CLERY ACT AND CODE OF FEDERAL REGULATIONS


TITLE 34, VOLUME 3, PAGE 476 CFR # 2 (B) SECTION 4 (I)

What is the Clery Act?
The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, codified at 20 USC 1092 (f) as a part of the Higher Education Act of 1965, is a federal law that requires colleges and universities to disclose certain timely and annual information about campus crime and security policies. All public and private intuitions of postsecondary education participating in federal student aid programs are subject to it. Violators can be “fined” up to $27,500 by the U.S. Department of Education, the agency charged with enforcement of the Act and where complaints of alleged violations should be made, or face other enforcement action.
The Clery Act, originally enacted by the Congress and signed into law by President George Bush in 1990 as the Crime Awareness and Campus Security Act of 1990, was championed by Howard & Connie Clery after their daughter Jeanne was murdered at Lehigh University in 1986. They also founded the non-profit Security of Campus, Inc. in 1987. Amendments to the Act in 1998 renamed it in memory of Jeanne Clery.

Annual Report
Schools have to publish an annual report every year by October 1st that contains 3 years worth of campus crime statistics and certain security policy statements including sexual assault policies which assure basic victims’ right, the law enforcement authority of campus police and where students should go to report crimes. The report is to be made available automatically to all current students and employees while prospective students and employees are to be notified of its existence and afforded opportunity to request a copy. Schools can comply using the Internet so long as the required recipients are notified and provided the exact Internet address where the report can be found and paper copies are available upon request. A copy of the statistics must also be provided to the U.S. Department of Education.

Crime Statistics
Each school must disclose crime statistics for the campus, unobstructed public areas immediately adjacent to or running through the campus, and certain non-campus facilities including Greek housing and remote classrooms. The statistics must be gathered from campus police or security, local law enforcement, and other school officials who have “significant responsibility for student and campus activities” such as student judicial affairs directors. Professional mental health and religious counselors are exempt from reporting obligation, but may refer patients to a confidential reporting system which the school has to indicate whether or not it has.
Crimes are reported in the following 7 major categories, with several sub-categories: 1. Criminal Homicide broken down by a.) Murder and Non-negligent Manslaughter and b.) Negligent Manslaughter. 2. Sex Offenses broken down by a.) Forcible Sex Offenses (includes rape) and b.) Non-forcible Sex Offenses; 3. Robbery 4. Aggravated Assault; 5. Burglary; 6. Motor Vehicle Theft; and 7. Arson.
Schools are also required to report the following three types of incidents if they result in either an arrest or disciplinary referral: 1. Liquor Law Violations; 2. Drug Law Violations; and 3. Illegal Weapons Possession. If both an arrest and referral are made only the arrest is counted.
The statistics are also broken down geographically into “on campus,” “Residential facilities for students on campus, non-campus buildings, or “on public property” such as streets and sidewalks. Schools can use a map to denote these areas. The report must also indicate it any of the reported incidents, or any other crime involving bodily injury, was a “hate crime.”

Access to Timely Information
Schools are also required to provide “timely warnings” and a separate more extensive public crime log. It is these requirements which are most likely to affect the day to day lives of students. The timely warning requirement is somewhat subjective and is only triggered when the school considers a crime to pose an ongoing “threat to students and employees: while the log records all incidents reported to the campus police or security department.
Timely warnings cover a broader source of reports (campus police or security, other campus officials, and off-campus law enforcement) than the crime log but are linked to those crime categories required in the annual report. The crime
log includes only incidents reported to the campus police or security department, but covers all crimes not just those required in the annual report, meaning crimes like theft are included in the log. State crime definitions may be used. Schools that maintain a police or security department are required to disclose in the public crime log “any crime that occurred on campus...or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or security department.” The log is required to include the “nature, date, time, and general location of each crime” as well as its disposition if known. Incidents are to be included within two business days but certain limited information may be withheld to protect victim confidentiality, ensure the integrity of ongoing investigations, or to keep a suspect from fleeing. Only the most limited information necessary may be withheld and even then it must be released “once the adverse effect...is no longer likely to occur.” The log must be publicly available during normal business hours. This means that in addition to students and employees the general public such as parents or members of the local press may access it. Logs remain open for 60 days and subsequently must be available within 2 business day of a request.

All criminal offenses such as murder, rape, assault, robbery and auto theft are reported to the Cerro Coso Safety Manager and joint investigative efforts with investigators from the College and the Police Department may be deployed to solve these serious felony crimes. The prosecution of all criminal offenses, both felony and misdemeanor, are conducted at the Superior Court of Kern County.

Federal Bureau of Investigation Uniform Crime Reporting and National Incident-Based Reporting System Crime Definitions

Excerpted from the Implementing regulations of the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act” (Originally the Campus Security Act) originally published in the Federal Register on April 29, 1994 (Vol. 59, No. 82) and November 1, 1999 (Vol. 64, No. 210).

The following definitions are to be used for reporting the crimes listed in 34 CFR sec. 668.46 (previously 668.47) in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program. The definitions for murder, robbery, aggravated assault, burglary, motor vehicle theft, weapon law violation, drug abuse violations and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions of forcible and non-forcible sex offenses are excerpted from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Handbook.

Crime Definitions from the Uniform Crime Reporting Handbook

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.

Criminal Homicide-Manslaughter by Negligence
The killing of another person through gross negligence.

Criminal Homicide-Murder and Non-negligent Manslaughter
The willful (non-negligent) killing of one human being by another.

Robbery
The taking 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 when a gun, knife, or other weapon is used which 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 a 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**
Violation of State and local laws relating to 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 non-narcotic drugs (barbiturates, Benzedrine).

**Liquor Law Violations**
The violations of law or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor, maintaining lawful 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 Definitions 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.

a) **Forcible Rape**-The carnal knowledge of a person, forcibly and/or against that person’s will; or not forcibly or permanent mental or physical incapacity (or because of his/her youth).

b) **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.

c) **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 the at 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.

d) **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-Non-forcible**
Unlawful, non-forcible sexual intercourse.

1. **Incest**-Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape-Non-forcible sexual intercourse with a person who is under the statutory age of consent.