

Beyond Law Enforcement: Examining Clery Act Compliance *throughout* an Institution

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Background

To many student affairs officials, at first glance, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, known to most as The Clery Act, may seem like an intangible campus safety initiative – a compliance obligation for campus police and public safety. However, a second look at the Clery Act reveals a complex system of institutional information, activities, and programming that is overwhelmingly provided, or carried out by, student affairs officials.

As a brief background, the Clery Act is a federal policy enforced by the U.S. Department of Education. It requires institutions to disclose information about an institution's safety and security policies and programs, as well as to disclose annual crime statistics, in an Annual Report (among other ongoing regulations) (U.S. Department of Education, 2016). Any postsecondary institution that receives Title IV funds from the Department of Education (most recognizably, through student receipt of federal student aid) is subject to the regulations of the law (U.S. Department of Education, 2016).

Enacted in 1990, the law initially resulted from the advocacy of the parents of Jeanne Clery, who fought for increased transparency and campus safety and security policies after the tragic assault and murder of their daughter, Jeanne, while she was asleep in her residence hall room (Clery Center, 2018a). Fast-forward to today, and the law has become increasingly prevalent in the national dialogue. Multiple triggering events may have contributed to this uptick in attention to Clery compliance and efforts including the 2013 Violence Against Women Act (VAWA) amendments to the Clery Act, which expanded Clery crimes to include dating violence, domestic violence, sexual assault, and stalking (U.S. Department of Education, 2016). Additionally, increased attention to Clery compliance may be associated with the publicity surrounding the historically large fine of \$2.4 million levied against Penn State University in 2016 for Clery Act non-compliance (James L. Moore, 2016; New, 2016). Yet, the increased focus on Clery compliance could also be linked to the revolution of attention to sexual misconduct on college campuses in recent years (Smith, 2014).

It is important to note that while the Clery Act is linked to Title IX through the shared responsibility of VAWA offenses, non-compliance with Title IX may result in recommendations for change, whereas non-compliance with the Clery Act may result in a \$55,907 fine per violation (Department of Education, 2018; United Educators, 2015).

Although, on the surface of the law, it may seem like a campus police/public safety responsibility, the regulations associated with the Act are accomplished through collaboration with multiple campus offices/resources including Title IX, housing/residence life, fraternity and sorority life, athletics, campus advocates, the Dean of Students, etc. The Act specifically relates to student affairs officials, and fraternity/sorority life staff, in several ways. First, the Act requires institutions to designate and train certain individuals in a role called a “campus security authority.” Those in this role serve as mandatory crime reporters. The second is that the law requires the tracking of registered student organization-owned or -controlled properties and travel. The third is that student affairs officials conduct programming on their campuses that contributes to the safety programming required under the act.

Campus Security Authorities

The Clery Act calls for the attention of student affairs officials in the requirement for Campus Security Authorities (CSAs) who are mandatory crime reporters. This category of employee or volunteer includes public safety officials like police and contracted security personnel, but it also includes other individuals “*with significant responsibility for student or campus activities*” (U.S. Department of Education, 2016). This means many student affairs officials who coordinate student affairs and student life, or have responsibility for students outside the classroom, may be considered CSAs. Each institution has the discretion to identify who CSAs are on their campus and each institution is recommended to provide training to CSAs on their role as mandatory reporters (U.S. Department of Education, 2016). Specifically, the guidance from the Department of Education includes examples of “a coordinator of Greek affairs” and “a faculty advisor to a student group” as individuals who should be considered Campus Security Authorities (U.S. Department of Education, 2016). Within fraternity/sorority life, and expanded to the more broad student affairs population, institutions must decide who is and who is not a CSA.

A challenge in this process is that practitioners may recognize the resemblance of CSAs to the Title IX-defined “Responsible Employee;” responsible employees are mandatory reporters for sexual violence offenses (Office for Civil Rights, 2014). These are overlapping but distinct roles and collaboration with Title IX officers is essential to overcome the challenge of understanding who reports what and to whom. The Office for Civil Rights’ Title IX Policy team hosted a listening session with a group of Title IX and Clery practitioners from across the nation in October 2017 where the groups discussed integrating some of the overlapping requirements under both laws that concern VAWA crimes and programming (Lafferty, 2017).

Whereas Title IX requires mandatory reporting for *any known* sexual misconduct, the Clery Act has mandatory reporting only for certain crimes *that occur on “Clery Geography”* (Clery Center, 2018b). Thus, the role of a CSA is to forward to campus police/public safety all known information on certain crimes that happen on an institution’s “Clery Geography,” which the Department of Education defines.

Student Organization Geography

One of the major challenges for institutions is identifying their “Clery Geography,” which dictates which crimes are counted in the Annual Report. The Department of Education guidance defines the categories of an institution that are considered “Clery Geography,” in short, it captures buildings or properties that are institution-owned or -controlled and frequently used by students (such as lecture halls, student service buildings, institutional hospitals used for clinical training, etc.), as well as public property adjacent to campus (U.S. Department of Education, 2016). Specific to fraternity/sorority life, the guidance identifies “any building or property owned or controlled by a student organization that is officially recognized by the institution” as one of the categories of Clery Geography (U.S. Department of Education, 2016). Thus, certain crimes that occur on those properties must be included within the crime statistics of the Annual Report.

Many institutions have known on-campus fraternity and sorority housing, but the Department of Education guidance goes beyond these types of properties to include student organization travel/trips and other off-campus facilities reserved or rented by student organizations for meetings or events (such as conferences, formals, or retreats) (U.S. Department of Education, 2016). Consider the scenario where campus police/public safety officers survey student organizations where they reside, where they host meetings or events, etc. – students may be fearful or may not understand why they need to provide this information. Without policy or procedure in place for enforcement, there is no guarantee student organizations will submit the information when asked. To address this category of geography and statistics, student affairs officials should be engaged in the process of developing solutions and mechanisms to collect and share this type of information that may have sensitivities to the student organizations that student affairs administrators work with.

Programming

Under the VAWA amendments of the Clery Act, institutions must describe any programming related to sexual misconduct prevention and awareness on an annual basis; similarly, other safety programming offered to students or employees should be counted in the Annual Report (U.S. Department of Education, 2016). Aside from campus police/public safety – student affairs

officials, fraternity/sorority life administrators, wellness centers, campus advocates, or other student service offices are often the units who offer safety programming to students (such as bystander intervention training, hazing prevention programming, or alcohol and drug abuse prevention programs).

A challenge arises in canvassing an institution annually to obtain information on all of the programs offered through the year. Increased collaboration between student affairs officials in sharing this type of information would bolster an institution's Annual Report, and would help to exemplify an institution's robust approach to safety in student life.

Conclusion: Future of Student Affairs & the Clery Act

A few current roles of student affairs officials in Clery Act compliance have been to: fulfill the duties of a Campus Security Authority or mandatory reporter (if applicable); to serve as a liaison to share Clery-pertinent information related to registered student organizations and their geography; and, to share information about the safety programs each unit hosts for students and employees annually.

However, new congressional proposals could dramatically increase fraternity/sorority life's stock in the Clery Act. H.R. 2926, the REACH Act (Report and Educate About Campus Hazing Act) is a bill that was introduced in June 2017 and proposes adding "hazing" as a Clery-reportable crime (115th Congress, 2017). This means campuses could be charged with documenting and tracking hazing incidents and publishing the number of incidents that occurred on or near an institution's Clery Geography in its Annual Report. Compared to other congressional legislation that attempts to modify the Clery Act, the REACH Act legislation has gained significant support in the wake of the national response to the tragic deaths of Timothy Piazza, Maxwell Gruver, Andrew Coffee, and Matthew Ellis, whose lives were all lost to hazing in 2017 (Reilly, 2017).

To close, the Clery Act exists *throughout* an institution, and is not only within the campus police/public safety unit. Compliance requires hefty administrative oversight and collaboration throughout the institution. However, it is challenging to educate the community around Clery initiatives, and even more challenging to develop mechanisms like policy and procedure for ensuring the necessary pieces of information are updated and shared regularly. To overcome Clery compliance challenges, institutions must engage leadership who have the ability to make change on the campus in order to legitimize the institution's Clery efforts, influence buy-in from various campus units, like student affairs officials, and develop policy and procedure to enhance the longevity of the compliance program (Kiss, 2017).

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