GEOGRAPHY

* On pages 2-2 and 2-3, the Handbook states regarding leased space, “If the agreement gives your institution use of the parking lot or specific spaces in the lot, the parking lot or the specified section of the lot is also part of your on-campus geography.” This statement causes a large amount of property that is not university campus, to be on-campus property for Clery reporting purposes. For example, our university has a campus shop in a local shopping center. The lease agreement allows the use of a multilevel parking garage that spans almost the entire block. Since the agreement doesn’t specify certain spots for the shop, we have been told by the Department of Education that access to the whole garage makes the entire block-long parking garage an on-campus Clery reporting property. Being required to count statistics for a parking garage that’s main purpose is to provide parking for the large shopping centers and businesses off campus does not give the campus community an accurate picture of statistics on university owned and controlled property.
* The Clery Act thrives on location. It is the basis for determining whether or not an offense will be counted as a Clery crime. Location is broken down in three categories. Campus (including on campus residence halls), public property and non-campus. Campus and public property are fairly defined, however, non-campus property is completely incomprehensible to the public. The whole purpose of the Clery Act is to inform the campus community of the crime in the area so they can make the best informed decisions for their safety. The non-campus category encompasses a large range of property. Our research facilities across the state, the handful of buildings owned by the university around town, and the travel done by student organizations, athletics and study abroad programs. Though campus, residence halls and public property also have a somewhat broad spectrum, the general public can have an understanding of what those areas are and have an overall picture of crime in the area. The public has no understanding for what non-campus is. We can try to define it our Annual Security Report but it doesn’t give any sort of clear picture for where the crimes occurred or how to utilize the information. Non-campus is also the most time consuming of all the categories to gather the necessary information. For example, in 2016 to gather statistics for 2015, the Clery Coordinator sent 18 different letters to local law enforcement agencies to request statistics from the properties the university owns in their jurisdiction. Of those 18, there were five agencies that responded. From those 5 responses there were no statistics acquired. Our programs abroad office sent around 75 letters to different law enforcement agencies overseas. Our office received less than 15 responses, some not in a language we could understand. Out of those responses, we received three statistics we could use. One for a motor vehicle theft, one for a burglary and one for a drug law arrest.

There is also the requirement involving trips to off campus locations. If the trips involve repeated use of the location every year, then that area’s crime statistics have to be requested from that area’s local law enforcement to be included in non-campus crime statistics. Same requirement applies to short stay away trips for more than one night. The University has over 300 student organizations registered. Contact must be made with each group to inquire about travel. If every group were to travel, that is several hours spent researching law enforcement agencies, requesting statistics and filtering replies to see if there is anything to add to the generic non campus property statistic box. The Clery coordinator spent close to 80 hours on non-campus property statistics working on efforts for classifying property, researching local law enforcement agencies and their contacts, sending letters and compiling responses. The study abroad program spent around 30 hours researching which areas needed statistic information, which agency to send it to, as well as writing and sending letters across the world. All of these university paid man hours for a result of 3 statistics in a general non-campus category that tells the community no information about where these crimes were committed. However, if an armed robbery, a rape and or an aggravated assault happens a few blocks from our campus that the municipal police inform us of, that does not go in our campus crime statistics because it didn’t happen on our university owned property. It is situations like this that cause a lot of frustration for campuses because so many man hours are poured into a piece of compliance that A) shows little results and B) does not provide an adequate picture of crime on our campus. How does putting a drug arrest in a non-campus property tell our students to make the best informed decisions for their safety? It is also situations like this the community doesn’t understand and causes them frustration with the Clery Act as well. Non-campus is exactly what it is called, not campus property. Non-campus property provides no information that can be used to make informed decisions for their safety, while robbing man hours from university officials that could be spent on the students, their education and their safety.

CRIME CLASSIFICATION

* Page 3-7 of the Clery handbook states, “*Note that, while the definitions of Sexual Assault include lack of consent as an element of the offense, for the purposes of including a reported Sexual Assault in Clery Act statistics, no determination as to whether that element has been met is required. Therefore, all Sexual Assaults that are reported to a campus security authority must be included in your Clery Act statistics and also included in your crime log (if you are required to have one), regardless of the issue of consent.*”

Any sexual assault that is reported needs to be included in statistics regardless of consent. How can you not consider whether or not consent was given and still classify it as a rape? Recently there was a police report where the complainant reported numerous “assaults”. One of which she initiated and gave consent for, however, months later she said she felt she didn’t want to do it and feels she was assaulted and because of this language we are forced to count it. The call for transparency of sexual assault reporting is understandable, but what purpose does it serve when you are being required to count something that, by Uniform Crime Reporting definitions, isn’t what it is. How are we giving accurate statistics if we just accept every single report that comes in without looking at the facts? If no facts are given, that is understandable. The whole definition of rape is wrapped around the basis of consent. How are you able to classify something as a rape if you are removing the basis of what makes it a crime? Institutions are required to count a sexual assault where the description clearly goes against the definition of rape because we can’t consider consent.

* Page 2-1 of the handbook states to disclose the statistics for crimes based on the year they were reported. This seems to be a logical format to follow except when institutions receive reports from Campus Security Authorities who are being told of crimes that occurred as part of the counseling and healing process. This department has had sexual assault reports from two years, five years and even 20 years after they occurred. The problem with this system is it does not give an adequate picture of the amount of crimes that occurred in that year. If someone were to look at 2016 statistics they would assume all the crimes listed occurred in 2016. However, because of this requirement, that is not the case. Just as there is a statute of limitations for law enforcement, it would be helpful if there was a way to have some sort of boundary of when these crimes occurred for them to count in the current year’s statistics, or else it can give a false reading of the current year’s actual statistics.

CAMPUS SECURITY AUTHORITIES

* CSAs are a large portion of any institutions compliance. Universities can have CSAs ranging in the thousands. There is a category of CSA that we want to address and that is the language from 4-4 in the Clery Handbook which states, “If your institution directs students or employees to report crimes to other individuals, then those individuals are CSAs. These individuals may include physicians in a campus health center; counselors.” This language becomes an issue when the University wants to direct those looking for confidential resources to who they can report to. However, in efforts to direct students to those who are confidential, we are making them CSAs and in essence, they are now no longer confidential. The handbook states on 4-8 that, “In most cases it is possible for a CSA to fulfill his or her responsibility while still maintain victim confidentiality. CSA reports are used by the institution to compile statistics for Clery Act reporting and to help determine if there is a serious or continuing threat to the safety of the community that would require an alert.” Which is exactly my point. If a resource who is indicated as confidential reports the incident as a CSA and a timely warning is issued, the incident that the student took to a confidential person, is now being emailed to the entire campus. Granted it won’t have their personal identifying information in it, but something that was so private to them has now been (literally) broadcasted to a community of 40,000 people. How does that help the victim? We understand we want to inform the community but at what cost? Will that victim trust to report something or continue to get the help they need? Recently, we issued a timely warning for a rape on campus. The media got hold of the timely warning and four different media outlets did a story on the rape. One news station went as far as filming the residence hall where it occurred and interviewing students who came in and out. We receive calls from CSAs saying that the victim is pleading with them that what they have told them won’t go out in an email. We are not advocating to remove safety alerts and notifications, but there needs to be a safe place for people to report without the fear of it being shared with their entire community. The handbook states that pastoral and professional counselors are exempt (as long as they do not fill another role that makes them a CSA), but if the university wants to make other individuals confidential to allow a more comfortable and welcoming environment for people who have suffered trauma to report it, they do not have the freedom to do that. There needs to be some freedom for universities to create a safe reporting environment for those who only want to walk through the healing process and not take any sort of action towards their aggressor. We understand the Department of Education wants to make sure the community is informed about what is going on in the campus around them, but there are plenty of measures in place by the Clery Act to do that. We do not need to include those who are confidential as well. Let victims of crime, people who have had their free will taken from them, have a safe place to heal and walk through their circumstance without the additional fear of what this language causes.

OTHER ISSUES (Title IX/VAWA/DCL)

* There is a perceptions that because of the 2011 Dear Colleague Letter, we have to complete investigations and hearings within 60 days- including the perception that we can’t wait for law enforcement if they made a reasonable request for us to delay.
* There is a lack of clarity between “responsible employees” under Title IX and “campus security authorities” under the Clery Act
* There is a perception that we are prohibited from following our state law by offering APA hearings to students facing suspension or expulsion
* There is a lack of clarity on university obligations when a complainant has reported an incident but does not want to move forward
* There is a lack of clarity on when an accused respondent poses a safety risk to the campus
* There is a lack of clarity on to what extent universities should be screening all transfer students for prior records related to Title IX offenses