REPORTING AND DOCUMENTING UNDER CLERY ACT & VAWA

Presented by
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Who Are We

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Areas to be Covered

• What is the Clery Act?

• What are the College’s responsibilities?

• How does the Clery Act apply to me?
WHAT IS THE CLERY ACT?
History

19-year-old university freshman Jeanne Ann Clery was raped and murdered while asleep in her residence hall at Lehigh University on April 5, 1986.
In Brief

• Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

• All public and private postsecondary institutions that participate in Title IV student financial assistance programs must comply.

• Enforced by the U.S. Department of Education (ED)
WHAT ARE THE COLLEGE’S RESPONSIBILITIES?
The Requirements

Every institution must:

1. Collect, classify and count crime reports and crime statistics
2. Issue campus alerts
   - Timely warning
   - Emergency notification
The Requirements, continued

3. Publish an annual security report
4. Submit crime statistics to U.S. Department of Education
5. Maintain a daily crime log
Timely Warning

• Alert the campus community to certain crimes in a manner that is timely and will aid in the prevention of similar crimes
  • “Timely” is not defined.
  • A warning should be issued as soon as pertinent information is available.

• The warning must be issued for Clery Act crimes that are considered by the institution to represent a serious or continuing threat to students and employees.
Emergency Notification

• The institution is required to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus.
Timely Warning or Emergency Notification?

Emergency Notification
- Any significant emergency or dangerous situation (including, but not limited to, Clery crimes).
- Triggered by an event currently occurring on or imminently threatening the campus.
- Applies to situations that occur on campus.
- Initiate procedures immediately upon confirmation.

Timely Warning
- Narrow focus on Clery crimes.
- Is triggered by crimes that have already occurred but represent an ongoing threat.
- Applies to crimes that occur anywhere on your “Clery Geography.”
- Warning issues as soon as the pertinent information is available.
Emergency Procedures

- The College is required to have and disclose emergency response and evacuation procedures.
  - Test it
    - Great California ShakeOut
    - Fire/Evacuation Drills
  - Evaluate it
    - Hot Wash Meetings
  - Publicize it
    - Emergency Notification System Tests
Daily Crime Log

• The purpose of the daily crime log is to record criminal incidents and alleged criminal incidents that are reported to the campus police or security department.

• Crime log entries include all crimes reported to the campus police or security department for the required geographic locations, not just Clery Act crimes.

• Includes crimes that occurred within the patrol jurisdiction of the campus police or security department.
Missing Students

- Requires that institutions have procedures in place that it will follow if any student residing in on-campus student housing is determined to be missing for 24 hours.

- When a student who lives in on-campus housing is determined to have been missing for 24 hours, you have only 24 hours after receiving the report to initiate specific notification procedures.
Missing Students

Timeline

• Friday at 11:00 pm
• Saturday at 11:00 pm
• Sunday at 11:00 pm

Timeline

• Last time student is seen
• Student reported missing to college official, including College DPS.
• DPS makes official determination that student is missing.
• Emergency contact procedures must be initiated.
Fire Safety Information

• Requires that institutions:
  • Maintain a log of all reported fires that occur in those on-campus student housing facilities
  • Publish an annual fire safety report that contains fire safety policies and fire statistics for each of those facilities
  • Submit the fire statistics from the fire safety report annually to U. S. Department of Education.
Fire Safety Reporting and Disclosures

- Fire is defined as any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

- Includes all fires that meet the definition regardless of size, cause, or whether the fire results in injury, death, or property damage.
Consequences of Noncompliance

- Fines of up to $35,000 per violation
- Fines can be incrementally applied

UT Arlington, 2011 - $82,500
Univ. of North Dakota, 2011 - $115,000
Lincoln University, 2013 - $275,000
WHAT IS VAWA
Campus SaVE 2013

• The Violence Against Women Act is a federal law aimed at ending violence against women and remedying the laws and social practices that have fostered and justified the history of violence against women.

• Amends the Clery Act and affords additional rights to campus victims of sexual violence and assault.
VAWA on Campus

- Requires “prompt, fair, and impartial” investigative procedures
- Prohibits retaliation
- Requires awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking
Victims Who Are Minors

• All sex-based offenses involving minors must be reported to the police.

• Absolute duty, regardless of professional position, of person taking report, to report all sex-based offenses to police.
Victims of Sex-Based Offenses

- Victims are urged to report the crime to the police and pursue criminal charges.

- College disciplinary actions can also apply to the offender.

*The two are not mutually-exclusive*
Victim Support

- Victims can access resources even if they do not want to officially report the crime

Student Health and Wellness Center
Counseling
Alliance Against Family Violence and Sexual Assault
Domestic Violence/Rape Hotline
HOW DOES THE CLERY ACT APPLY TO ME?
What to know…

1. Clery Geography
2. Clery Crimes
3. Collecting Crime Statistics
Clery Geography

- Clery geography is important because statistics for Clery crimes that don’t occur within your Clery geography are not included in your Clery statistical disclosures even if your students or employees are involved.
Clery Geography includes:

- On-campus Geography
- Public Property
- Non-campus Buildings or Property
- Separate Campus
On-campus Geography, Part 1

- Your institution owns or controls them
- They are reasonably contiguous to one another
- They directly support or relate to the institution’s educational purposes

Example?
On-campus Geography, Part 2

- Your institution owns but does not control them
- They are within your campus, or reasonably contiguous to it
- They are frequently used by your students
- They are used to support the institution’s educational purposes

Example?
Public Property

• All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.
Street, Sidewalk, Street
Public Parking
Non-campus Buildings or Property

- Is owned or controlled by the institution
- Supports or is used for the institution’s educational purposes
- Is frequently used by students
- Is not considered part of the core campus or a separate campus

Arvin High School, Bakersfield Christian High School, McFarland Community Center, etc…
Separate Campus

- Your institution owns or controls the site
- It is not reasonably geographically contiguous with the main campus
- It has an organized program of study
- There is at least one person on site acting in an administrative capacity

Delano Campus
Clery Crimes

The Clery Act requires disclosure of three general categories of crime statistics:

• Criminal Offenses
• Hate Crimes
• Arrests and Referrals for Disciplinary Action
Criminal Offenses

• Include completed and attempted crimes of:
  • Criminal Homicide
    • Murder and Non-negligent Manslaughter
    • Negligent Manslaughter
  • Sex Offenses
    • Forcible Rape
    • Forcible Sodomy
    • Sexual Assault with an Object
    • Forcible Fondling
    • Incest
    • Statutory Rape
Criminal Offenses

• Include completed and attempted crimes of:
  • Robbery
  • Aggravated Assault
  • Burglary
  • Motor Vehicle Theft
  • Arson
  • Domestic Violence*
  • Dating Violence*
  • Stalking*

*new with addition of VAWA rules
Crime Definitions

• Per the Clery Act, you must classify crimes based on the Federal Bureau of Investigation’s (FBI’s) Uniform Crime Reporting Handbook (UCR).
Hate Crimes

• A hate crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender’s bias.

• Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin.

• Before an incident can be classified as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender’s actions were motivated, in whole or in part, by bias.
Hate Crimes

- Murder and Non-negligent manslaughter
- Forcible sex offenses
- Non-forcible sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
Hate Crimes

- Gender identity
- National origin
- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property
Arrests and Referrals

Include arrests and the number of persons referred for disciplinary action for the following law violations:

- Weapons violations
- Drug Abuse violations
- Liquor Law violations - *do not include public intoxication or DUI*
Collecting Crime Statistics

- Who?
- What?
- When?
Campus Security Authorities

- The Clery Act requires all institutions to collect crime reports from a variety of individuals and organizations that Clery considers to be “campus security authorities.”

- “Campus security authority” (CSA) is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution.

- Consider the function of that individual or office, not the title.
A CSA is…

- A campus police department or a campus security department of an institution.

- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department.

- Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
A CSA is…

- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.

- An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.
Who Are CSAs?

• A dean of students who oversees student housing, a student center or student extracurricular activities.

• A director of athletics, a team coach or a faculty advisor to a student group.

• A student resident advisor or assistant or a student who monitors access to dormitories.

• A CSA is NOT a faculty member who does not have any responsibility for student and campus activity beyond the classroom.
Roles and Responsibilities

• The function of a Campus Security Authority is to report to the official or office designated by the institution to collect crime report information, such as the campus police or security department, those allegations of Clery Act crimes that he or she concludes were made in good faith.

• A campus security authority is **NOT** responsible
  • for determining authoritatively whether a crime took place
  • for trying to convince a victim to contact law enforcement if the victim chooses not to do so
CSA Documentation

• If unsure whether an incident is a Clery crime, or even if it’s criminal in nature, you should report it.

• Provide as much information about a criminal incident as possible to the college DPS and to categorize the crime.

• Crime reports should include personally identifying information if available.
Timelines for CSAs

- Under Clery, a crime is “reported” when it is brought to the attention of a campus security authority by a victim, witness, other third party or even the offender.
  - It doesn’t matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution.

- If a Campus Security Authority receives the crime information and believes it was provided in good faith, he or she should document it as a crime report.
Test Your CSA IQ

A student mentions to her boyfriend that a number of rooms in the hallway of her residence hall were broken into during the previous night’s basketball game. Later that day, her boyfriend tells the athletics director what he heard. The AD asks which dorm it was and what, if anything else, the boyfriend knows about the incident.

Student – Boyfriend – Athletic Director
Test Your CSA IQ

• Analysis:
  • Clery geography?
  • Clery crime?
  • Report made to CSA in good faith?

• The AD should document the information and forward it to the college’s Department of Public Safety per the school’s crime reporting policy.
Resource

• The Handbook for Campus Safety and Security Reporting
  • http://www2.ed.gov/admins/lead/safety/handbook-2.pdf
Contact Information

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