

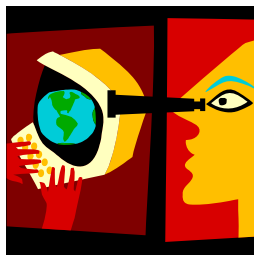
Clery Act & International Locations: Things to Consider

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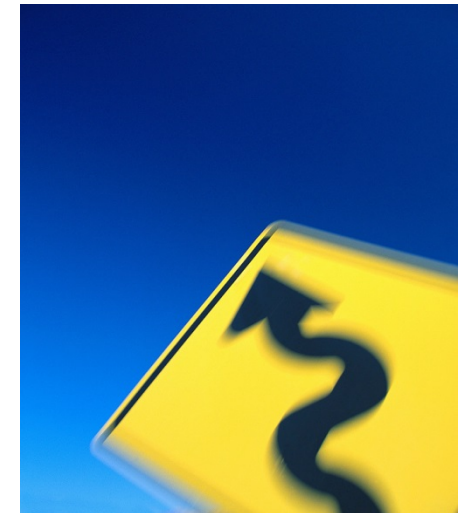
Today's Flight Plan

- Clery Act
- Clery Geography
- Reportable Crimes
- CSA's - Who Tells Us About Crimes?
- Timely Warnings
- Title IX Intersection with Clery



Roadmap for Success

- Understand scope of issues that can arise
- Identify your team / resources (CSA's)
- Educate & Train
- Develop templates & checklists



CLERY ACT



What is the Clery Act?

- Jeanne Clery Campus Security Act (20 USC 1092 § (f)(3))
- Consumer disclosure requirements for institutions that participate in the Title IV Federal student financial assistance programs

Clery Act

- Annual Security Report (ASR)
- Tracking / Reporting of crime stats
- Policy Statements
- Emergency Notifications
- Timely warnings



Clery Handbook

- The Handbook for Campus Safety and Security Reporting issued by the U.S. Dept. of Education - February 2011
- Available on-line at <http://www2.ed.gov/admins/lead/safety/handbook.pdf>

Location, Location, Location

WHERE? (not Who)

- Clery focuses on WHERE crimes occur
- Don't focus on identity of victim / perpetrator

KEY QUESTION?

- Does the institution own or control property abroad?
- Inventory your international property agreements.

Education Abroad Models

MODEL	CLERY IMPACT
U.S. institution opens & operates campus in another country	Full Clery reporting obligations / need to define “public property”
Students go abroad for credit in program not run by their home institution	No Clery reporting obligations
U.S. based institution runs own program overseas – contracts with overseas entity to provide services and/or space	Clery obligations if “own or control” “any property overseas”

4 Types of Clergy Geography

- On Campus
- On Campus (Residential)
- Public Property
- Non-Campus (most likely category for International operations)

On Campus Definition

- 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
- Any building or property that is within or reasonably contiguous to the above that is owned by the institution but controlled by another person, is frequently used by students and supports institutional purposes (such as a food or other retail vendor)

Non-Campus Buildings / Property

- Any building or property owned or controlled by an institution
 - used in direct support of, or in relation to, the institution's educational purposes,
 - frequently used by students, and
 - not within the same reasonably contiguous geographic area of the institution

What Does “Controlled” Mean?

“CONTROLLED”

- institution purchased, rents, leases; or
- has some other type of written agreement for a building or property, or a portion of a building or property

Control / Agreements

- Could include e-mails
- Is the agreement for the program?
- Or is the agreement for use of the physical space?
- Duration/term of the agreement – Clery obligation for the agreement period

Control for Short Duration

- Crime stats should only be reported for the time period (dates/times) that your agreement allows you to use the property
 - EX: Mon. – Fri. / 8:00 a.m. – 5:00 p.m.
 - EX: Institution hosts summer trip to France, a crime occurring in the winter at that location is not reportable

Control / Agreements

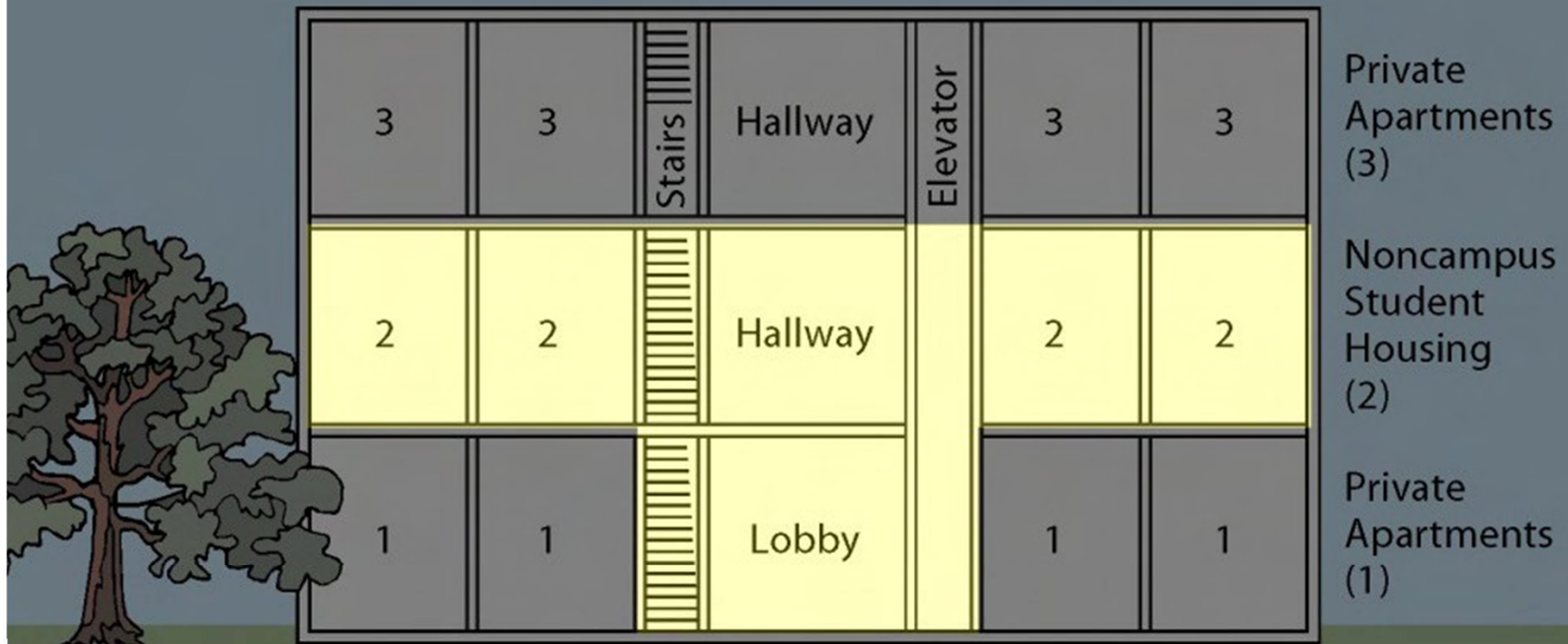
- Classroom space
- Housing (dorms, hotel, family stay)
 - Host family situations are not usually non-campus locations unless written agreement with the family gives your campus some significant control over space in the family home
- Student lounge area

Control Over Portion of Bldg.

- If agreement only for section of a building (e.g. the 2nd floor of office building)
 - only disclose statistics for crimes that occur in that section of the building, plus
 - those areas of building that students / employees must use to access the contracted space (main lobby, stairs, elevators, restrooms, pool, gym)
- (See map for example)

Partial Control of Bldg.

Noncampus - Mixed Use Building



Field Trips / Overnight Stays

- Typically, crimes are not reportable because:
 1. they did not occur on property “owned or controlled” by the institution (field trips); or
 2. geography not “frequently-use-by-students” (overnight trips).

(See page 30 of the Handbook)

Field Trips / Overnight Stays - Exception

- Non-campus property if institution arranges to rent or lease space for students
- frequently used by students (same hotels or hostels used on a regular basis)
- If students stay in one location for an extended amount of time (i.e., more than one night)

(See page 27 of the Handbook)

Do We Have Clery Geography?

1. Do we own or control the property?
2. Is the space frequently used by students?
 - Solely administrative use?
 - Solely researchers and no students?
3. Did the Clery crime occur when we had control?



More Questions to Ask If You Determine that We Have Clery Geography

1. What is your process for preparing Annual Security Report (ASR)?
2. How does your timely warning system work for students and employees overseas?
3. How will you provide information re rights and resources for sexual assault, domestic violence, dating violence, and stalking victims?

REPORTING CRIMES

Annual Security Report (“ASR”)

- Filed by October 1 every year with Department of Education by every UC campus.
- Contains statements of policies (What, Who, When, How)
- Contains summary of Clery crime statistics (3 years worth)
- Must notify current & prospective students and employees of its availability

REPORTING CRIMES

Clery requires reporting of :

- 3 categories of crimes
- 3 geographic areas

Location, Location, Location

3 Geographic Areas – Where (not Who)

1. Campus
2. Non-campus property (no public property reporting requirement)
3. Public property adjacent to and accessible from campus

Reportable Crimes

3 Categories of Crimes – Where (not Who)

1. Criminal Offenses (using FBI definitions under the FBI's Uniform Crime Reporting Handbook)
2. Hate Crimes
3. Arrests & Referrals for Disciplinary Actions (using local law definitions) (don't include if it's just a campus policy violation)

Criminal Offenses

1. Criminal Homicide

- Murder & non-negligent Manslaughter
- Negligent Manslaughter

2. Sex Offenses

3. Robbery

4. Aggravated Assault

5. Burglary

6. Motor Vehicle Theft

7. Arson

VAWA Additions

Crime stats must now also include the following occurring on your Clery geography:

1. Domestic Violence
2. Dating Violence
3. Stalking

VAWA Definitions

Domestic Violence – includes felony or misdemeanor crimes of violence against a current or former spouse of the victim, by a person who is cohabitating or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the laws of the jurisdiction, or any other person against an adult or youth victim who is protected from that person's acts under the domestic violence laws of the jurisdiction

VAWA Definitions

Dating Violence – is committed by a person who:

- (a) Has been in a relationship of a romantic or intimate nature with the victim; and
- (b) where the existence of such a relationship shall be determined based on consideration of factors (length of relationship, type of relationship, frequency of interaction between the persons involved in the relationship).

VAWA Definitions

Stalking – is the engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (a) Fear for his or her safety or the safety of others;
or
- (b) Suffer substantial emotional distress

Hate Crimes - Definitions

- Criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias.
- Bias = a pre-formed negative opinion/attitude toward a group of persons based on:
 - Race
 - Gender
 - Gender Identity
 - Religion
 - Disability
 - Sexual orientation
 - Ethnicity/national origin

Hate Crimes Include Any Offense in Column A or B

Column A

- Murder & Non-negligent manslaughter
- Forcible & Non-forcible sex offenses
- Robbery
- Aggravated Assault
- Burglary
- Motor vehicle theft
- Arson

Column B

- Larceny-theft
- Simple assault
- Intimidation
- Destruction / damage / vandalism of property

Hate Crimes

- For counting purposes, no hierarchy rule applies
- Count each offense
- Different from Criminal Offense counting where you count the most egregious of the multiple criminal charges

Arrest & Referrals for Disciplinary Actions

Must disclose the number of arrests and the number of persons referred for disciplinary action for the following actions:

- Weapons violations
- Drug Abuse Violations
- Liquor Law Violations

Note: Counting includes arrests which later result in a release without a formal charge

Arrest & Referrals for Disciplinary Actions

Must use Local Law Definitions

Ex: Drinking age in foreign country is 18 (rather than U.S. 21)

Ex: Smoking marijuana (may be permitted in Amsterdam)

Ex: Research vessel or semester-at-sea program
– multiple countries' laws or international maritime law may apply depending on the boat's location

Annual Security Report

- Policy Statements – certain statements are required (see Handbook – Chap. 7 & 8)
- Disclose What You Do, How You Do It & When
- Policies re timely warnings
- Policy for preparing the annual disclosure of crime statistics
- Policies re reporting on a voluntary, confidential basis

GATHERING CLERY INFO

- Who tells us about the Clery crimes?
- Who is collecting data abroad?
- What training do they have?
- What reporting mechanism is being used?

GATHERING CLERY INFO

- Who tells us about the Clery crimes?
 - Local authorities
 - Campus Security Authorities (CSA's)

Campus Security Authority (CSA)

- Who are CSA's?
 - Police / security patrol
 - Those identified by the University to whom students and employees should report crimes
 - Faculty and staff with significant responsibility for student and campus activities
 - Program director
 - Chaperones

Annual Security Report

- List of titles of each person/organization to whom students and employees should report criminal offenses
- Policy Statements Re Programs & Procedures for Sexual assault, Domestic Violence, Dating Violence & Stalking

Annual Security Report

- Distribution
 - Current & prospective students
 - Current & prospective employees
- Maintain for 7 years

OBTAIN CRIME INFO FROM LOCAL AUTHORITIES

- Good-faith effort to obtain info from local law enforcement
- Request in writing/document the good-faith effort.
 - use the U.S. Federal definitions of crimes
 - Not required to pay local agency for info
- If local agency fails to provide info – note in Annual Report that info was requested but was not supplied

TIMELY WARNINGS

- The institution issues "timely warnings" regarding
 - Clery Act crimes
 - Occurring on Clery geography (own/control property)
 - that the institution deems to be
 - Serious or continuous threat to students and employees; and
 - may aid in the prevention of a similar crime
- Email / Text
- Timely = as soon as pertinent info is available

EMERGENCY NOTIFICATION

- Wider focus than the timely warnings
- Significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.
 - Ex: Tsunami
 - Ex: Forest Fire
 - Ex: outbreak of deadly virus

TITLE IX INTERSECTS WITH CLERY



SEXUAL HARASSMENT

WHAT IS TITLE IX?

- Title IX (20 U.S.C. Section 1681) provides, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance... .”
- Title IX focuses on WHO (not Where)

TITLE IX APPLIES ABROAD

- King, et al. v. Eastern Michigan University
- Court found broad language of Title IX and legislative history provide affirmative evidence that Congress intended for Title IX to apply to every single program of a university or college, *including study abroad programs*

TITLE IX

- Sexual harassment in education includes
 - any unwanted and unwelcome sexual behavior
 - that significantly interferes with
 - a student's access to educational opportunities

SEXUAL VIOLENCE & TITLE IX

OCR April 4, 2011 Dear Colleague Letter

- Sexual violence = form of sexual harassment prohibited by Title IX
- Hostile environment if conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program.

SEXUAL HARASSMENT & TITLE IX

If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school:

1. take immediate action to eliminate the harassment,
2. prevent its recurrence, and
3. address its effects

TITLE IX INTERSECTION WITH CLERY

ASR requirement imposed by Clery intersects with Title IX:

- Policy statement and prevention programs re sexual assault programs
- Policy statement re procedures when sexual assault, domestic violence, dating violence or stalking occurs
- Counseling, accommodation and resource options
- Disciplinary options & potential sanctions

CONCLUSION

- Inventory properties owned / controlled
- ID & Train CSA's
- Include Data in ASR
- Establish systems for timely warnings & notification of options and resources available to victims

