Clery Act - Briefing and Challenges for Police and CSAs

May 9, 2013

Pamela Roskowski - UCSF Chief of Police

First enacted in 1990 – Amended the Higher Education Act of 1965 – Most recent update 2013

Requires all postsecondary institutions participating in HEA’s Title IV student financial assistance programs to:
Clery Act - Requirements

- Disclose, collect, classify and count crime reports and statistics
- Issue Crime Alerts – timely warning for any Clery Act-specified crime that represents an ongoing threat to the safety of students or employees
- Issue Emergency Notifications upon confirmation of significant emergency or dangerous situation involving immediate threat to health or safety
- Publish Annual Security Report
- Submit Crime Statistics to ED
- Maintain a publicly available daily crime log
- Disclose missing student notification procedures
- Maintain Fire Safety information – including fire log, annual fire report with statistics and policy statements
Clery Act – Risk

- Fines – up to $35,000 per violation
- For substantial misrepresentation of number, location or nature of crime or, for violation of any other provision of the safety-security related HEA regulations
Requires institutions to annually and on-going report:

- Where crimes occurred
- To Whom the crimes were reported
- Type of crimes reported and
- Year in which crimes were reported
Clery Act Challenges: Geography

Location, Location, Location

Key to Clery Compliance is Understanding location criteria:

- On-Campus
- On public property within or adjacent to campus
- In or on non-campus buildings or property owned or controlled
- “Controlled by” means rents, leases or some type of written agreement – *including informal email* – no payment for space required
Clery Act Challenges: Crime Classification

Follows Uniform Crime Definitions and NIBRS reporting requirements

Separate and distinct reporting requirement
Clery Act Challenges: Statistics

Collecting Statistics from:

- Campus Security Authorities and Law Enforcement Agencies

- It is not necessary for the crime to have been investigated by the police or a campus security authority to be reportable.

- It is “reported” when brought to the attention of a campus security authority or local law enforcement – by victim, witness or 3rd party
Clery Act Challenges: Daily Crime Log

- Daily Crime Log required if campus has a Police or Security Department
- Must record “criminal” incidents and “alleged criminal” incidents – non-criminal matters not required
- Must include all crimes reported (not just Clery crimes)
- Crime summary and all offenses within single event must be disclosed (i.e.: burglary, rape)
- More specific location information must be provided (i.e.: 2nd floor of Byers Hall vs. on campus)
- Crimes within the patrol jurisdiction must be reported on log
- Must be available to the public and kept current
Emergency notification and evacuation procedures required
Policies and procedures must be published in annual security report
Plan must be tested, evaluated and publicized
Immediate notification upon “confirmation” of a significant emergency or dangerous situation involving “immediate threat” (i.e.: active shooter in progress, encroaching forest fire, etc.)
Clery Act Challenges: Timely Warnings

- Required to alert the campus community to certain crimes in a manner that is “timely” and will aid in the prevention of similar crimes.

- “Timely” warning is not defined but is intended to mean as soon as pertinent information becomes available to enable people to protect themselves.

- Must alert for any crime that is 1) reported to CSA or police; and, 2) is considered by the campus to represent a serious or continuing threat to students and employees.

- Not limited to violent crimes – i.e.: could be burglary trend.

- Timely warning only required for “Clery” specified crimes.
Like Crime Statistics, Fire Safety reporting is required for every campus that has on-campus student housing.
Clery Act Challenges: CSAs

- Campus CSAs
  - May not know who they are
  - Turnover
  - Fail to report
  - Periodic Training Needed
How is a campus official designated as a Campus Security Authority (CSA)?

- CSAs are defined by function and not by title.
- CSAs have significant responsibility for student AND campus activities.
- The law broadly interprets “significant responsibility for student and campus activities” to ensure thorough reporting of crimes.
Clery Act Challenges: CSAs

Examples of CSAs

- Deans
- Student Housing Staff
- Athletic Coaches
- Student Activities Coordinator
- Official who oversees a student center
- Student Judicial Officers
- Resident Assistant (RA)
- Student Advisors
- Faculty Advisors to student organizations
Clery Act Challenges: CSAs

The following are *NOT* Campus Security Authorities:

- Administrative staff not responsible for student activities (e.g., payroll, facilities)
- Clerical staff
- Individual faculty who **DO NOT** serve as advisors to registered student organizations
- Doctors in the Student Health Center, or Counselors in the Counseling Center, who only provide care to individual students
Clery Act Challenges: CSAs and Reporting

Who is EXEMPT from Reporting?

- Licensed professional mental health counselors
- Pastoral counselors (employed by a religious organization to provide confidential counseling) AND
- Who are working within the scope of your license or religious assignment
Just the facts!

Your job as a CSA is to report the information the person is willing to tell you. Just get the facts.

- Document WHEN the crime or incident occurred
- Document WHEN it was reported to you
- Document WHERE it occurred
- Document WHAT occurred
- Document WHO was involved
What You Are Required to Report

- Criminal homicide (murder and manslaughter)
- Sex offenses, forcible & non-forcible
- Aggravated assault
- Robbery
- Burglary
- Motor vehicle theft
- Arson
What You Are Required to Report

- Hate crimes, including any of the seven crimes listed above, or any other crime causing bodily injury, if motivated by race, gender, religion, sexual orientation, ethnicity, national origin or disability.

- **Amendments** to the Clery Act in 2008 expanded hate crimes to include the following:
  - Larceny-theft
  - Simple assault
  - Intimidation
  - Vandalism

- Arrests and discipline referrals of students, staff, and faculty for liquor, drug, weapons, and law violations
Clery Act Challenges: 2014 Campus Sexual Violence Elimination Act (Campus SAVE)

- March 7, 2013 – Violence Against Women Act signed into law by President Obama and includes the Campus Sexual Violence Elimination Act which amends Clery

- Addresses a broader scope of intimate partner violence including stalking, dating violence, sexual violence and domestic violence offenses.

- Beginning in 2014, each institution will be required to:
  - Report statistics of incidents of:
    - Sexual assault
    - Domestic violence
    - Dating violence
    - Stalking
  - Offer primary prevention and awareness programming for all incoming students and new employees that includes:
    - Definition of consent in sexual relationships
    - Reporting sex offenses
    - Bystander intervention
    - Risk Reduction
    - Ongoing prevention and awareness campaigns
Clery Act Challenges

- Questions and Discussion