

**CAMPUS SAFETY  
AND  
FEDERAL CLERY ACT  
REQUIREMENTS**  
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## BACKGROUND

- Jeanne Clery – raped and murdered in Lehigh University dorm in 1986
- Later enactment of the Clery Act, a federal law (20 USC Section 1092 (f), 34 CFR 668.46)
- Implemented as part of university financial aid
- 2011 Compliance Handbook is 200 pages, with another 100 pages of statutes, regulations, forms, etc.



## **BACKGROUND (CONTINUED)**

**Recent issues concerning Clery Act compliance at UNC-Chapel Hill and Elizabeth City State University—alleged manipulation of statistics and other policy violations.**



## GENERAL REQUIREMENTS

- Requirements concern: campus crime log; fire log; distributing annual crime and fire statistics report to students, employees and prospective students/employees; statement on current policies including missing student notification; timely warnings of threats; emergency notifications; and preventative programs.



## GENERAL REQUIREMENTS (CONTINUED)

- Crime statistics to be reported concerning: murder and non-negligent manslaughter, negligent manslaughter, forcible sex offenses, non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug law violations, and illegal weapons possession (including students not arrested who go through campus discipline for one or more of these). Hate crimes to be reported when victim was intentionally selected because of victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.



## GENERAL REQUIREMENTS (CONTINUED)

- Future annual reports must also include reported domestic violence, dating violence, and stalking.
- Also to include hate crimes based on national origin or gender identity.



## JUDGMENT REQUIRED

- Must disclose what is reported to campus, not the outcome of a hearing. “But, if a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is “unfounded” and should not be included in your institution’s statistics.”
- Hate crime: sufficient objective facts perpetrator’s actions motivated (whole/part) by bias. “While no single fact may be conclusive, facts such as the following, particularly when combined, are supportive of a finding of bias ...”



## EXPANDED CAMPUS AREA

- Includes crimes not only on campus, but also on streets around, and public property near campus; and in/or non-campus leased building/property. Lease of a municipal athletic field (Memorial Stadium) or rental of classroom space in a local school count, including common areas to reach leased area such as steps and elevators. Not required to report crimes concerning public property within or adjacent to non-campus buildings or property, but if lease/use includes parking spaces (student overflow hotel in the fall) then you have to report concerning parking lot.
- Summary: be careful what and where you rent.





## EXPANDED CAMPUS AREA (CONTINUED)

- Important to know buildings and properties university leases/uses. Must disclose Clery crime statistics for days/times university owns/controls buildings or property that meet non-campus definition.
- Not required to disclose statistics for crimes on field trips at locations university does not own or control. Must report concerning university leased/rented student housing overseas.



## REPORT OF A CRIME

- Relation of victim and perpetrator to university is irrelevant—crimes count even if involves individuals not associated with the university.
- Crime “reported” when brought to attention of a campus security authority (person with significant responsibility for student/campus activities) or local law enforcement, such as dean of students, director of athletics, student resident advisor, coordinator of Greek affairs. Based on function person performs.
- Campus security authority is to report to the official/office designated to collect crime report information.
- Crime need not have been investigated to be reported.



## JUDGMENT AND LACK OF DEFINITION

- Timely warning of certain criminal situations to prevent similar crimes considered to be serious and ongoing threat (Virginia Tech). No definition of “timely”. [T]he intent of a warning regarding a criminal incident(s) is to enable people to protect themselves this means that a warning should be issued as soon as the pertinent information is available ... [I]t’s expected that even if you don’t have all of the facts surrounding a criminal incident or incidents, you will issue a warning. You can then follow up with additional information as it becomes available.” Multiple use of date rape drugs in short time period is an example.



## JUDGMENT AND LACK OF DEFINITION (CONTINUED)

- In short, apparently if you have to think about whether or not to send a warning, safest to warn.
- Emergency notification requirement is more broad, and can include outbreaks of serious diseases, tornado, etc.



# PENALTY AND PROTECTION TO PARTICIPANTS

- Civil fines of up to \$27,500.00 per violation for a substantial misrepresentation of the number, location or nature of the crimes required to be reported or for a violation of any other provision of the safety-and security-related regulations.
- Whistle-blower/retaliation protection for implementation/participants.



# QUESTIONS?