

## CAMPUS SECURITY: CHANGING THE FOCUS

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Question -- My oldest daughter is going to be a freshman soon at a large university in a major city. The campus looked beautiful from the brochures, however, when I visited the campus in the spring I felt that she could be in danger in the evening... What can I tell her that will keep her safe?...

--Worried Mom (Gisler & Eberts, 1988)

"Worried Mom" is right to be concerned about her daughter's safety. There is no such thing as completely safe campus. However, many questions must be addressed. What responsibility does a college campus have to protect its students? What is reasonable? Do students accept responsibility for their own safety? At what point has the university fulfilled its responsibility to provide a safe environment? In other words, when does the responsibility shift to the student? The purpose of this paper is to address these questions. The legal responsibilities of universities will be reviewed and compared to the perception of some of today's college students and their parents.

### Background

Evidence suggests violent crime is increasing on campuses across the country (American Council on Education Report, 1985). *USA Today* created a task force to investigate campus crime. The task force visited fifty campuses, interviewed 2500 students and conducted a mail survey of college law enforcement officials. Their study reported several findings. One of four college students is a victim of a crime, a violent crime occurs once for every five hundred students (this statistic varied little with the size of the campus), and on the whole, reported crime rose five percent since last year (Ordozensky, 1988). This increase in violent crimes has brought campus safety under greater scrutiny.

Much of the rise in crime awareness on campuses stemmed from the circumstances following the rape, torture, and murder of a student at Lehigh University. The victim's parents, Mr. and Mrs. Clery, started a campaign to force universities to reveal statistics about campus crime (Gilbert, 1988). The Clerys are not alone in their frustrations with universities concerning safety issues. Many colleges and universities have been found liable for not providing adequate security. Administrators are taking a closer look at their responsibility to create a safe campus environment.

### Legal Issues

In general, the university and its students must adhere to a minimum standard of conduct with respect to each other. If either party breaches this standard, a tort has been committed. A tort is defined as a civil wrong, other than a breach of contract, for which the courts will provide a remedy in the form of damages (Moore & Murray, 1983). There

are several kinds of torts. When discussing safety and security issues, the tort of negligence is of primary concern.

Four elements must exist to constitute a negligence claim:

1. There must be a duty or obligation recognized by law for an individual to conform to a certain standard of conduct or exercise a particular standard of care for the protection of others against unreasonable risks.
2. A failure on the part of the individual to conform to the appropriate standard of conduct or care must occur.
3. Such failure is the proximate cause of the resulting injury.
4. There is actual loss or damage suffered by the injured party (Moore & Murray, 1983).

As stated previously, tort law assumes a uniform standard of behavior that is expected to be followed when interacting with others. This standard is considered one of "reasonableness."

In the case *Mullins v. Pine Manor College* (1983), a first year student at the college was awakened in her residence hall room by an unidentified male intruder, taken out of the building and raped. Evidence showed that security was poorly supervised and on the night of the rape several gates and doors were unlocked. The court found that the college had a duty to protect students against the criminal acts of third persons. The court noted that parents, students, and the general community have reasonable expectations that reasonable care will be exercised to protect its residents.

There are times when the law may require that a greater standard of conduct or care be observed; this is an example in which a special relationship among the parties is involved. Often the relationship between the residence hall administrators and the student is extended to a landlord-tenant relationship, and therefore can be classified as a special relationship.

In the case *Duarte v. California* (1979) a woman was raped and murdered in her residence hall room by a third party intruder. Although the university had been aware of the escalating number of violent assaults, rapes, and attacks on female students, the university failed to take responsibility to warn or train the students to protect themselves. The university had expressly represented that the residence hall was reasonable safe and secure for their occupants. Because the victim had a "landlord-tenant relationship-plus" with the university, it constituted a duty-imposing relationship. Consequently, the state was found responsible for misrepresenting the safe and secure residence hall environment (*Duarte v. California*, 1979).

It should be noted that negligence is not simply carelessness. Instead negligence involves a "foreseeable" danger based upon actual or presumed knowledge of the present circumstances, and a reasonable belief that harm may follow. For example, in *Brown v. North Carolina Wesleyan College, Inc.*, (1983) three students were abducted and forced to a quarry where one of the students was raped and murdered. Prior to this incident, there had been two break-ins and one attempted rape at the college over a ten-year period. The court held that the "scattered incidents" of crime did not raise an issue of foreseeability. The college was not found negligent in protecting the students from the violent acts of the third person.

As a landowner, however, the state has a duty to maintain minimal security

measures in the face of foreseeable criminal intrusions upon tenants. This played out in the case *Miller v. State* (1984). A university was sued for negligence after a student was raped in her residence hall. The court found that by failing to lock the outer doors of the hall, the State had breached its duty to protect its tenants from reasonable foreseeable criminal assaults by outsiders.

In general, the "duty of care" and "foreseeability" combine to form the negligence. However, the elements of proximate cause and actual injury need to be present for recover in law for a tort negligence. If, for example, in *Brown v. North Carolina Wesleyan College, Inc.*, (1983) the college would have been found negligent in failing to protect the student from the violent acts of a third person, it would still need to be proven that this negligence was a proximate cause of the rape. It is up to the court to determine the extent to which the individual owes a duty of care for each case.

Much of the attention given to campus security then, has focused on the extent of the responsibility of colleges and universities to provide a safe environment. No institution, however, can guarantee that all members of its community will be free from personal attack or the loss of their property (Tuttle, 1988). This level of absolute protection is not available anywhere in our society. A prison is perceived as one of the most secure environments in our society yet, even in prison, rapes and murders still take place. An institution should take reasonable steps to provide a level of security which will not restrict community members excessively, but will promote an environment in which personal safety measures are regularly practiced.

The results of a report on the security level at the University of Maryland at College Park (Ott, 1983) suggested many changes that would improve the university's level of security. Among these suggestions were improved lighting, closer parking, and increased campus police. These recommendations alone, however, will not improve the level of security on campuses. In *Relyea v. State of Florida* (1980), it was shown that "whether to provide security guards, parking attendants, security gates ... was partially based upon budgetary limitations controlled by the Legislature." Furthermore, decisions such as where and how to employ its available resources, and the number of security personnel per shift, are all up to the discretion of the campus security force. (*Relyea v. State of Florida*, 1980). It is not always possible to anticipate criminal activities, therefore increased campus security alone will not alleviate crimes.

### Misconceptions

Unfortunately too many college students and their parents depend solely on colleges and universities to provide adequate safety on campus. The Clerys, in a mailing to educate parents across the country declare, "Students are powerless to provide for their own security. Only the institution has the resources to ensure a safe environment." Sheldon Steinbach, a lawyer for the American Council on Education, acknowledged the Clery's viewpoint as being consistent with society's when he stated, "Student and parents alike view campuses as being immune from the dangers of modern society. We are not. We are part of it" (Ordozensky, 1988, p. 2A). It is a myth that students are "powerless." This misconception is at the core of the campus security issue.

Many of the aforementioned misconceptions concerning campus safety stem from the "in loco parentis" doctrine that dominated campuses prior to the 1960's. Although

student-institutional relationships have moved away from "in loco parentis" expectations (i.e. curfews, strict visitation) to allow students additional freedoms, many students and parents have not accepted the responsibilities accompanying these freedoms. To some, college students are still viewed as "boys" and "girls" or "kids" that need to be taken care of instead of responsible young adults.

In no way is a case being made to "blame the victim" of violent crimes that have occurred on campus. The fact that a college need not police the morals of its resident students does not entitle it to abandon any effort to ensure their physical safety. The law imposes a duty that institutions must meet to keep themselves from liability risk. These standards are reasonable ones and by no means absolute. However, the responsibility for safety and security on campus has been skewed toward the administration. Something must be done to bridge the gap between the realities and security on campus, parent-student perceptions of powerlessness, and the distinctive line between student and institutional responsibility. Individual awareness and responsibility are the keys to any crime prevention strategy (Tuttle, 1988). Some members of society have not accepted this fact.

### Recommendations

Institutions need to review current policies in regard to safety and security with respect to their legal responsibilities. Not only is it important to determine the effectiveness of such policies, enforcement of such policies and consequences assigned to policy violators must also be reviewed.

Furthermore, colleges and universities should extend their educational mission to include issues of safety and security. Residence halls and administrative offices should be aware of the availability of programs and publications on this issue. Services that could enhance campus safety should be investigated such as night escorts and a ride service.

In addition, students must be motivated to take responsibility for their own safety. All too often students find institutional policies annoying and undermine them. The authors conducted an observational experiment at Indiana University to examine the extent to which students supported institutional efforts to provide a safe environment. On two separate evenings, locked exterior doors to several residence halls were propped open, several women were observed walking alone, and the authors were admitted to residence halls without question and unescorted. These findings supported our premise that many students are not conscious of the power they have over their own safety and encourage further study into this issue.

### Conclusion

It must be remembered that "...risk is a fact of life...It is not something that should be feared but rather something to be controlled" (Moore and Murray, 1983, p. 91). It makes no difference what kind of policies, educational opportunities, or safety features a campus builds into its environment, there will always be safety risks. If the campus community does not buy into the underlying principles guiding safety and security then the risk of violence or injury will increase.

Determining where the institution's responsibility ends and where it begins for the individual can be difficult. However, once the university makes a reasonable effort,

according to the law the line becomes clearer. The students make many decisions. They choose to read literature or ignore it, to attend programs or to skip them, to follow safety tips or live dangerously, to uphold policies or undermine them. In essence, to learn or not to learn. It is their choice. Common sense will go a long way toward controlling the risks presented by a campus environment; students, institutions, and the remainder of society need to use common sense when focusing on their responsibility.

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