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Campus Crime Reporting: A Guide to Clery Act Compliance

This report is a joint undertaking of the American Council on Education (ACE) and the National Association of College and University Business Officers (NACUBO). It represents an effort to provide college presidents, provosts, business officers, and other senior administrators with an overview of the complex, but critically important, campus crime reporting obligations instituted under the Clery Act.

Considerable time and attention to the creation of this guide was contributed by Dolores Stafford, director of University Police at The George Washington University and board member of the International Association of College Law Enforcement Administrators. Dolores shared this document with others in her field, and the final document reflects the insights and experience of several long-time practitioners of and advocates for campus safety.

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Campus crime reporting is a complex and time-consuming undertaking for colleges and universities. In the years to come, if Congress chooses to add more amendments to the Clery Act, it may grow even more complex. ACE and NACUBO will continue to provide guidance and information to assist your compliance efforts. To this end, we invite your feedback on this first edition of the guide.

Introduction

Colleges and universities value highly the individual and collective security of their students, faculty, and staff. This is not only because our institutions care about individual safety, but also because Congress has set many requirements for campus crime policies and reporting. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), codified at 20 U.S.C. 1092(f) as part of the Higher Education Act of 1965 (HEA), requires that colleges and universities disclose policy information and crime statistics as part of a campus security report published annually by each institution. Institutions must also issue timely warning notices of crimes and maintain a daily crime log. The Clery Act seeks to ensure that parents, students, and other members of the campus community are adequately informed about crimes on or near campuses, campus security policies and procedures, and what institutions are doing to keep concerned individuals informed. The law covers public and independent institutions of postsecondary education participating in federal student-aid programs authorized under Title IV of HEA. Failure to comply can result in fines or loss of Title IV eligibility.

At the same time, the Act sets forth a complicated regimen. Originally enacted in 1990 as the Student Right to Know and Campus Security Act, the law and its accompanying regulations have been the subject of a series of amendments over the past 10 years. The Department of Education (ED) issued the most recent regulations, incorporating changes made to the Clery Act in 1998, on November 1, 1999 (see 64 *Federal Register* 59060). A provision, modeled after Megan's Law, was added to the Clery Act a year later as part of the reauthorization of the Violence Against Women Act. This provision, effective October 2002, requires

colleges and universities to include in their annual campus security reports information about where information on registered sex offenders may be obtained. Compliance with these complex and often confusing rules is critically important for colleges and universities.

It is imperative that institutions understand the consequences of failing to comply with the Clery Act, which extend far beyond potential fines or sanctions by ED. Negative publicity from a mere allegation of noncompliance can affect the well-being of the entire institution, potentially impacting applications and staff morale. Compliance with the Clery Act has been the subject of considerable press interest in the past few years, and several institutions whose compliance was questioned were the subjects of extended press scrutiny. Although the impact of these allegations has been felt primarily by the institutions involved, local cases have been used by some to paint a picture of a noncompliant higher education community seeking to obscure the truth about crime on campuses.

Watchdog groups have filed official complaints with ED based on stories told by victims of crimes on campus or local newspaper articles that question whether an institution is in compliance. Institutions then face negative publicity without even being proven “guilty” of noncompliance. The mere allegation of noncompliance creates a barrage of negative publicity for the affected institution. ED has performed program reviews at several institutions, looking back over compliance for three or four years, which resulted in findings of noncompliance. Therefore, institutions must review their compliance programs and implement institutional procedures to ensure their programs are complete and that reports are accurate and timely.

This report represents an effort by ACE and NACUBO to highlight for senior campus administrators some of the most significant responsibilities that arise under the Clery Act and some ways to safeguard against compliance failures. This guide should not replace a close reading of the law and relevant regulations by appropriate people at each campus. It does, however, provide an overview of important matters that presidents, provosts, business officers, and other key administrators should bear in mind as they oversee crime reporting and policy development efforts.

The Annual Campus Security Report

Each campus must publish an annual campus security report that includes crime statistics for the previous three calendar years (e.g., the 2002 report would include crime statistics for the calendar years of 1999, 2000, and 2001.) The report must also include various policies, procedures, and program disclosures about security and safety on campus.¹

Reporting Crime Statistics

Crime Categories. An institution must report statistics for the three most recent calendar years for the occurrence of certain serious crimes reported to local police agencies or to campus security authorities. The following offenses are covered:

- criminal homicide
 - ▶ murder and nonnegligent manslaughter
 - ▶ negligent manslaughter
- sex offenses
 - ▶ forcible sex offenses
 - ▶ nonforcible sex offenses
- robbery
- aggravated assault

¹ The 1998 amendments to the Clery Act, which took effect for the 1999 calendar year, made significant changes to the format for reporting crime statistics. The report published in October 2000 should have included the 1999 statistics in the new format that included additional crime categories and a geographic breakdown. The 1997 and 1998 statistics were not required to be published using the new format.

- burglary
- motor vehicle theft
- arson

An institution must report statistics for the three most recent calendar years on arrests, and separately for instances in which persons were not arrested but were referred for campus disciplinary action, for the following offenses:

- liquor law violations
- drug law violations
- illegal weapons possession

The 1998 amendments changed the period for which these violations must be disclosed from the most recent calendar year to the three most recent calendar years to be consistent with the three-calendar-year requirement for other crimes.

The definition of *referred for campus disciplinary action* includes the referral of any student² to any campus official who is empowered to initiate a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

A critical change to this section of the law involves the tabulation of incidents. In the past, if a campus security officer arrested a group of 10 students who were drinking in public, the incident might have been entered as a single arrest. Under current ED rules, the same incident would now count as 10 arrests. The new tabulation requirement applies to the reporting of disciplinary referrals for liquor law, drug law, and illegal weapons violations.

In preparing their statistical reports, institutions must define the criminal offenses using the definitions found in the FBI's Uniform Crime Reporting (UCR) Handbook. Forcible and nonforcible sex offenses are, however, treated differently. For sex offenses, institutions must use the definitions found in the National Incident-Based Reporting System H Edition (NIBRS) of the UCR. These handbooks can be requested from the FBI at 304-625-2823. The relevant definitions are compiled in this guide's appendix. *Note that the Clery Act makes no allowances for institutions that are required by state law to compile crime statistics for a different list of crimes or to use state definitions. Colleges and universities subject to conflicting federal and state crime reporting laws may need to keep two sets of statistics.*

Geographic Locations for Reporting Crime Statistics. Institutions must break down the required crime statistics into four categories by location. The geographic areas are—

- on campus
- in residential facilities (a subset of on campus)
- in or on a noncampus building or property
- on public property

For some urban campuses, segregating these areas can be an incredibly challenging task. But accurate definitions are important to Clery Act compliance.

Campus is defined as (1) any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls, and (2) any building or property that is within or reasonably contiguous to the area identified above, is owned by the institution but controlled by

² The final rules use the word *student* to indicate when a referral must be reported. The Clery Act, however, requires reporting referrals of any person. ED representatives have indicated that they will clarify in a "Dear Colleague" letter that the referral of nonstudents for discipline arising out of violations of liquor, drug, or weapons possession statutes is also reportable. This means that the human resources area of each institution will need to be surveyed for statistics about employees who have been referred for disciplinary action for violations of liquor, drug, and weapons laws.

another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Residential facilities are defined as dormitories or other residential accommodations for students on campus. Note that incidents that occur in on-campus residential facilities must be entered twice, in both the “on campus” and “residential facilities” categories.

Noncampus building or property is defined as (1) any building or property owned or controlled by a student organization that is officially recognized by the institution, or (2) any building or property owned or controlled by the institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution. A fraternity house that is not owned by the institution (whether on campus or not) or a research center several miles away from campus that is used by students would be examples of noncampus buildings on which statistics must be reported.

Public property is defined as all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus or immediately adjacent to and accessible from the campus. If there is a barrier between the campus and the public property, such as a highway that is fenced off, the public property need not be included. Note that institutions are not required to report crime statistics for public property that surrounds noncampus buildings or property.

Institutions may provide maps to current and prospective students and employees that depict on-campus property, noncampus buildings or property, and public property areas, provided the maps are accurate.

Hate Crime Reporting. The Clery Act imposes complex reporting requirements for incidents that involve *hate crimes*. A hate crime is defined as a crime that manifests evidence that the perpetrator intentionally selected the victim because of the victim’s actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability. For crimes of this type, incidents must be identified by category of prejudice, within the four geographical reporting areas, and by the specified crime reporting categories for the type of crime involved. Although many institutions may find they do not have any hate crimes to report, it is important to follow the letter of the law and either report zeros for these categories or note prominently that “no hate crimes were reported.”

Collecting the Necessary Information

Among the challenges of properly reporting crime statistics are determining the various sources of relevant information and developing a system for collecting the information.

Campus Security Authorities. In an ideal world, all crimes would be reported through defined channels to the appropriate law enforcement agency. Few things happen that neatly on college campuses, however, and crimes may be reported to a wide range of institutional administrators, faculty, or staff. Victims may not always be willing to file a police report. To ensure that campus crime is not underreported, the Clery Act requires that campus crime statistics include any crime that is reported to local police agencies or campus security authorities—a broad designation that potentially includes many institutional personnel.

The 1999 final regulations define a *campus security authority* as—

1. a campus police department or a campus security department of an institution,
2. any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department, such as an individual who is responsible for monitoring entrance into institutional property,
3. 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, or
4. 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. If such an official meets the definition of a pastoral or professional counselor as defined by the final rules, the official is not considered a campus security authority when acting in his or her capacity as a counselor.

Examples of individuals identified by ED as meeting the definition of campus security authority include—

- a dean of students who oversees housing, a student center, or extracurricular activities;
- a director of athletics or team coach; and
- a faculty advisor to a student group.

The following individuals were identified by ED as unlikely to fit within the definition of campus security authority:

- A faculty member who teaches classes (except when serving as an advisor to a student group)
- A physician in a campus health center
- A counselor in a counseling center
- Clerical staff

In providing these examples, ED focused on the degree to which the individual has significant responsibility for student and campus activities.

The challenge for each institution is to determine which positions on campus fall into the category of campus security authority because they have *significant responsibility for student and campus activities*. The size and complexity of the campus community will influence these determinations. Identifying each person in every department who might fit the definition of campus security authority can be difficult, particularly in a large institution, and the list may change frequently.

Those responsible for ensuring compliance with the Clery Act may want to establish a process for communicating with the appropriate offices to ensure they understand their responsibilities and provide the necessary information. It may be advisable to write a letter to all deans, directors, and department heads explaining the crime reporting requirements and the definition of campus security authority and asking those individuals to distribute the letter to the appropriate employees in their respective areas. It would be helpful to include a form or chart enabling those people identified as fitting the definition of campus security authority to easily report any incidents of crime reported to them.

The letter and chart could be sent out in January of each year, along with a request for information on any unreported crimes for the previous calendar year. The chart should include enough information to ensure that the person collecting the statistics can ascertain whether the crime was previously reported through another source. Suggested categories for the chart include date, time, and location of the occurrence and its classification. Including the UCR and NIBRS crime definitions with the chart would assist in correct classifications.

Local Police. Under the federal rules, an institution must make a reasonable, good-faith effort to obtain the required statistics and may rely on information supplied by a local or state police agency. If the institution makes such a reasonable, good-faith effort, it is not responsible if the local or state police agency fails to supply the required statistics. Institutions should send a written request to the local police department requesting the statistics required to comply with the Clery Act.

The problem is that the Clery Act does not require local police departments to provide campuses with crime statistics. Further, local police departments willing to provide statistics are not always able to provide the data in the requested format. Not all local police departments have standard automated reporting systems. As a result, while some police departments can provide statistics from their systems by street address, others can provide the information only by *sector*. The sector information can sometimes be broken down further into street addresses, but some systems do not contain more localized information. Even if the sector information can be refined to areas around a campus, the institution is likely to have to analyze the data to identify the relevant geographic category for each incident. This can be a time-consuming and frustrating process, with no real hope of complete accuracy. Data provided by the police that cover a larger sector, such as a precinct, should not be included in the campus crime statistics if the institution is unable to separate out the area corresponding to the campus.

Another problem is that statistics furnished by local police often employ state crime code definitions, rather than the UCR definitions as required by the federal rules. In this situation, the institution should include a caveat in its compliance document.

If the local police department is unwilling or unable to provide the required statistics, the institution should ask the department to respond to the request in writing so the institution can have the response on file.

Required Policies and Procedures

The Clery Act requires colleges and universities to have policies addressing particular campus security topics and to include the policies in the annual security report, along with the campus crime statistics. The Act does not, in most instances, dictate what the institution's policies should be. But those areas for which the law does prescribe that a specific policy be in place appear in bold text in the list of policy statements below.

A provision was added to the Clery Act in 2000 requiring colleges and universities to include a new statement "advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S. Code 14071(j), concerning registered sex offenders, may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address." Section 170101(j) requires persons who must register as sex offenders to provide notice to the state if they are employed by or a student at an institution of higher education, as required by state law. States, in turn, must make the information available to law enforcement agencies having jurisdiction where the institutions are located. Corresponding changes were made to the Family Educational Rights and Privacy Act (FERPA) to make it clear that the privacy rule would not prohibit an institution from disclosing information about registered sex offenders. States and institutions were given two years from date of enactment of the Violence Against Women Act, or until October 28, 2002, to comply.

Before publishing a new annual security report, institutions should review for accuracy the campus security policies outlined in their report. It is imperative that institutions provide accurate policy statements and follow their stated policies.

Police and Security-Related Policy Statements

- A statement of current policies on security of and access to campus facilities, including campus residences
- Security considerations used in the maintenance of campus facilities
- A statement of current policies for campus law enforcement that—
 - ▶ addresses the enforcement authority of security personnel;
 - ▶ establishes their relationship with state and local police agencies;
 - ▶ defines whether those security personnel have the authority to arrest individuals;
 - ▶ **encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies; and**
 - ▶ describes procedures, if any, that encourage pastoral and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
- A description of the *type* and *frequency* of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others
- A description of programs designed to inform students and employees about crime prevention
- A statement on the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution, including student organizations with off-campus housing facilities
- A statement of where information on registered sex offenders may be obtained (effective October 28, 2002)
- A statement of the institution's policies and procedures for students and others on the reporting of criminal actions or other emergencies occurring on campus. This statement must include a description of the institution's policies about its response to these reports, including—

- policies for making timely warning reports to members of the campus community about the occurrence of crimes listed in the Clery Act,
 - ▶ policies for preparing the annual disclosure of crime statistics,
 - ▶ the titles of each person or organization to whom students and employees may report criminal offenses described in the law for the purpose of making timely warning reports and the annual statistical disclosure, and
 - ▶ the institution's policies or procedures, if any, that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

Student Affairs Policy Statements

- A statement about the possession, use, and sale of alcoholic beverages and enforcement of state underage drinking laws
- A statement about the possession, use, and sale of illegal drugs and enforcement of federal and state drug laws
- A description of any drug- or alcohol-abuse education programs, as required under the Drug-Free Schools and Community Act (section 120(a) through (d) of the HEA). To meet this requirement, an institution may cross-reference the materials the institution uses to comply with that act.
- A statement about the institution's programs to prevent sexual assault and procedures to follow when a sex offense occurs. The statement must include—
 - ▶ a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;
 - ▶ procedures students should follow if a sex offense occurs, including procedures about who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported;
 - ▶ information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel;
 - ▶ notification to students of existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;
 - ▶ **notification to students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;**
 - ▶ sanctions the institution may impose following a final determination of an institutional disciplinary proceeding for rape, acquaintance rape, or other forcible or nonforcible sex offenses; and
 - ▶ procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that—
 - ▶ **the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding, and**
 - ▶ **both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding alleging a sex offense.**

Distribution and Disclosure of the Report

An institution must distribute its annual security report through appropriate publications and mailings to all enrolled students and current employees by October 1 of each year. This deadline was moved back from September 1 to accommodate institutions that start their academic year later. Prospective students and employees must be told that the report is available. The 1999 rules allow institutions to distribute the required information electronically as long as certain conditions are met.

Distribution to Current Students and Employees. Institutions can choose among several methods of distributing the annual security report to currently enrolled students and current employees on campus. Permissible distribution methods include—

- direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail;
- a publication or publications provided directly to each individual; or
- posting on an Internet or intranet Web site.

If an institution chooses to print the report as a separate publication or as part of an existing publication, all of the required information should appear within a single document (i.e., between two covers), according to informal guidance from ED. The student handbook or a course directory is an example of a larger publication where the compliance information might be appropriately placed to meet the requirement of distributing the information to currently enrolled students. An employee newsletter or an employment brochure that is published and distributed to every employee on campus might be used to distribute the information to current employees.

If an institution chooses to distribute its annual security report to currently enrolled students and current employees by posting the disclosure on an Internet or intranet Web site, the institution must, by October 1 of each year, distribute to all current students and employees a notice that includes the following:

- A statement of the report's availability
- The exact electronic address at which the report is posted
- A brief description of the report's contents
- A statement that the institution will provide a paper copy of the report upon request

The notice must be distributed, one-to-one, to each student and employee. Merely posting a notice or putting it on a Web site or information kiosk would not satisfy the regulatory requirement. To verify compliance in an audit or program review, institutions should document how they provided notice and keep dated copies of material posted on the Web.

Here is a sample statement that an institution might mail as a postcard to all current students and employees:

2000 Security Information Now Available...

_____ is committed to assisting all members of the _____ community in providing for their own safety and security. The annual security compliance document is available on the _____ Web site at http://_____.

If you would like to receive a booklet called _____, which contains this information, you can stop by the _____ at _____ or you can request that a copy be mailed to you by calling _____.

The Web site contains information on campus security and personal safety, including crime prevention, university police law-enforcement authority, crime reporting policies, disciplinary procedures, and other important matters about security on campus. It also contains statistics for the three previous calendar years on reported crimes that occurred on campus, in certain off-campus buildings or property owned or controlled by _____, and on public property within or immediately adjacent to and accessible from the campus.

This information is required by law and is provided by the _____ Department.

Information for Prospective Students and Employees. The institution must also provide a notice to any prospective students and prospective employees who ask for it, that the campus security report, including a brief description of its contents, is available upon request. If the institution chooses to provide its annual security report by posting the disclosure on an Internet Web site, the notice to prospective students and employees must include the exact electronic address at which the report is posted and a statement that the institution will provide a paper copy of the report upon request.

- A *prospective student* is defined as an individual who has contacted an eligible institution requesting information about admission to that institution.
- A *prospective employee* is defined as an individual who has contacted an eligible institution requesting information about employment with the institution.

The senior administrator responsible for institutional compliance with the Clery Act should review and approve any admissions or employment application form before it is adopted for use to ensure the inclusion of the required notice. Institutions that use electronic applications instead of, or in addition to, paper applications should be careful to ensure that the online application contains the proper “notice” language.

Reporting Statistics to the U.S Department of Education. The Clery Act mandated that ED collect crime statistics from campuses annually, beginning in 2000. In that first year, ED used a Web-based survey to collect statistics covering the three previous calendar years (1997, 1998, and 1999). For subsequent years, institutions need supply crime data to ED only for the most recent calendar year. The system will contain a rolling three years of statistical information. Once the statistics are collected, the information is made available to the public through a searchable Web site (<http://ope.ed.gov/security>). In early 2001, ED prepared a report for Congress analyzing the data submitted on campus crime for 1997-99 (available at <http://ed.gov/offices/OPE/PPI/security.html>), but it is not required to do so annually.

Each year, ED has set a deadline for submission of data about a week after the October 1 deadline for distributing information to the campus community. In the first two years, the window for providing institutional data opened at the end of July, with the department sending a letter to the president of each institution. The letter provided instructions for accessing the Web survey and asked the president to designate a Campus Security Survey Administrator as the contact point with ED.

Parts of ED’s Web-based survey can be confusing. At the beginning of the survey, two clarifying questions need to be answered for each institution. These questions trigger the screens that the respondent will see when completing the survey.

One question asks whether the institution provides on-campus housing. If the answer is “no” because the institution does not have residential facilities, charts that require statistics for residence halls will not be displayed. If the main campus does provide housing, of course the question would be answered “yes,” but the answer cannot be changed for other locations. Thus, there is no way to indicate that the branch campuses do not have residential facilities. For the branch campuses, therefore, the charts for residence halls should be filled in with zeros and the caveat section should include a notation that “this location does not have on-campus housing.”

The second clarifying question asks if the crime statistics the institution is reporting, broken down by geographic location, include statistics supplied by local agencies. ED’s use of several terms here and elsewhere in the instructions and survey, such as “statistics received from local agencies,” “local statistics,” and “local criminal offenses,” has proven quite confusing. ED means *statistics supplied to the institution by local police agencies* on offenses that took place on campus or in other locations within the areas for which the institution is required to compile crime data. They do not mean that institutions should report crime statistics for their community or the general area surrounding their campus. Sometimes when institutions obtain statistics from their local police department, the campus official is not able to accurately place those statistics in one of the four geographic locations (on-campus, etc.). If the answer to the second clarifying question is “no,” the Web-based survey will provide an additional chart that can be used to provide the local police statistics, by category of crime only, separately from the crime statistics for the four required geographical areas of the campus. If attempts to obtain statistics from the local police are unsuccessful, this should be noted in the data form’s caveat section.

Timely Notice Requirement

An institution must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community—

- crimes that are described in the regulations,
- crimes that are reported to campus security authorities as identified under the institution’s current campus policy statement about reporting criminal offenses on campus or local police agencies, and

- crimes that are considered by the institution to represent a threat to students and employees.

The institution should develop an internal policy addressing such questions as when to issue warnings, for what types of crimes or incidents, and the method of distribution. Among the most important elements of such a policy is the designation of a senior administrator who has responsibility for issuing timely notice of a crime. If a crime occurs that fits a classification identified in the policy and the designated administrator decides not to issue a timely warning notice, the administrator must document the reasons for not issuing the notice, and that information should be maintained on file.

Daily Log Requirement

An institution with a campus police or security department must maintain a written, easily understood daily crime log that records any crime reported to the department that occurred on campus, on a noncampus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department. This log should be maintained by date of the report and must include—

1. the nature, date, time, and general location of each crime, and
2. the disposition of the complaint, if known.

Some police and security departments may be overlooking the need to update the log after a case is closed when the final disposition differs from the initial entry.

The institution must make an entry or an addition to an entry in the log within two business days after the information is reported to the campus police or the campus security department, unless the disclosure is prohibited by law or would jeopardize the confidentiality of the victim. *Business day* is defined as Monday through Friday, excluding any day when the institution is closed.

An institution may withhold information from the log if there is clear and convincing evidence that release of the information would—

- jeopardize an ongoing criminal investigation or the safety of an individual,
- cause a suspect to flee or evade detection,
- result in the destruction of evidence, or
- jeopardize the confidentiality of the victim.

An institution may withhold only that information that would cause the adverse effects. The withheld information must be disclosed once the adverse effect is no longer likely to occur. An institution must withhold information from the log if its disclosure is prohibited by law.

The crime log for the most recent 60-day period must be open to public inspection during normal business hours. Any portion of the log older than 60 days must be available within two business days of a request for public inspection.

Separate/Branch Campuses and Wholly Owned Foreign Campuses

An institution must comply with the requirements of the Clery Act for each branch campus, school, or administrative division that is not within a reasonably contiguous geographic area. There are several issues to consider for separate campuses. The crime statistics for each separate campus must be reported on a separate set of charts, including the breakdown by the four geographic locations. Policies and procedures for another location that differ from those of the main campus need to be identified. Policies on topics such as access, reporting procedures, and police/security authority may well be different for campuses that are far from the main campus. If the policies are significantly different, the institution may want to consider creating a separate document or a separate section in the main campus report to clarify the policy status for each separate campus.

Records Retention

All supporting records must be kept for three years following the publication of the last annual campus security report to which they apply. Thus the records retention period is seven years after the date an incident was reported because each annual report includes data from the past three years. Records to be maintained include the daily log, the police/security reports, and the judicial records for individuals who were referred for disciplinary action and any other records relating to compliance with the Clery Act.

Improving Clery Act Compliance

Since the passage of the Campus Security Act in 1990, federal requirements for the reporting of crime on college and university campuses have changed several times. Unfortunately, the trend has been to add to the list of items that must be reported and increase the complexity of the statistics. The 1998 amendments were no exception. Little guidance is available beyond the regulations. A “Dear Colleague” letter promised by ED to clarify provisions in the 1999 regulations has not been released.

Suggestions. The following suggestions may help colleges and universities improve their compliance with the Clery Act.

- Establish a campus security compliance team to review all of the compliance issues. This team should include representatives of the following departments or areas: police/security, judicial affairs, dean of students, athletics, human resources, academic affairs, admissions, and residential life.
- Designate administrative responsibility for compliance with the Clery Act to an administrator with sufficient seniority to oversee all those with line responsibility under the provisions of the Act. Recognize that compliance with the act is a very large job and that piecemeal delegation is likely to result in poor performance. Campus security and the dean of students’ office will play the primary role in gathering statistics; but admissions, human resources, residential life, community relations, and other departments will also be essential players.
- Establish a process through which the judicial and housing offices deliver the required statistics on referrals for disciplinary action in a timely fashion to the office charged with preparing the annual report. A model similar to that used by the campus police to log in incidents may be effective in collecting the information. It is essential that the database of disciplinary referrals contain fields for all of the data points that must be reported under the Clery Act (alcohol violation, drug violation, referral source, location, etc.) This is especially important when referrals come from sources other than the police or security staff.
- Review all areas on campus that may have disciplinary processes that are separate from the student judicial affairs area. For example, it is essential to obtain information from student housing, the ROTC, and any other units with independent disciplinary procedures. Keep in mind, too, any disciplinary processes that may involve collaboration among several campus bodies.
- Ensure that all real estate transactions are brought to the attention of the administrator responsible for Clery Act compliance because such transactions could affect reporting obligations. The lease of a house, office, or other property could add a new area for which reporting is required. Such a lease also might affect the postings of timely crime warnings.
- Be cautious and carefully review the campus crime report if there has been turnover in the staff responsible for preparing it during the year. Several institutions cited in program reviews for compliance problems have cited staff changes and vacancies as a contributing factor.
- Test your institution’s compliance periodically by doing the following:
 - ▶ Have someone call or go to the human resources department to request an employment application form to make sure that the required notice is included in the materials received.
 - ▶ Have someone call the undergraduate admissions department to request an admissions application form. Make sure the required notice is included in the materials received.
 - ▶ Contact the admissions office and request a copy of all of the admissions application forms used by the institution. Make sure the required notice is included in all of them.
 - ▶ Check that the notices include a statement of the report’s availability, the exact electronic address, a brief description of the report’s contents, and a statement that the institution will provide, upon request, a paper copy of the report.

Common Mistakes to Avoid. Complying with the myriad requirements of the Clery Act is challenging for colleges and universities. The following are pitfalls to avoid, based on errors that institutions have made in the past.

- Failing to properly report statistics for hate crimes by the six categories of prejudice and by the four required geographical areas. This includes adding zeros to cells where no crimes have been reported. ED's Web-based survey collects data for the total number of hate crimes by geographic area only, but the institution's annual report must also include the breakdown by category of prejudice.
- Describing the *type* of crime prevention programs provided, but failing to address the *frequency* with which those programs are given, as required by the regulations
- Not accurately reporting the crime statistics by the four required geographical areas—on campus, residential, noncampus, and public property. For example, some institutions are reporting the statistics using other geographic headings, such as “off-campus property.” Other institutions are reporting some but not all of the required geographic areas, and still others are failing to report the statistics for residential facilities as a subset of the on-campus statistics.
- Failing to report the crime statistics by calendar year or not including statistics for three calendar years in each annual security report
- Not reporting all of the required crime statistics in the proper categories. Some common errors include—
 - ▶ lumping all sex offenses in one category instead of reporting separate statistics for forcible sex offenses and nonforcible sex offenses,
 - ▶ reporting on criminal homicide instead of reporting statistics for murder/nonnegligent manslaughter and negligent manslaughter in separate categories, as required by the 1998 amendments, and
 - ▶ failing to report statistics for arson, which was added to the list of crimes by the 1998 amendments.
- Not following the UCR definitions precisely when reporting crimes. For example, nonforcible sex offenses should include only instances of statutory rape and incest, not indecent exposure or sexual harassment even though those might seem to be nonviolent sex-related crimes. Remember that not all crimes will fit one of the categories for reporting.
- Not properly reporting statistics for disciplinary referrals for liquor, drug, and weapons violations. Some institutions have failed to break down these statistics by the four required geographical areas. Others have combined disciplinary referrals and arrests for liquor, drug, and weapons violations into one category, instead of reporting them separately. In some cases, it is hard to tell if the institution failed to report disciplinary referrals for liquor, drug, and weapons violations or if they were incorrectly included with arrests.

Resources

U.S. Department of Education

- The Office of Postsecondary Education page on campus security: <http://www.ed.gov/offices/OPE/PPI/security.html>
- ED's compilation of institutional crime statistics: <http://www.ope.ed.gov/security>
- ED's Web-based survey for collecting crime data from institutions: <http://surveys.ope.ed.gov/security>

U.S. Department of Justice

- FBI Uniform Crime Reporting: <http://www.fbi.gov/ucr/ucr.htm>

The International Association of Campus Law Enforcement Administrators

- <http://iaaclea.org>

Security on Campus, Inc. (the organization that has lobbied for campus security legislation)

- <http://campussafety.org>

Appendix

The following definitions are based on the FBI's Uniform Crime Reporting System. Institutions must use these definitions to prepare their campus crime statistics to comply with the Clery Act.

Murder and Nonnegligent Manslaughter: The willful (nonnegligent) killing of one human being by another.

Manslaughter by Negligence: The killing of another person through gross negligence.

Arson: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Robbery: The taking of or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault with the use of a gun, knife, or other weapon that could and probably would result in serious personal injury if the crime were successfully completed.)

Burglary: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes unlawful entry with intent to commit a larceny or felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned—including joyriding.)

Weapon Law Violations: The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

Drug Abuse Violations: Violations of state and local laws about the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine), marijuana, synthetic narcotics (Demerol, methadone), and dangerous nonnarcotic drugs (barbiturates, Benzedrine).

Liquor Law Violations: The violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, or possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

Sex Offenses from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program

Sex Offenses— Forcible: Any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent.

Forcible Rape— The carnal knowledge of a person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

Forcible Sodomy— Oral or anal sexual intercourse with another person, forcibly and/or against that person's will, or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with an Object— The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Forcible Fondling— The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will, or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Sex Offenses— Nonforcible: Unlawful, nonforcible sexual intercourse.

Incest— Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape— Nonforcible sexual intercourse with a person who is under the statutory age of consent.