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SEX CRIMES ON CAMPUS

This the first report in a three-part series

8 reported rapes at Wagner College

Police not notified. Here's why.

by KRISTIN F. DALTON



In the past 14 years, there have been 7 reported incidents of sexual assault at CSI and 15 at Wagner, including four rapes. (Photo by Alex Milan Tracy/Sipa USA) (Alex Milan Tracy)

There were four reported rapes on Wagner College's Grymes Hill campus in 2015 and four in 2014.

In the past 14 years, there have been seven reported incidents of sexual assault at the College of Staten Island (CSI) in Willowbrook and 15 reported incidents of sexual assault on Wagner's campus, including the 8 reported rapes.

There were five additional incidents of dating violence and five incidents of stalking, considered a Violence Against Women Act (VAWA) crime, at CSI in 2014.

There have been no arrests, resulting in zero criminal records and zero registered sex offenders.

The Advance obtained the shocking data from a report by the Office of Postsecondary Education of the U.S. Department of Education.

Colleges and universities that receive federal student aid are required to submit an annual report of campus safety and security statistics — via web-based data collection — as a requirement of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Higher Education Opportunity Act.

This issue of how sex crimes are handled on college and universities across the nation has been the focus of legal and policy debates for decades, leading to lawsuits, federal legislation and advocacy organizations that have tried to compensate for the schools' right to handle the cases solely through their internal security and disciplinary systems.

WAGNER, CSI RESPOND

When asked about the eight reported cases of rape at Wagner, Dr. Shah-Gordon, vice president of campus life and deputy Title IX officer, said just because they were reported doesn't mean that in every instance a person was found guilty by the college's disciplinary tribunal.

One victim who spoke to the Advance said when she reported the rape she was given another student to counsel, comfort and represent her while the alleged rapist was assigned a law professor.

Privacy laws prohibit schools from discussing specifics about sexual assault cases, so the college would not comment on that claim or any of the reported cases.

"If we [Wagner] believe that there is a threat to other students we will make an announcement. If it seems like it is isolated then we're not sending out something to the whole campus," Shah-Gordon told the Advance regarding the school's compliance with disseminating campus-wide warnings and emergency notifications under the Clery Act.

"The safety and well-being of students, faculty, and staff at the College of Staten Island are always of paramount concern," said Ken Bach, communications director for the College of Staten Island, when asked about the reported sexual assault instances on campus.

“CSI remains deeply committed to our Island and campus communities by promptly issuing emergency notifications when there is an imminent, serious, or continuing threat. Incidents are counted in the Annual Safety Report per Clery Act guidelines and shared with the College community,” Bach stated in an email to the Advance.

In the same 14-year time period, St. John’s University on Emerson Hill, which is primarily a commuter college, has not reported any instances of sexual assault or rape on their Annual Security Report (ASR).

THE LEGAL PERSPECTIVE

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or “Clery Act,” passed in 1990 after Clery was raped and murdered in her Lehigh University dorm room in Bethlehem, Pa., in 1986.

Clery’s parents campaigned for legislative reform for years, insisting that Lehigh University failed to distribute essential safety information to its students that could have saved their daughters’ life.

The Clery Act requires colleges and universities that participate in federal financial aid programs to keep and report accurate data about crimes on campus. Under the law, the institutions must:

- Collect and submit data to the Office of Postsecondary Education of the U.S. Department of Education.
- Make data available to the public on the school’s website in the Annual Security Report (ASR). The ASR must be published and distributed annually by Oct. 1.
- Review data and make necessary updates, or create new safety policies and procedures, such as disseminating timely warnings and emergency notifications.

THE BIG QUESTION

So, the question is simple: Why are college and university campuses immune to reporting sex assaults or rapes to local law enforcement authorities?

The answer is complicated: Campuses historically were, and still are, given the authority to handle crimes on campus. At the same time, there is no legal requirement for the campus to then report those crimes to local police.

They are treated like a private legal domain.

“Although a victim’s choice to not report a sexual assault or incident to the police will take precedence, the College reserves the right to notify police when it believes that such reporting is necessary for the protection of the College community,” Bach said concerning CSI’s policy.

In cases of sex assault or rape, cases are reported to campus personnel and are then handled by the school disciplinary system — a tribunal consisting of teachers, faculty and sometimes students, who — critics say — have very little, if any, training on how to deal with such cases.

Police are only notified when and if the victim chooses to report the crime a second time to local cops.

“I think that if it could only go to law enforcement, I think that would be a detriment and people would not come forward,” Shah-Gordon said.

“Because I think sometimes, even now, when they come forward and say ‘Yes, I’ll go to the police,’ the police don’t always take the case and if they do, it’s a different standard of proof [than on a college campus] so it’s much different. I feel like we’re a good intermediary,” she said.

ALEXANDER v. YALE

This controversial legal environment came to national attention through a lawsuit in the 1980s — *Alexander v. Yale* — that stemmed from a woman being told by her university that they could not do anything after she was sexually harassed by a professor.

Pamela Price was an undergraduate Yale University in 1976 when her professor demanded sexual favors in return for a better grade.

School officials told her “nothing could be done to remedy her situation” when she reported the teacher — and they were right.

Price, along with other classmates who were also victims of some form of sexual discrimination, subsequently sued Yale at a time when universities had no systematic plan to deal with sexual assault and no legal obligation to provide one.

Catharine MacKinnon, who earned her law degree from Yale the same year the students' suit was filed, published a paper the year before that argued sexual harassment was a form of discrimination.

The students' lawsuit was dismissed, but the court recognized MacKinnon's claim that schools should be legally required to handle sexual harassment and violence cases, because they constituted forms of gender-based discrimination prohibited by the Education Amendments of 1972.

Alexander v. Yale helped to establish that sexual violence, assault, harassment and rape is not only a crime, but an impairment to education.

WHAT IS TITLE IX?

Title IX is a civil rights dimension of the Education Amendments of 1972, stating that: "No person in the United States shall be excluded from participation, denied benefits of, or be subjected to discrimination under any educational program or activity, where the college receives federal financial assistance."

Title IX is enforced by the U.S. Department of Education's Office for Civil Rights (OCR).

It provided a reporting option for victims of sexual assault based on civil, rather than criminal, law; it's not meant as a replacement for reporting sexual assault crimes to police.

However, if a student victim of a sex crime decides to report it to her school rather than local law enforcement, there is no law requiring the school to then report the incident to law enforcement.

WHY VICTIMS SAY THEY DON'T REPORT TO POLICE

Many victims fear, and do not trust, the criminal justice system.

They don't want to report sexual crimes to law enforcement, fearing judgment from police, doctors, prosecutors and juries. They also have expressed fear of retaliation from their assailant or they don't want to relive the assault during a trial.

According to the Rape, Abuse & Incest National Network (RAINN), of the sexual crimes not reported to police from 2005 to 2010, the victims gave the following reasons for not reporting: 20 percent feared retaliation; 13 percent believed the police would not do anything to

help; 13 percent believed it was a personal matter; 8 percent believed it was not important enough to report; 7 percent did not want to get the perpetrator in trouble; 2 percent believed the police could not do anything to help and 30 percent gave another reason.

Only a quarter of all reported rapes lead to an arrest, one fifth lead to prosecution and only half of those prosecutions result in felony convictions, RAINN analysis of data shows.



Oct. 25, 2016, 6 a.m.

SEX CRIMES ON CAMPUS
This the second report in a three-part series

Sex assault at colleges

Did law following rape/murder help?

by KRISTIN F. DALTON

In 1986, Jeanne Clery was raped and murdered in her dorm room by a fellow student at Lehigh University in Bethlehem, Pa.

That horrendous crime resulted in Clery's parents fighting for legislative reform, insisting that Lehigh University didn't distribute essential information regarding safety on campus to its students.

Prior to Clery's death, the Stoughton Hall dorm where Clery lived, had nearly 200 complaints of doors that were being propped open after their auto-lock failed. It is believed that Clery's attacker entered because of the faulty locking system.

After years of campaigning, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or "Clery Act," passed in 1990.

The Clery Act requires colleges and universities that participate in federal financial aid programs to keep and disclose accurate data about crime on campus.

It doesn't require the institutions to report those incidents to local police.

In the past 14 years, there have been seven reported incidents of sexual assault at the College of Staten Island (CSI) in Willowbrook and 15 reported incidents of sexual assault on the Wagner College campus on Grimes Hill, including eight reported rapes. There have been no reported cases at the St. John's University campus, also on Grymes Hill.

There also were five incidents of dating violence and five incidents of stalking, considered a Violence Against Women Act (VAWA) crime, at CSI in 2014.

But, there have been no arrests, resulting in zero criminal records and zero registered sex offenders.

A key reason is that the Clery Act did include a mandate that colleges and universities report these incidents to local law enforcement.

REQUIREMENTS OF THE CLERY ACT

The Clery Act does require that the data collected must be submitted electronically to the Office of Postsecondary Education of the U.S. Department of Education annually, and be made available on the school's website in the Annual Security Report (ASR).

Colleges and universities must then review the data collected and update or create new safety policies and procedures, such as disseminating timely warnings and emergency notifications and providing resources for survivors of sexual assault.

If the most recent ASR is not available on the school's website by October 1, the college is not in compliance with the Clery Act.

Clery Act violations can result in warnings, up to a \$35,000 fine per violation, litigation or suspension of federal aid, or the loss of eligibility to participate in federal student aid programs.

It also contains the Campus Sexual Assault Victim's Bill of Rights, requiring colleges to disclose educational programming, campus disciplinary process, and victim rights regarding sexual violence complaints.

The Clery Act was expanded in 2013 by the Campus SaVE Act, requiring colleges to also address a wider range of sexual assault, domestic violence, dating violence and stalking.

President Obama signed the Campus Sexual Violence Elimination (SaVE) Act into law in 2013 as part of the Violence Against Women Act and an amendment to the Clery Act.

The Department of Education began enforcing the Campus SaVE Act in 2014.

Under the Clery Act, universities and institutions now must provide victims of sexual crimes — rape, sexual assault, domestic violence, stalking and dating violence — with safety and security options, such as changes to housing accommodations, transportation, employment and academic services.

Colleges and universities are also required to help the survivor in notifying police should they choose, on their own, to report the incident a second time.

WHAT IS NOT A REQUIREMENT

However, colleges and universities themselves are not required to report any sex crimes to police.

Title IX, a civil rights law resulting from the Education Amendments of 1972, gave colleges and universities complete power to handle incidents of sexual assault and rape on college campuses without the assistance of the law enforcement.

Each campus is supposed to have its own tribunal for investigating claims of sexual assault or rape.

The tribunal, as well as the process, varies from campus to campus.

Some campuses have students on the tribunal, while others don't.

Some campuses allow accusers to have lawyers, while others don't.

How the tribunals handle the cases as a civil matter also varies from campus to campus.

This issue of how sex crimes are handled on college and universities across the U.S. has been the focus of legal and policy debates for decades.

There now is a renewed effort to compensate for the schools' right to handle the cases solely through internal security and disciplinary systems in proposed federal legislation that would bring significant reform to the process.



Oct. 26, 2016, 6 a.m.

SEX CRIMES ON CAMPUS

This the second report in a three-part series

Campus sex assaults

New law aimed at revamping system

by KRISTIN F. DALTON



Sen. Kirsten Gillibrand with Andrea Pino and Annie Clark, two sexual assault survivors who heard about Sen. Gillibrand's work to fight sexual assault in the military and wanted help combating sexual assault on college campuses. The two women were retaliated against after trying to report their rapes. (Photo courtesy of Sen. Kirsten Gillibrand)

A student is more likely to be expelled from a college or university for cheating on a test than being found guilty of sexual assault.

Another shocking statistic: Eighty percent of campus sexual assaults are never reported to the university; and more than 80 percent are never reported to law enforcement.

What is stopping victims from reporting and universities from handing out proper punishment?

United States Sen. Kirsten Gillibrand (D-New York) — along with 36 other senators — say it’s primarily because schools do not proactively comply with federal laws, which mandate how to handle instances of sexual assault, and the institutions are not providing victims with proper resources.

‘PERVERSE INCENTIVE’

“Under the Clery Act and Title IX, colleges and universities have a perverse incentive to avoid knowing about sexual violence occurring on their campuses,” said Gillibrand.

A 2014 survey of colleges and universities found that 41 percent of colleges have not conducted any investigations of sexual violence on their campuses in the past five years.

“Crime statistics that are currently collected by the Department of Education under the Clery Act rely on data submitted by the schools themselves regarding crimes reported to the school,” Gillibrand said.

Dr. Shah-Gordon, vice president of campus life and a deputy Title IX officer at Wagner College, feels colleges and universities have a strong responsibility to accurately report instances of sexual assault.

“By reporting it we’re creating a campus where people can come forward and that we’re going to do something about it,” Shah-Gordon said.

“Most college campuses have sexual assaults, so hopefully they’re creating a climate on campus where you aren’t afraid to report that it’s happening. We should make sure that we’re doing as much education as we can, so that hopefully we start to change the numbers,” she said.

‘ACCOUNTABILITY & SAFETY ACT’

Gillibrand, along with a bipartisan group of 36 senators, proposed new legislation that would change the way institutions of higher learning handle sexual violence on campus.

The Campus Accountability & Safety Act would give universities and colleges an incentive to report sexual crimes, as well as provide additional resources for survivors.

The law revamps the current policies, creates a greater level of transparency and enhances resources for survivors. It draws on the Clery Act and Title IX as a guide and is bolstered by input from survivors, advocates, law enforcement, colleges and universities and students.

“We must do more to create an environment where survivors feel safe coming forward to disclose that they’ve been assaulted and understand their options...,” Gillibrand said.

“The College [of Staten Island] looks forward to working with Senator Kirsten Gillibrand and her 36 colleagues in their advocacy to benefit all students,” Ken Bach, communications director at the College of Staten Island, stated to the Advance.

SURVIVOR-FOCUSED LEGISLATION

Gillibrand’s motivation came from who she calls “two incredible young women,” named Annie and Andrea, who walked into her office without an appointment and asked for help.

When they tried to report their rapes to their school, they were not believed, they were retaliated against, and justice was not possible.

They created an organization called End Rape on Campus and have helped many other sexual assault survivors file federal Title IX complaints about how their schools mishandled their claims.

Currently, all colleges and universities have a Title IX Coordinator, a designated school official tasked with coordinating Title IX compliance for the school, not just sexual violence instances.

NO PROMISE OF ANONYMITY — NOW

Should a survivor choose to report a crime to the coordinator, they are responsible for initiating an investigation. There is no promise of anonymity for the accuser.

The Campus Accountability & Safety Act creates a new “confidential advisor” role, different from the existing role of the Title IX Coordinator, which is unchanged by the new legislation.

“We have heard from advocates that survivors need someone they can talk to in order to learn about their options without being forced to make a permanent decision about reporting right away,” Gillibrand said.

The advisor will offer support to survivors in various ways: Having their class schedule changed, new transportation, support services, aid in reporting to law enforcement and other confidential services.

“The Confidential Advisor is a survivor-centered person who guides the survivor through the difficult process of understanding potential legal and campus reporting processes following a sexual assault and can provide confidentiality through that process,” said Gillibrand.

“By providing survivors with confidential information through the Confidential Advisor about the survivors’ options and assistance in reporting, we can empower survivors, increase reporting of these crimes to police, and ultimately hold more offenders accountable,” she said.

In addition to Title IX coordinators, Wagner College has trained numerous faculty, staff and students in leadership roles, such as a Resident Advisor, on what to do if a sexual assault is reported to them.

“We lay it all out; here’s what you can do on campus and here’s what you can do off campus and then we walk them through all of it, helping them to understand that they don’t have to make a decision at that moment,” Shah-Gordon explained.

“But we want to make sure that they feel safe on campus; their health and safety, that’s our primary concern. Even if they don’t want to have a hearing, there are things we can do immediately; we can get a no contact order, change dorms, classes, transportation,” she explained.

HOLDING INSTITUTIONS ACCOUNTABLE

If a college or university violates Title IX, in relation to sexual violence, the only allowable penalty is loss of all financial aid – something that has never been done.

An institution found in violation of the Clery Act could receive a \$35,000 fine.

The Campus Accountability & Safety Act will increase Clery Act fines from \$35,000 to \$150,000, and would allow the U.S. Department of Education to fine the college or university up to 1 percent of its operating budget for a Title IX violation.

INCREASED TRANSPARENCY

Gillibrand says another problem with the current legislation is that existing data collection methods do not accurately reveal the full scope of sexual assault on campus.

This led to the creation of a survey that would be taken by the students directly, as opposed to relying on the school for numbers.

“This [biennial] survey will flip incentives [for schools to not report crime data] by surveying students directly and forcing schools to account for those discrepancies between the survey data and their Clery crime statistics,” she said.

Adding: “The standardized, biennial survey required by the Campus Accountability and Safety Act would give the American public and policymakers an accurate picture of the problem at both national and campus-level scales.”

The results of the campus climate survey would create a new level of transparency for students and parents, allowing comparisons between schools related to campus sexual violence and institutional response.

Bach said that “incidents of reported sexual assaults at CSI are managed in compliance with CUNY’s Policy on Sexual Misconduct and federal and state law.”

UNIFORM DISCIPLINARY PROCESS AND TRAINING

The new legislation also would create a uniform student disciplinary procedure for all cases — schools are currently allowed create their own processes.

Additionally, Gillibrand says that athletes are often treated with more leniency than other students who are accused of sexual violence.

“A 2014 survey of 440 colleges and universities in the U.S. found that 22 percent of college and universities have athletic departments oversight of campus sexual assault cases involving athletes,” Gillibrand said.

That practice would end under the Campus Accountability & Safety Act.

It would also require the Secretary of Education and the Attorney General to partner with local victims’ services organizations to create online training materials for individuals involved in implementing student grievance procedures related to sexual misconduct.