Timely Warnings & Sexual Assault: Building an Effective and Consistent Approach

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Jeanne Clery Act: A History

Changing Landscape
- History of Campus Safety
- Connie & Howard Clery
  - Parents
  - Co-founders Security On Campus (SOC)
- Advocacy
  - Awareness raising
  - Impact
### Agenda

- Timely Warning Overview
- Mythbusting
- Lessons Learned: Program Reviews
- Activity

### Background Knowledge

On a scale of 1-10, how would you rate your understanding of the requirements of the Jeanne Clery Act specific to timely warnings?

- 1-2: Novice
- 3-4: Some familiarity
- 5-6: Competence
- 7-8: Mastery
- 9-10: Expert

### Clery Act Overview

- **Annual Security Report**
  - Policy statements
  - Campus crime statistics
  - Rights & options for victims of sexual assault, domestic violence, dating violence, & stalking
- **Ongoing Disclosures**
  - Emergency notification
  - Timely warning
  - Public crime log
- **U.S. Department of Education (ED) Enforces**
Clery Act: Overview

- **Criminal Offenses**
  - Homicide
  - Sex Offenses
  - Robbery
  - Aggravated Assault
  - Burglary
  - Motor Vehicle Theft
  - Arson

- **VAWA Offenses**
  - Dating Violence
  - Domestic Violence
  - Stalking

- **Hate Crimes**

- **Arrests & Disciplinary Referrals**
  - Liquor law violations
  - Drug law violations
  - Weapons law violations

Who is a CSA?

- Officials with significant responsibility for student and campus activities
- A campus police or a campus security department
- Individuals or offices designated to receive crime reports
- Individuals who have responsibility for campus security

**Examples of CSAs**

- Professional staff in a Dean of Students office (including leaders in student affairs/housing)
- Staff in student center building
- Student activities staff
- Faculty or staff advisors to student organizations
- Resident assistants
- Coaches
- Campus victim advocates
- Ombudspersons

Violence Against Women Act

Amendments to Clery

- March 7, 2013: President Obama signed the Violence Against Women Reauthorization Act, which amended the Clery Act to include dating violence, domestic violence, and stalking
- January 2014: Negotiated rulemaking
- October 20, 2014: ED published the final regulations for the VAWA amendments to Clery
- July 1, 2015: Final regulations will become effective
Current Landscape

2013 VAWA Amendments to Clery

Student Activism & Media Scrutiny

Title IX & OCR Guidance

New Administration

Timely Warning Overview

Timely Warning/Emergency Notification

- **Timely Warning**
  - Narrow in scope – Clery Act crimes only (unless policy says otherwise)
  - Crimes that occurred in past but constitute ongoing threat
  - Anywhere within Clery geography
  - To be issued as soon as pertinent information available

- **Emergency Notification**
  - Broad scope – any emergency
  - Currently occurring emergencies or ones that pose imminent threat to campus community
  - On-campus property only
  - To be issued upon confirmation of a dangerous situation, whether actual or threatened
Timely Warning Policy Overview

• Timely warnings definition
• How to alert the campus
• What information to include
• Decision to alert
• Exempt cases (privileged communications)

Timely Warning Policy Components

• A timely warning policy should address the following components:
  – Circumstances that trigger a warning
  – Who issues
  – Dissemination process/channels

Circumstances that Trigger Warnings

• Clery Act crimes
  • Included in annual statistics
  ✓ Reported to CSA or local law enforcement
  ✓ Occurred in the specified geographic areas:
    • On-campus
    • Public property
    • Noncampus
  ✓ Represents a serious or ongoing threat
    • Students
    • Employees
Timely Warnings

• Case-by-case basis considering all facts surrounding occurrence of a crime, including:
  – Nature of the crime;
  – Whether the crime presents a continuing danger to the campus community; and
  – Risk of compromising law enforcement efforts.

Decision to Issue a Warning

• Specify Who Is Responsible
  – Individual (Title)
  – Department/Office
  – Consultation Process

• Open Communication

• Case-By-Case Basis

Timely Warning Dissemination Process

• Must be quick (timely)
  – As soon as pertinent information is available
• Community-wide
  – Likely to reach the entire campus community
• Aid in the prevention of similar crimes
  – Specify methods
  – SMS text messaging
  – E-mail, social media
  – Posters
  – Other methods and/or combination of methods
Timely Warnings Include

- Information that promotes safety
- Allows individuals to protect themselves
- Time, location and type of crime
- Must not identify a victim;
- May identify a perpetrator or suspect

Exempt Cases

- Crimes Reported to:
  - Pastoral or professional counselor
- Privileged Information Protected by State Law:
  - Medical doctor
  - Attorney/client

Things to Consider

- Process (avoid additional layers)
- Training
- Language (Victim-blaming v. primary prevention)
- Documentation
- Testing
Mythbusting

Timely Warning Myths

• **MYTH:** You must issue a timely warning for every sexual assault
• **MYTH:** You must include the location of the assault in that warning
• **MYTH:** You must include the details of the case (referral to law enforcement)
• **MYTH:** You do not need to include consultations in your policy (e.g. President’s Office, Communications)

Lesson Learned: Program Reviews
Findings

• “Failure to Comply with the Timely Warning Requirement”
• “Lack of Adequate Policy Statements”
• Common themes:
  – Distribution of warnings
  – Proper coordination of CSAs
  – Consideration of whether to issue a warning
  – Incomplete policy statement (even if policy or practice exists)

Case Study

• Annie discloses to her tennis coach that she was raped by several members of the basketball team in a room in the student center after a game.

• She states she attended the game intoxicated and was blacking out and could not consent to any of the sex acts forced upon her.

• Annie is in a class with several other basketball players, none of whom she believes were involved in the sexual assault.
“Annie” (cont’d.)

• Annie goes to her academic advisor to report that the players who are in her class are mocking her about an assault that she reported and she feels uncomfortable and unsafe. She states that she doesn’t know what to do.

• Over the next three weeks, two additional students report sexual assaults by members of the basketball team, only able to name one of the multiple players involved. Both students report that the attacks happened in a campus building, one in a room in the athletic center and one in the student center.

Timely Warning

• Would you issue a warning for this case?
  – When and why or why not?
• If you select to issue a warning, draft it.
• If you select not to issue a warning, document why.

Evaluation of Safety Risk (Title IX)

• Whether there have been other sexual violence complaints about the same alleged perpetrator
• Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence
• Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others
• Whether the sexual violence was committed by multiple perpetrators
Evaluation of Safety Risk (Title IX)

- Increased risk of future acts of sexual violence under similar circumstances (i.e. pattern of perpetration – use illicit drugs/alcohol at a given location or by a particular group)
- Whether the sexual violence was perpetrated with a weapon
- The age of the student subjected to the sexual violence
- Whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence)

Sample Timely Warning: What changes would you make?

- University Police Issue Timely Warning
- University of XXX Police Receive Report of a Sexual Assault
- On the morning of February 3, 2017 the University XXX Police received a report from a fraternity member stating that they were sexually assaulted by a group of students that were members of another fraternity on campus. The student has requested to not proceed with an investigation at this time and University of XXX Police are respecting their decision and are not investigating this incident.

Compliance: Institutional Responsibility

- Advocacy
- Campus Safety
- Faculty & Academic Affairs
- Human Resources
- Student Affairs
Start with the Basics

• What is our approach to timely warnings?
• Who is a part of my team for determining if we issue a warning?
• Who isn’t involved that should be?
• Are we consistent?

Department of Education Resources

• OVW Campus Website—FREE Clery Self-Assessment Tool; New Home of www.notalone.gov:
  – www.changingourcampus.org
• Handbook for Campus Safety & Security Reporting
• VAWA Amendments to Clery Final Regulations
• Clery Act Program Review Reports

Clery Center Programs

• Clery Center Membership Program
  – Education (webinars, trainings, etc.)
  – Resources (online library, member website)
  – Networking & Support (workshops, technical assistance)
  – Self-Assessment (comprehensive tool)
• Jeanne Clery Act Training Seminars (CATS)
• Online Clery Act training
• Regional training events
• National Campus Safety Awareness Month (NCSAM)
• Free videos on hazing prevention, sexual violence, and off-campus fire safety
Questions?

Thank you for joining us today!

Please remember to complete your customized online evaluation following the conference.

See you in Philly in 2018!