



CHARTERED 1693

**THE COLLEGE OF WILLIAM & MARY
OFFICE OF COMPLIANCE & POLICY**

TO: William & Mary Campus Security Authorities

CC: Deborah Cheesebro, Chief of William & Mary Police

FROM: Kiersten Boyce, Chief Compliance Officer and Title IX Coordinator

DATE: December 18, 2014

RE: Crime Reporting Requirements for CSAs

A federal law commonly known as the Clery Act requires universities to annually compile and publish crime statistics for their campuses and certain other areas. This law requires that the university collect information about certain crimes from employees who are designated as “Campus Security Authorities” (CSAs). Although the name Campus Security Authority sounds like it refers to a security guard or police officer, under the Act, any employee (including faculty and student employees) in a position of authority or with responsibilities relating to students is a Campus Security Authority.

You have been designated by your unit head as a Campus Security Authority (CSA). This memorandum is notifying you of your reporting obligations under the university’s [Crime Reporting Policy](#). It is also notifying you of some important changes to the Crime Reporting Policy, and providing information about the relationship between your reporting obligations as a CSA and your Title IX reporting obligations.

As a CSA, you are required to report information about certain criminal conduct occurring – or alleged to have occurred – in certain locations. We call these locations our “Clery Act geography.” You are required to report to William & Mary Police so that (1) threats to the campus community may be investigated and (2) W&M may disclose accurate information about the safety of our campus to current or prospective members of the W&M community.

Reporting as a CSA is not about “turning someone in” or about making a report that a victim doesn’t want to be made. When Clery incidents are reported by William & Mary, the report does not identify any victim or anyone accused of committing a crime. Personally identifiable information is not included in statistics disclosed. Further, you can report without identifying the victim, if the victim doesn’t want the matter reported or has concerns about confidentiality or anonymity.

W&M provides guidance and training with more information about CSA reporting.

Guidance about the Clery Act and CSA obligations is provided in *Appendix A*, in the form of FAQs prepared by Compliance & Policy. The FAQs, which are available online at www.wm.edu/clery/guidance, include information about what triggers the reporting obligation. They also describe how you make a Clery Act report. The types of crimes and incidents that must be reported – Clery Act incidents – are described in *Appendix B*. Please note that there are several new types of crimes, which you are now required to report: dating violence, domestic violence, and stalking.¹ *Appendix B* provides full definitions of these crimes.

CSA reporting is different from Title IX reporting; you need to do both (in most cases).

Sexual assaults are Clery Act crimes that you must report. Reporting a sexual assault to William & Mary Police as a CSA is not the same as reporting a sexual assault under our Discrimination, Harassment, and Retaliation Policy. Under that policy, you – all faculty and staff – are considered “responsible employees” (a legal term we are required to use). Responsible employees must report to me, as Title IX Coordinator, or to the Dean of Students sexual assaults of W&M students of which they become aware. More information about reporting as a responsible employee is available online at www.wm.edu/titleix/guidance. In addition, the Office of Diversity & Equal Opportunity provides online training covering Title IX and Clery Act reporting. This training will be launched early in the spring 2015 semester.

Thank you for your assistance in fulfilling these federal requirements.

¹ The Violence Against Women Reauthorization Act of 2013, a federal statute, amended the Clery Act to add these three new crimes.

APPENDIX A

Frequently Asked Questions and Answers: Crime Reporting Obligations for CSAs
These FAQs and additional information about the Clery Act is provided on the Compliance & Policy Office website at www.wm.edu/offices/compliance/topics

What is the Clery Act? The “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act” is a federal law that requires institutions of higher education in the United States to disclose campus security information (including crime statistics and information about safety-related policies). It was first enacted by Congress in 1990 and amended a number of times since.

Who is Jeanne Clery? In 1986 Jeanne Clery, a freshman at Pennsylvania's Lehigh University, was murdered and sexually assaulted in her residence hall room by another student she didn't know. Her school hadn't informed students about 38 violent crimes on campus in the prior three years. Jeanne's parents led the crusade to enact the law.

What is a Campus Security Authority (CSA) and how do I know if I am one? The university notifies those employees who are CSAs. All employees with responsibility for campus and student activities are CSAs. The term “responsibility” is interpreted broadly, so that most employees who interact with students in any position of authority are CSAs. For example, if you are a full-time faculty member, a coach, a resident assistant/head resident/area coordinator, or an advisor for a student group, you probably are a CSA.

What does being a CSA mean? It means you have certain reporting obligations, described in these FAQs.

What do I need to report? You need to report (a) certain criminal activity known as “Clery Act incidents” (b) that you become aware of (c) occurring on certain property designated as our “Clery Act geography.” The reporting requirement is triggered by the *location where the incident occurred*. It only applies to criminal incidents occurring in William & Mary's Clery Act geography.

What are Clery Act incidents? Clery Act incidents include sex offenses, robbery, other violent crimes, and so-called “hate crimes”; the full list and definitions are provided in Appendix B. (Drug abuse violations and liquor law violations that result in either an arrest or a disciplinary referral also need to be reported, but this information is most reliably collected from the Dean of Students Office, which handles disciplinary cases against students; other CSAs are not required to report drug and liquor law violations.)

What is our Clery Act geography? Three types of property constitute our Clery Act geography:

- Campus property. For Clery Act purposes, W&M has several campuses: (1) the main, Williamsburg campus, (2) the Washington, D.C. campus, (3) the VIMS campus and (4) the Newport News campus. Campus property includes grounds and buildings. The main campus includes the Law School, the Business School, and the School of Education, as well as all the residence halls including the Grad Complex. ***Because most William & Mary CSAs work on the main campus, these FAQs focus on main-campus property. Additional information relevant to the other campuses is available through the Office of Compliance & Policy.***

- Public property adjacent to and accessible from on-campus property. This means sidewalks and streets adjacent to one of the W&M campuses. Adjacent to means those streets and sidewalks immediately bordering the campus – not streets a block away, for example. It also does not include property that is not accessible from the on-campus property; for example if there is a fence between the campus property and the non-campus sidewalk, the sidewalk may not be within our Clery Act geography. Examples of adjacent public property include:
 - Richmond Road and its sidewalks on those portions of the road that border campus
 - Jamestown Road and its sidewalks on those portions of the street that are adjacent to the campus.
 - South Henry Street and its sidewalks on those portions of the street that are adjacent to the Law School and the tennis center.
 - Rolfe Road and its sidewalks on those portions of the street that are adjacent to Ludwell dorms.

- Non-campus buildings or property owned or controlled by William & Mary that is used in direct support of, or in relation to, the institution’s educational purposes, and is frequently used by students. This category includes, for example:
 - Certain overseas locations including those used for study abroad programs identified by the Reves Center as meeting the definition of control of specific space for the time period of the program. ***Additional information about overseas and other non-campus property is available through the Office of Compliance & Policy.***
 - Those portions of buildings leased by William & Mary for use as office space in New Town.

What locations are not included in our Clery Act geography?

- Off-campus sites for internships, externships, clinical training or student teaching, where the agreement is limited to the program rather than for use of the physical space.

- Field trips or overnight, school-sponsored trips that do not meet the frequently-used-by-students criterion, generally for periods greater than two weeks.
- Public property adjacent to non-campus property owned or controlled by William & Mary, such as Ironbound Road bordering the New Town buildings leased by William & Mary.

What do I do if a criminal incident occurred on our Clery Act geography – how do I make a report? A CSA needs to file a report with the William & Mary Police Department when he or she becomes aware of information that indicates that a Clery Act incident is occurring or may have occurred on campus, adjacent to campus, or in a non-campus location. The William & Mary Police Department is designated as the official collector of crime report information for all our campuses (Williamsburg, VIMS, Newport News, D.C., study abroad).

If the incident is happening real-time and constitutes an emergency, dial 911 immediately from a campus phone or push the button of an outdoor emergency phone. Immediately inform the communications officer of your location and nature of the emergency. Police will be dispatched to the location.

If it is information about a crime that is not currently in progress, contact the Police Department by phone at 757-221-4596 or in person at the Police and Parking Office, 201 Ukrop Way, Williamsburg campus. When you contact the William & Mary Police Department, be prepared to provide a short description of the incident including:

- date and time of occurrence or approximate time frame
- specific location or location to the nearest address/point possible
- individuals involved if it is not an anonymous reporting situation

When describing the general nature of the incident, it is not necessary to identify a specific Clery crime definition. The communications officer will ask for the needed initial information and a police officer will follow-up for any additional detail needed for clarification and possible investigation. You can start with general terms, such as:

- “I think an assault occurred between 2 students”
- “I was told that someone holding a knife robbed a student on campus and while doing it called the student a derogatory name based on his sexual orientation.”
- “I heard students talking about a possible rape that happened last night on campus.”

It is likely an officer will want to talk with you in person to ensure a proper police report. This is routine and will be done with consideration to your schedule and availability.

Do I need to witness the criminal incident first hand? *No, the reporting obligation arises when you, a Campus Security Authority, become aware of information or allegations of criminal behavior.* Awareness can be either through witnessing the criminal conduct or having criminal activity reported to you by a victim, bystander, or other person.

When do I need to report the criminal incident to the Police? You should report the criminal incident to the authorities in a timely manner. In non-emergency situations (e.g. not a serious and ongoing threat), CSAs should report promptly given the circumstances. For CSAs in non-campus locations, especially abroad, that may not be possible until your return to the Williamsburg campus. Obviously, in emergency situations, contact local law enforcement wherever you may be. Do not wait for criminal charges to be brought, arrests to be made, etc.

What shouldn't a CSA do?

- The CSA should not attempt to prove or decide whether the alleged incident actually occurred—that is the job of law enforcement.
- The CSA is not required to be a neighborhood monitor or to actively seek out crime information such as by reading crime blogs.
- It is not the CSA's responsibility to try and convince a victim to contact law enforcement if the victim chooses not to do so.

What if I'm not sure if a crime has actually occurred? You should still report. It is not your job to decide whether there is enough evidence or if all the elements of a crime occurred; if you have information that reasonably appears like a Clery Act incident, report it. You should also remember that *attempted crimes must be reported*.

What if the information I have is second or third hand – do I still need to report? Yes, you need to report. The only times you don't have to report information about a Clery Act incident are (1) if you have reason to believe that the report or allegation of criminal conduct is not made *in good faith* or (2) if you are reasonably certain that the incident has already been reported. This means, for example, if a student tells you that his girlfriend was raped on campus, you need to report that information. Do not try to make the student or his girlfriend call the Police. To pick another example, if an employee tells you that a local resident, who was visiting campus, was mugged behind one of the academic buildings, you need to report that. On the other hand, if your supervisor shares with you information about an incident where a student attacked another student with a knife and your supervisor tells you that he already called the Police, you do not need to make a second report.

What is “good faith”? If you have good reason to doubt the validity of the information – for example if you think someone is deliberately spreading a rumor – you could conclude that the report was not made in good faith. If you have reason to believe that information you've received about an incident is not made in good faith, you do not need to report it.

If I make a report, does this mean that a police investigation will be initiated? No. Although we strongly encourage victims of any crime to report incidents and seek assistance through legal channels whenever possible, a report from a CSA will not necessarily result in a police investigation. There are many reasons why a report might not result in a law enforcement action. For example, in many cases the Police will not initiate an investigation without victim assistance.

As another example, if a report is about an incident that occurred outside of the William & Mary Police's jurisdiction, they may refer the matter to the appropriate police, but those police may not deem the matter to warrant an investigation.

If a student reported something to me in confidence, do I still need to report the incident for Clery Act purposes? Yes. All incidents which meet the criteria described above must be reported to the William & Mary Police for statistical collection purposes. Reports may, however, be filed without providing the name of the victim.

Only those CSAs who are professional mental health and pastoral counselors are exempt from the requirement to report, and only if they learn of the Clery Act incident while acting as a professional mental health counselor or pastoral counselor, respectively. Counselors may encourage the student to make a voluntary anonymous report to the W&M Police, on a confidential basis, for inclusion in the annual disclosure of crime statistics.

Is this the same as the reporting of sexual assault/harassment that I have to do under the Discrimination, Harassment, and Retaliation Policy? No. Sexual assaults are Clery Act crimes that you must report. But reporting a sexual assault to William & Mary Police as a CSA is not the same as reporting a sexual assault (or harassment) under our [Discrimination, Harassment, and Retaliation Policy](#). Under that policy, you -- all faculty and staff -- are considered a "responsible employee." Responsible employees must report to the [Title IX Coordinator](#) or the [Dean of Students](#) sexual assaults of W&M students of which they become aware.

More information about reporting sexual assault and other [Title IX](#) violations is available online at www.wm.edu/titleix/guidance .

What fines and/or sanctions could William & Mary face if I fail to report an incident? The United States Department of Education is charged with enforcing the Jeanne Clery Act and may level civil penalties against institutions of higher education up to \$35,000 per violation or may suspend them from participating in federal student financial aid programs.

What sanctions could I face, if I fail to make a report? Under the Crime Reporting Policy, CSAs who fail to report Clery Act incidents may be subject to disciplinary action, under applicable personnel policies.

Are there new Clery reporting requirements as a result of the Violence Against Women Reauthorization Act under the Campus Sexual Violence Elimination provision ("SaVE Act")? Yes, the SaVE Act provision adds domestic violence, dating violence, and stalking to the categories that must be reported under Clery. Federal regulations defining these crimes were finalized this fall, and the crimes are now included in our Crime Reporting Policy.

APPENDIX B

The Clery Act incidents you need to report², which are defined below, are:

1. murder and manslaughter
2. sex offenses, forcible or non-forcible but not including sexual harassment or indecent exposure
3. robbery and burglary
4. aggravated assault
5. motor vehicle theft – including theft of motorized scooters, golf carts, motorized wheelchairs and the like
6. arson
7. so-called “hate crimes” – (i) any other crime involving bodily injury, or (ii) larceny-theft, simple assault, intimidation, and destruction/ damage/ vandalism of property, when motivated by the perpetrator’s bias. Bias is defined as a negative opinion or attitude toward a group of persons based on their
 - a. race,
 - b. gender or gender identity,
 - c. religion,
 - d. sexual orientation,
 - e. ethnicity/national origin, or
 - f. disability
8. domestic violence
9. dating violence
10. stalking.

Definitions

1. Murder and Non-negligent manslaughter is the willful (non-negligent) killing of one human being by another. **Negligent manslaughter** is the killing of another person through gross negligence.

2. A forcible sex offense is any sexual act directed against another person (1) forcibly and/or against that person’s will or (2) not forcible or against the person’s will where the victim is incapable of giving consent due to a temporary or permanent disability. These crimes include:

- A. Forcible Rape, including acts that may be considered “date rape” or “acquaintance rape”
- B. Forcible Sodomy
- C. Sexual Assault with an object
- D. Forcible Fondling

A non-forcible sex offense is unlawful, non-forcible sexual intercourse to include:

- A. Incest

² Certain arrests are also included in the crime statistics disclosed, but this arrest information is gathered by William & Mary Police, not reported by other CSAs.

B. Statutory rape, i.e., non-forcible sexual intercourse with a person under the statutory age of consent. In Virginia, the age of consent is 18, although there are exceptions for intercourse between minors aged 13-17; these exceptions are complex and to ensure appropriate reporting, all sexual intercourse with a minor should be reported.

3. Robbery is the taking or attempting to take anything of value from the care, custody, and control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

4. Aggravated assault is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually involves a weapon or means likely to cause death or great bodily harm.

5. Burglary is the unlawful entry into a structure to commit a felony or theft. Theft or unlawful entry into open-access areas, such as dining halls and libraries, is not burglary. A structure is a physical space enclosed by four walls, with a roof and door, and so does not include lockers, tents, or cars, for example. Shoplifting is not burglary.

6. Arson is maliciously burning or causing to be destroyed by burning any public or private property of another.

7. Motor vehicle theft is defined as the theft or attempted theft of a motor vehicle. (This classification also includes “joyriding”). Motor vehicle is defined broadly to include not only cars and trucks but any self-propelled vehicle that runs on land surface and not on rails, such as golf carts, motor scooters, motorized wheelchairs, and ATVs.

8. Hate crimes are certain crimes committed against a person or property when such crimes are motivated, in whole or in part, by the offender’s (perpetrator’s) bias. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender or gender identity, religion, ethnic/national origin, disability or sexual orientation. These crimes are:

- murder and non-negligent manslaughter,
- forcible and non-forcible sex offenses,
- robbery,
- aggravated assault,
- burglary,
- motor vehicle theft,
- arson,
- larceny-theft,
- simple assault,
- intimidation, and
- destruction/ damage/ vandalism to property.

9. Domestic Violence is a violent crime (either a felony or misdemeanor) committed by:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- A parent, child, step-parent or step-child, sibling (full or half), grandparent or grandchild of the victim;
- The victim's mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, if he or she resides in the same home with the victim; or
- Any other person who cohabits or, within the previous 12 months, cohabitated with the victim.

10. Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts included under the definition of domestic violence.

11. Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress. Such distress does not have to be severe enough to require medical or other professional treatment or counseling in order to be substantial emotional distress.

Stalking requires two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates, to or about, a person, or interferes with a person's property.