



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

CAMPUS CRIME

Virginia Tech - A fine that's not so fine

Posted by James Alan Fox, Crime and Punishment April 1, 2011 07:00 AM

Earlier this week, the U.S. Department of Education threw the book at Virginia Tech. Actually, it was more like a pamphlet. Citing the school's failure to alert the campus community in a timely fashion during the April 2007 massacre, the Feds imposed a fine of \$55,000—the maximum penalty for each of two violations of the 1990 Clery Act.

In my mind, this penalty is absolutely unreasonable unreasonably high, that is. Notwithstanding the unparalleled carnage that claimed the lives of 32 students and faculty, the university and the campus police department, in particular is not blameworthy. Rather, Virginia Tech's initial response was appropriate for the circumstances as they appeared at the time, even though sadly inadequate in preventing the awful tragedy that ultimately unfolded.

A well-intentioned though misguided law, the Clery Act requires all colleges and universities that receive federal funds of any kind to comply with a set of onerous and overly broad crime reporting requirements. Embedded deep within the legislation is a paragraph stipulating that public safety officials must immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus. □

The debatable issue when judging Virginia Tech's response surrounds whether university officials should reasonably have deemed the situation to be dangerous, prior to the point when the campus was besieged by a rampaging undergraduate. What makes the Virginia Tech massacre unique (besides its enormity, of course) is that it was actually two shooting sprees separated by a 2-plus hour hiatus. Nothing about the first wave of gunfire would have indicated that there would be a continuation

Just after 7:15 a.m. on April 16, 2007, the Virginia Tech police were called in response to the gunshot deaths of two students inside a co-ed residence hall. The authorities assumed, based on the apparent circumstances, that the early morning double-homicide had resulted from an isolated domestic quarrel and that the campus community was in no further danger.

Given the usual context of campus violence, the domestic quarrel theory would have been more than reasonable. Of course, it would soon become clear that the most plausible explanation could not have been further from the truth.

As it happened, the assailant had fled the campus after the double shooting, not with the hope of escaping apprehension, but in order to mail a videotaped message to NBC News explaining his rationale for murder. He then returned to campus and transformed several crowded classrooms into his own personal shooting gallery.

The right balance between timeliness and accuracy can sometimes be difficult to achieve. While colleges and universities need to alert their students, staff and faculty to an existing threat, hasty overreaction can unnecessarily incite panic. In one recent episode, for example, students at the University of Iowa frantically ran for cover following a campus-wide text alert informing them about an active shooter nearby. It turns out that nearby was actually many miles away on the opposite side of town, posing very little threat to the campus.

So now, four years after the gun smoke had cleared on the Virginia Tech campus and with aid of impeccable hindsight, the U.S. Department of Education is playing Monday morning quarterback. Based on the standards in place at the time (standards that were subsequently upgraded), the university should have been cleared of blame.

In the overall scheme of things, of course, a fine of \$55,000 is of trivial consequence to a large institution like Virginia Tech--about equal to the tuition from two out-of-staters. Still, the fundamental principle of fairness overshadows the sum.