

THE CHRONICLE OF HIGHER EDUCATION

Commentary

September 17, 2012

Bring Campus Crime Reports Out Into the Open

By Frank D. LoMonte

The campuses of private colleges are islands of invisible crime, black boxes where even violent offenses can largely disappear from public view. The public can find out more about an assault in a private homeowner's living room than about an assault on the quad at Notre Dame.

When police officers respond to a crime anywhere in America—a bank, a school, a private home—they create an "incident report" that, under the open-records laws of almost every state, is available for public inspection. But when private colleges operate their own police departments, secrecy prevails. That's because in all but a handful of states, police at private colleges are exempt from state open-records laws and need not make their incident reports public. The sum total of legally required disclosure is a one-line description of each crime, often too generic to be meaningful.

At Elon University, Nick Ochsner, a reporter for a student television-news program, set out to change this. In April 2011, he sued the university, arguing that the North Carolina public-records law entitled him to more than the perfunctory "what, where, and when" that campus police were providing about each offense.

This June the North Carolina Court of Appeals handed Ochsner—and everyone who cares about campus safety—a stinging setback. Even though Elon's police department exercises arrest powers

delegated by the state legislature and attorney general, it need not obey the same disclosure rules as city or county police departments, the court ruled, affirming an earlier decision by a county superior court.

But on August 23, the North Carolina Supreme Court granted Ochsner's petition to review the ruling. The case is certain to be closely watched by private institutions nationwide: Although the ruling will not be binding outside North Carolina, many other states have comparable laws enabling private colleges to exercise full-fledged police powers, so the decision will carry persuasive value in those states.

Unless the Court of Appeals ruling is reversed, requesters at private colleges will be entitled only to the minimal crime-log entries mandated by Congress in the Clery Act, which requires any college accepting federal aid to create publicly accessible logs of every crime reported to campus security authorities. (It also requires an annual statistical report of a specified list of serious crimes.) Clery logs are better than nothing. If there is a wave of laptop thefts at a particular library, the Clery log should enable campus residents to take sensible precautions (or encourage other victims to come forward). But they are an inadequate substitute for the disclosure that public police agencies must make.

Under the laws of almost every state, police departments must disclose incident reports capturing the observations of officers on the scene. These narratives enable journalists to meaningfully describe the nature of crimes, and to track down witnesses who can provide essential details. By comparison, a legally adequate Clery log entry might say, "Battery, 12 midnight July 6, Smith Dormitory." Members of the campus community—students, parents, faculty, staff—cannot take precautions, or decide whether precautions are even necessary, given such perfunctory descriptions.

At public colleges, access to police incident reports is essential for the public to assess how campus police are performing, and makes it possible to catch cheaters. This summer the U.S. Education Department upheld the imposition of one of the largest Clery Act fines ever imposed, against Texas' Tarleton State University, after enterprising student journalists dug through police incident reports and discovered three rapes and more than 70 other crimes that never made the annual Clery log.

Reflecting practices in many states, legislators in North Carolina have enabled private colleges to create state-certified police forces, giving them the power to arrest, and to shoot when necessary. Without this statutory authority, campus police would be glorified security guards. But accepting state authority normally means accepting the public openness that goes with it. That is a reasonable bargain.

When it comes to private-college police, however, openness is the rare exception. Only two states, Georgia and Virginia, statutorily require private-college police departments to obey disclosure requirements comparable to those at other police departments. In a third state, Connecticut, police reports are public record by virtue of a ruling of the state's Freedom of Information Commission.

But in Ochsner's case, the North Carolina appeals court reached the opposite conclusion. That court decided that the obligation to disclose records is limited to agencies listed in the North Carolina public-records law, which does not expressly mention private-college police.

In other contexts, though, courts have had no difficulty finding that police at private colleges are agents of the state. North Carolina's Supreme Court decided just last year that it is constitutional for the state to delegate arrest powers to a religious institution, Davidson College, because state law makes the officers

answerable to the attorney general as their supervisor.

Similarly, a federal district judge in Indiana decided in March that police at the University of Notre Dame could be held liable for violating a demonstrator's First Amendment rights, even though constitutional claims can normally be brought against only government agents.

Access to police reports is doubly essential because of colleges' propensity to funnel crimes into confidential disciplinary proceedings that, unlike court cases, result in no public hearing or verdict. If concerned members of a campus community can see neither the process nor the outcome, they must at least know something about which offenses the college chooses to process as disciplinary rather than criminal matters.

The secrecy under which campus police operate creates a perverse incentive for colleges to create their own police agencies. If city police come onto a private-college campus, they create a public paper trail. But if campus police assume responsibility, the trail largely disappears.

That is precisely what happened last September at Otterbein University. After years of relying on police from the surrounding City of Westerville, the university chartered its own police force under an Ohio statute that gives private-college officers the same powers as city or county police. Suddenly journalists' access to information—formerly available from city police—dried up.

Apologists for the "invisible crime" system argue that, just as the juvenile justice system treats offenses by children as confidential, to give rehabilitated young people a fresh start, so too should colleges. But that rationale appears nowhere else in the law. If a car is stolen from the shopping mall, it results in a public paper trail regardless of whether the thief is a 48-year-old career criminal or a 20-year-old sorority president.

If society intends to create a zone of anonymity for college-age criminals, then the entire legal system should be adjusted—not selectively adjusted on a campus-by-campus basis. No public benefit is served by giving a University of Miami student a get-your-reputation-back-free card for the same crime that would create a record for a University of Florida student.

North Carolina legislators can patch the hole in the Public Records Act—and they should. But it should not take a campaign of lawsuits by frustrated journalists to fix higher education's "invisible crime" system.

What is needed more than a change in the law is a change in mentality—a change that puts concern for public safety, and for the public's confidence in the legitimacy of the justice system, ahead of image control.

Frank D. LoMonte is executive director of the Student Press Law Center.

6 Comments The Chronicle of Higher Education  studentplc ▾

Sort by Oldest ▾ Share  Favorite ★

 Join the discussion...

 **Apple Spotcrime** · 2 years ago
 Could not agree more. The argument for transparency far outweighs any need to silo the data. Additionally, there's a benefit to both University and City police agencies if they openly share data. Last time I checked, no university has a moat around it. Criminals are indifferent to jurisdictional boundaries, why should the public be burdened with getting different levels of transparency from adjacent agencies. It is likely that if public sharing is different for each agency, then sharing amongst the agencies is lacking too.
 Colin Drane - Founder - SpotCrime
 4 ^ | ▾ · Reply · Share ›

 **Barrie Ritter** · 2 years ago
 There is another problem with police secrecy on college campuses: police can demand action of a student who has broken no law, and take away the student's freedom if they don't obey. At a private school in San Diego, a man

and wife disagreed: she wanted to stay on campus, he wanted to go home. The police became involved, demanding that the wife "obey" her husband. When she didn't, or didn't move fast enough, she was committed to County Mental Health, taken there in handcuffs and kept in restraints for 24 hours, during which she was given 5 times the normal dosage of an anti-psychotic drug, Haldal - without ever seeing a psychiatrist. The diagnosis? "Psychosis, in remission"! This occurred at Alliant International University.

^ | v · Reply · Share ›



Roxy Glacier · 2 years ago

Bringing campus crimes out into the open might embarrass college presidents and football coaches for whom statues have been erected. It might not be "humane," to quote president Spanier of PSU, to bring campus crimes out into the open spaces where all can see.

5 ^ | v · Reply · Share ›



2much2do · 2 years ago

Public reporting could also force felonies to be managed in the judicial system, rather than by campus police. Campus processes are fine for academic integrity issues or drinking in dorms. But they are absolutely NOT appropriate for serious offenses such as rape and assault. My nephew was beaten up on campus, and the campus police told the family they would handle it. My nephew and his girlfriend knew the attackers. He was in ICU for a week, and had multiple facial fractures and permanent scars. With all the health concerns, the family trusted the college would follow through. The college expelled one of the students, but the other young man had already graduated, and they simply banned him from campus. So, these young men have nothing on their records, and there were no serious consequences. But the college has a clean record, and a touts their great relationship with the community.

5 ^ | v · Reply · Share ›



TallyJane · 2 years ago

The only thing campus cops were good for when I was in college was writing parking tickets. Beyond that they were a laughing stock, and we mocked them accordingly.

2 ^ | v · Reply · Share ›



best criminal justice schools · 2 years ago

Great article. It was stated here the complete and detailed information's about the crime that was truly happened in the campus base on the reports that was being declared by the host. Thank you for letting me know about this said incident, It was really well detailed report that I was able to know about this crime.

^ | v · Reply · Share ›

 [Subscribe](#)

 [Add Disqus to your site](#)

 [Privacy](#)