact:

- Monday's report states that at the time of an April on-campus stabbing, police "then believed" the stabbing also may have involved rape. In fact police were investigating the stabbing and the events surrounding it and had reached no such conclusions. *The Bee* has cited this case in both the Sept. 24 and Sept. 25 reports. But despite *The Bee's* interest in this case's relevance to sexual assault reporting at UC Davis, *The Bee* was the only local daily newspaper that did not cover the preliminary hearing or the trial in the case, and the crime reporting articles fail to mention public testimony that the case did not involve a sexual assault. In fact, the campus investigation led to successful prosecution on four felonies, including mayhem, assault with a deadly weapon and domestic violence. This case will be included in our 2000 Clery statistics, published in 2001, in the appropriate category of "aggravated assault."
- Jennifer Baeman, quoted on the front page as saying campus sex crimes are "epidemic," was never identified in the Sept. 24 story as also being responsible for compiling the campus Clery statistics criticized in *The Bee's* report.
- Both Sunday and Monday, *The Bee* published photographs taken at one of numerous training sessions the UC Davis campus conducts for student peer advisors and counselors each year. Yet there is no mention in photo captions, or in the text of the reports, what is taking place in the photographs. These sessions are designed to raise awareness of students, to help them understand the definitions of sexual assault, and to help them explain to other students how to prevent such violence. At these sessions, the campus is very open about the potential risks students face at UC Davis. And although Ms. Hardy and photographer Jose Osorio attended one of these sessions, nothing about them is mentioned in the reports.
- Ms. Hardy and Mr. Barrows were provided with extensive materials documenting UC Davis' longstanding commitment to explore the myths and expose the realities of sexual violence and all forms of violence against women. We have focused on prevention and on ensuring that adequate and appropriate support services are available for survivors. The University has never represented that sexual assault doesn't happen on the campus or to our students. Indeed, UC Davis has had a rape prevention education program since 1977, providing continuing outreach, awareness, education, prevention, support, and advocacy for students and the campus community at large. Our message is always one of raising awareness regarding the fact that sexual assault happens at UC Davis, as it does every where else in the nation. While there are steps one can take to reduce risk, the campus encourages women to not become complacent about personal safety.
- Ms. Hardy was informed in interviews and in writing that the UC Davis office of Student Judicial Affairs imposes discipline for and makes public in annual statistics and in weekly Campus Judicial Reports many incidents not subject to Clery reporting. This very public reporting of UC Davis incidents has taken place for many years, yet was not mentioned in the articles.
- The Sept. 25 report, and headline, state that UC Davis downplays violence on the campus. The report omits the fact that we have for decades published our crime statistics, including on

the Web (which Clery does not require). For example, the report uses the example of the April stabbing to say that Chief Calvin Handy "downplayed the threat of violence to other students." When he was speaking to media, the suspect, who was known to the victim, had already been arrested and was no longer a threat to the victim or the campus community. Further, the report says the university passed out FBI statistics "as proof" that UC Davis was among the safest college campuses in California. In fact, the statistics were distributed only after Mr. Barrows requested them, and were not cited by Chief Handy as "proof" of anything.

Important context that was not included in your reports:

- Missing is the perspective that other universities across the state and nation, in addition to the University of California, have had difficulty obtaining clear information from the federal Department of Education regarding complex and evolving Clery Act requirements.
- No explanation was offered in the articles as to why the UC system (165,000 students) was singled out for coverage in *The Bee* over the CSU system (370,000+ students) or community colleges (1.7 million + students.)
- Ms. Hardy and Mr. Barrows were provided with a great deal of information that documents the vast body of research regarding violence against women and college age women specifically. We refer to the *California Coalition Against Sexual Assault Statistics Compilation*, a copy of which Ms. Hardy was provided, in addition to the application materials published by the Department of Justice for *Grants to Combat Violent Crimes Against Women on Campuses*. These documents were provided as further background information and context regarding the issue of violence against women on college campuses. *The Bee's* very limited and selective use of this factual information, along with the failure to quote any of the experts or students interviewed who did not support *The Bee's* apparent premise that UC Davis intentionally misrepresents the number of sexual assaults on campus, further fails to provide *Bee* readers with necessary context.
- The fact that sexual assaults are seldom reported to officials is not unique to UC Davis, and *The Bee's* own reporting experts confirmed this fact. Gail Abarbanel, one of the leading national authorities on sexual assaults on campuses contends that with so few victims reporting, crime statistics are essentially worthless. Indeed *The Bee* quotes several experts who verify that the vast majority of sexual assaults are never reported to the police and in fact the definitive Koss study that surveyed 6,000 college students found that the majority of them never told anyone about their victimization.
- UC Davis makes every effort to encourage victims who seek assistance and support to report crimes to the appropriate law enforcement authority. The fact that victims choose to seek help and assistance and maintain their confidentiality is a choice that we respect. *The Bee's* contention that UC Davis intentionally under reports sexual assaults seems to be based on the assertion of Karla Grant, who states she "polled students in her self-defense classes and 50 percent said they had been sexually assaulted in college." Clearly a self-defense class does not comprise a representative sample of students. It is predictable, and in fact the case, that many women who take self-defense classes are doing so as a result of an assault.

Taking alleged "shortcomings" in statistical reporting and turning them into a deliberate effort to keep crime "in the shadows" is a substantial leap indeed. This representation is not true, and irresponsible to publish. We are concerned that *The Bee* stories may in fact chill the willingness of students to seek the services that provide advocacy and support in a confidential manner. The article ignores 23 years of UC Davis commitment to prevention programs and support services.

As a reflection of the campus's good-faith efforts to comply with the law, and in demonstration of the fact that we have nothing to hide from students, employees and the community, by separate letter UC Davis is inviting the Department of Education to make a site visit to review our crime reporting practices and provide advice and assistance.

The university believes that it is of the utmost importance that *The Sacramento Bee* immediately address our concerns and retraction request. We were extremely disappointed that *The Bee* published today's report, "UC plans to review its rape reporting," further disseminating and repeating many of these factual errors, particularly after we sent a letter yesterday advising you of the serious nature of our concerns. It had always been our belief that *The Bee* was responsive to the community it serves and could be expected to provide accurate and balanced reporting.

Sincerely,

Carol Wall
Vice Chancellor, Student Affairs

Janet Hamilton
Vice Chancellor, Administration

cc:

Joe Denna, *Bee* City Editor
Terri Hardy, *Bee* Staff Writer
Matthew Barrows, *Bee* Staff Writer
Stephen Burns, *Bee* Assistant General Counsel
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Lt. Don Hopkins, City of Davis Police Department
Daniel Carter, Security on Campus, Inc.
LeRoy Rooker, U.S. Department of Education

ACADEMIC YEAR 1999 - 2000
STUDENT RIGHT TO KNOW CRIME STATISTICS

CRIME STATISTICS FOR SPECIFIED OFFENSES
UC DAVIS CAMPUS

OFFENSE	REPORTED	SERIALIZED	ARRESTED
HOMICIDE	0	0	1
RAPE (INCLUDES ATTEMPTS)	0	0	0
FORCIBLE SEX OFFENSES	0	3	4
NON FORCIBLE SEX OFFENSES	14	1	6
ROBBERY	2	1	1
AGGRAVATED ASSAULT	3	3	1
BURGLARY	85	77	55
MOTOR VEHICLE THEFT	31	26	8
BIKE THEFT	611	369	264
HATE CRIMES (VIOLENT)	0	0	0
HATE CRIMES (NON VIOLENT)	1	2	2
ARRESTS FOR:			
LIQUOR LAW VIOLATIONS	26	18	29
DRUG/NARCOTIC OFFENSES	4	14	20
WEAPONS POSSESSION	3	3	4

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241

CRIME STATISTICS FOR SPECIFIED OFFENSES
UC DAVIS MEDICAL CENTER

OFFENSE	REPORTED	SERIALIZED	ARRESTED
HOMICIDE	0	0	0
RAPE (INCLUDES ATTEMPTS)	0	0	0
FORCIBLE SEX OFFENSES	4	4	2
NON FORCIBLE SEX OFFENSES	0	1	0
ROBBERY	2	4	1
AGGRAVATED ASSAULT	1	5	1
BURGLARY	23	15	18
MOTOR VEHICLE THEFT	17	21	17
BIKE THEFT	11	13	11
HATE CRIMES (VIOLENT)	0	0	0
HATE CRIMES (NON VIOLENT)	0	0	0
ARRESTS FOR:			
LIQUOR LAW VIOLATIONS	38	56	69
DRUG/NARCOTIC OFFENSES	6	23	71
WEAPONS POSSESSION	7	6	4

FBI Crime Index Offenses 1995 to 1999

<u>Violent Crime</u>	1995	1996	1997	1998	1999	% Change
Homicide / Manslaughter	0	0	0	1	0	*
Rape	1	0	0	0	1	*
Attempted Rape	0	0	0	0	0	*
Robbery	2	2	1	1	0	*
Aggravated Assault	6	3	3	1	2	*
Total Violent Crime	9	5	4	3	3	0%
<hr/>						
<u>Property Crime</u>						
Burglary	114	85	77	55	61	11%
Larceny: Bicycle Theft	671	611	369	254	249	-2%
Larceny: Other Theft	511	416	349	332	263	-21%
Motor Vehicle Theft	18	31	23	8	16	*
Arson	5	4	8	0	2	*
Total Property Crime	1,319	1,147	826	649	591	-9%
<hr/>						

Other Offenses 1995 to 1999

<u>Other Offenses</u>	1995	1996	1997	1998	1999	% Change
Simple Assault	14	14	16	16	11	*
Sex Offenses - Force	0	0	1	4	3	*
Sex Offense - No Force	15	14	8	6	0	*
Weapons - Firearms	2	1	1	3	0	*
Weapons - All Others	1	1	2	1	5	*
Bomb - Actual	0	0	0	0	0	*
Bomb - Threat	0	5	1	1	0	*
Disturbing the Peace	3	3	5	1	2	*
Trespass - Demonstrations	0	1	4	0	0	*
Trespass - All Other	9	6	3	6	9	*
Vandalism	136	137	83	86	107	24%
Forgery / NSF Checks	1	2	0	6	7	*
Narcotics - Felony	7	5	4	4	5	*
Narcotics - Misdemeanor	10	6	11	15	21	*
Public Drunkenness	6	15	15	15	19	*
DUI - Alcohol	13	11	3	14	19	*
DUI - Drugs	0	0	0	1	0	*
Vehicle Code - Hit & Run	16	13	28	23	24	*
Vehicle Code - All Other	22	7	6	11	5	*
Misc. Offense Report	78	111	104	94	70	-26%
<hr/>						

Note: Offenses are reported by the FBI. Data is preliminary and subject to change.

Warrents Served are now reported in the Miscellaneous Activity section under Non Criminal Reports - All Other.

Sex Offenses have been changed to reflect Federal reporting criteria.

* Percentages are not calculated because base numbers are less than 50.

Note: Percentages are rounded to nearest whole number.

UNIVERSITY OF CALIFORNIA, DAVIS

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LARRY N. VANDERHOEF
Chancellor at Davis

JANET C. HAMILTON
Vice Chancellor-Administration

OFFICE OF THE VICE CHANCELLOR-ADMINISTRATION
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8540

May 11, 2000

Terri Hardy
The Sacramento Bee
P.O. Box 15779
2100 Q Street
Sacramento, CA 95815

RE: Request for Record Concerning Crime Statistics

Dear Ms. Hardy,

Your letter dated April 27, 2000 addressed to Calvin Handy was received in the Police Department on May 3, 2000 and has been referred to me for response in my capacity as the campus Information Practices Coordinator.

In your letter you request records pursuant to the Freedom of Information Act, (FOIA), 5 U.S.C. § 552. The University of California is not subject to FOIA, as it applies only to requests for records from federal agencies. The University does respond to requests made pursuant to the California Public Records Act so we will treat your request as such.

It is my understanding that you are already aware of the Student Right to Know Statistics that are available via the web (<http://police.ucdavis.edu/CrimeStatistic98/UCDstudentRightToKnow.htm>). You have also received a copy of the *University of California Police Department Annual Report and Crime Statistics* for 1999 because those figures were not yet represented on the web. I also have been told that your colleague, Matt Barrows, received a copy of the most recent *Student, Staff & Faculty "Right to Know" Annual Security Report* and that past reports are available via the web. The campus Security Report containing the 1999 statistics will be available October 1, 2000.

The statistics in the UC Davis Annual Security Report reflect those incidents that the police department has determined meet the elements of the types of "crimes" or "criminal offenses" specified under the Campus Security Act and the regulations published by the Department of Education to implement the Act. Such incidents must be more than a simple allegation of criminal activity to merit inclusion in the report. In the explanation of the 1994 regulations published by the Secretary of the Department of Education, the Department explained that an incident disclosed to a campus administrator need not be included in the Annual Security Report "unless the appropriate law enforcement officials conclude that the crime did occur with the same degree of certainty that they would require for purposes of reporting under the FBI's Uniform Crime Reporting System." 5. Fed. Reg. 21,213 (April 29, 1994).

Hardy, Terri
May 11, 2000
Page 2

The Department further explains that the function of the campus administrators who receive information concerning such incidents "is not to determine authoritatively whether a crime took place – that is the function of law enforcement professionals working within the criminal justice system – but . . . to report to the appropriate law enforcement personnel, either campus or local police, those allegations of campus crimes that the administrators conclude are made in good faith. . . . If the law enforcement personnel, upon further investigation, conclude that the allegations reported are not substantiated by the facts of the law, no campus crime need be disclosed as a statistic." 59 Fed. Reg. 22315 (April 29, 1994). The Department has not altered this position in the revised regulations published on November 1, 1999.

Your letter suggests that the reporting responsibility extends to counselors and other personnel who have "significant counseling responsibilities." It should also be noted that the Department of Education has always excluded certain campus counselors from the requirement of reporting campus crime statistics. The existing regulations, which remain in effect until July 1, 2000, define "campus security authority" responsible for receiving reports of alleged criminal incidents "as, among others, an official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities." 34 C.F.R. § 668.47(f). This provision was clarified, but not substantially changed, in the newly adopted regulations, which become effective July 1, 2000. "Campus security authority" is defined in the new regulations as excluding such officials "when acting as a pastoral or professional counselor." 34 C.F.R. § 668.46(a). A "professional counselor" is defined as "a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification." *Id.* The revised regulations reiterate the Department's position by indicating that "[a]n institution is not required to report statistics . . . for crimes reported to a pastoral or professional counselor." 34 C.F.R. § 668.46(c)(6).

Other than the *Student, Staff & Faculty "Right to Know" Annual Security Report* for 1999, I believe you already have all discloseable information that is responsive to your request.

If you still require additional information for your report, I believe that the campus News Service could actually best assist you. While a California Public Records Act request is a useful means of acquiring existing University records, there are other times when working directly with a representative from the News Service will result in their being able to direct you to other records and additional information relevant to your inquiry. I encourage you to call the News Service Office in this situation.

If you have any questions about my response, please give me a call.

Sincerely,



Stan Nosek
Information Practices Coordinator
(530) 752-6264

cc: Maril Stratton, News Service
Lisa Lapin, News Service



U.S. DEPARTMENT OF EDUCATION
CASE MANAGEMENT OVERSIGHT
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PHONE # (415) 556-4295
FAX # (415) 437-8206

Fax

To: CHRISTINE HELWICK From: REX MANDEL

Fax: 562-951-4956 Pages: 13

Date: 10/13/00

Re: Campus Security - Clergy Laws

Urgent For Review Please Comment Please Reply

• Comments:

IF you HAVE ANY QUESTIONS DON'T HESITATE
TO CALL.

My NUMBER IS (415) 556-4177

Rex Mandel



UNITED STATES DEPARTMENT OF EDUCATION
STUDENT FINANCIAL ASSISTANCE
SCHOOLS CHANNEL/CASE MANAGEMENT AND OVERSIGHT
CASE MANAGEMENT TEAM, SOUTHWEST-SAN FRANCISCO TEAM
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FILE COPY

AUG 20 2001

Mr. James Dolgonas
Assistant Vice-President
Office of the President
University of California
1111 Franklin Street
Oakland, California 94607-5200

FIRST CLASS CERTIFIED MAIL
RETURN RECEIPT REQUESTED
0000 6717 8540

Dear Mr. Dolgonas:

Thank you for your response to the complaint from Security on Campus regarding the clarity of the crime log at the University of California at Davis. The requirements that crime logs be easily understood and they be readily available for review are important components of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

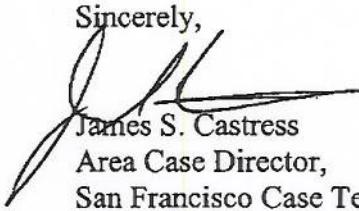
As you know, one of the objectives of the Clery Act is to help individuals take actions to insure their personal safety and security. In that regard, we believe that the actions UC Davis has taken help to further bring the school in compliance with the Clery Act. We have reviewed the additional materials you provided to us. Based on our review, we believe that the information now provided in the UC Davis crime logs enhance their clarity.

However, some of the acronyms under the column heading "CASE NUMBER, LOCATION, CRIME TYPE" were not clear to us. For example: We interpreted "UCDMC" as University of California, Davis Main Campus. Without explanation though, we were not sure that our interpretation was correct. Similarly, unless a reader had prior knowledge, one may not have known that "FI'd" on the disposition key you provided meant Field Interviewed.

Your letter notes that the Department's regulations require that the crime log reflect the nature, date, time and general location of each crime and that the University is not aware of any formal guidance concerning implementation of these regulations. Specifically, what is meant, for purposes of crime log entries, by the nature, date, time and general location of each crime. The Department believes that these terms are clear as written. Please provide us with more specific information about your concerns and any additional clarification that you would like. We will forward that information to the appropriate offices in the Department.

Thank you again for providing us with the opportunity to assist the University of California in this process regarding the implementation of the Clery Act provisions. We believe that our continued collaboration will help to insure the safety and security of your students and employees.

Sincerely,



James S. Castress
Area Case Director,
San Francisco Case Team
Case Management and Oversight
Student Financial Assistance
U.S. Department of Education

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Vice President,
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