

CLERY ACT DESIGNATION AND REPORTING POLICY

Chapter 3110

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.010 Introduction: Clery Act Designation, Reporting Policy, and Timely Warnings

This policy is intended to document the reporting obligations for students, faculty, staff, and individuals affiliated with K-State under Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, also known as the Clery Act (Clery Act), as well as the protocol for issuing timely warnings. This federal law applies to most public and private universities, and is tied directly to federal funding of various kinds, including federal student aid.

.020 Campus Security Authorities

Definitions

Campus Security Authority (CSA) is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution. CSAs are required by law to report four general categories of reported crimes of which they become aware if the reported crimes were alleged to have occurred in a Clery geographic location.

Campus Security Authority means (i) A campus police department or a campus security department of an institution; (ii) Any other individual or individuals who have responsibility for campus security, such as an individual who is responsible for monitoring entrance into university property; (iii) An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings; and (iv) Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

Exemptions: Pastoral or professional counselors are not considered a Campus Security Authority when acting as a pastoral or professional counselor. The professional or pastoral counselors' exemption is intended to ensure that these individuals can provide appropriate counseling services without an obligation to report crimes they may have learned about through their work as a pastoral or professional counselor. This exemption is intended to protect the counselor-client role.

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However, even these legally recognized privileges acknowledge some exemptions, and there may be situations in which counselors are in fact under a legal obligation to report a crime. Crimes reported to a pastoral or professional counselor shall not initiate a Timely Warning.

The following groups of individuals have been identified as CSAs at K-State:

- **University Police:** Any commissioned police officer employed by the university.
- **Individuals with Campus Security Responsibility:** Any individuals who have responsibility for campus security but do not constitute a campus police. Examples of this category are: Campus security officers
- **Officials who have significant responsibility for student and campus activities.** An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. Examples of this category are:
 - **University President and members of the President's cabinet that have significant responsibility for student and campus activities**
 - **Faculty or staff advisors to registered student organizations**
 - **Athletic directors (ADs) including executive and associate athletic directors**
 - **Athletic Coaches including assistant coaches**
 - **Staff across student affairs and housing**
 - Vice President for Student Life and Deans of Students
 - Director of Student Life-Crisis Management
 - Director of New Student Services
 - Director of Community Standards
 - Director of Fraternity and Sorority Life
 - Associate/Assistant Director of Housing and Dining
 - Full-time housing staff
 - Resident Assistants (RAs)
 - Community Assistants (CAs) who monitor access to resident halls
 - Residential Learning Assistants (RLAs)
 - **Faculty and other employees who travel abroad with students**
 - **Academic Deans**
 - **Title IX Coordinator**
 - **Administrators at branch campuses**

This list of campus security authorities is subject to modification and is not intended to be all inclusive, due to changes in responsibilities within the university and varying job titles across campuses. Whether or not an individual is paid by the institution is not a factor in determining if that individual is a CSA.

.030 Role and Reporting Responsibilities

Campus Security Authorities (CSAs), are responsible for reporting any Clery Reportable Crime about which they have knowledge and that is alleged to have occurred within the K-State's Clery Geography (defined below).

CSAs are expected to report Clery Reportable Crimes through the [Campus Security Authority Reporting form](#) found on the [K-State Report It webpage](#) as soon as possible and no later than 24 hours after receiving the information to the extent possible. A CSA or reporting party does not need to witness the

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reported crime and the persons involved do not need to be affiliated with K-State. CSAs also may be required to provide confirmation of the absence of reported incidents on a quarterly basis.

CSAs are not responsible for determining if a crime took place, convincing the victim to contact law enforcement, investigating the alleged crime, or finding and/or arresting the alleged perpetrator, and should not engage in these activities. CSAs should record the reported information conveyed to them.

When recording details for reporting purposes, the following information should be obtained:

1. **The reporter's full name**
2. **The reporter's affiliation (if any) with the university: (student, employee, not affiliated)**
3. **The alleged perpetrator's(s') name, if known, and any known facts related to the identity of the alleged perpetrator(s)**
4. **The date or date range of the alleged crime**
5. **Whether the alleged crime reported is being reported by the alleged victim, a third party, or in another capacity**
6. **The date the alleged crime was reported to Campus Security Authority**
7. **The location of the crime, with as much detail as possible (address, building, floor, room, street, etc.)**

Campus Security Authorities, CSA are required to report the following alleged crimes ("Clery Reportable Crimes"):

Types of crimes:

- (A) **Murder and Nonnegligent Manslaughter:** The willful (nonnegligent) killing of one human being by another.
- (B) **Negligent Manslaughter:** The killing of another person through gross negligence.
- (C) **Sex Offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - a. **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - c. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- (D) **Robbery:** 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.
- (E) **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.

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- (F) Burglary:** Unlawful entry of a structure to commit a felony or a theft.
- (G) Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle.
- (H) 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.
- (I) Hate Crimes:** A criminal offense committed against a person, property, or society which is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, gender, gender identity, ethnicity or national origin; also known as a bias crime.
- i. **Bias:** A preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, national origin, gender or gender identity.
 - b. **Larceny-theft:** The unlawful taking, carrying, leading or riding away of property from the possession constructive possession of another person.
 - c. **Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.
 - d. **Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/ or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
 - e. **Destruction/Damage/Vandalism of Property:** To willfully or maliciously destroy, damage, deface or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.
- (J) Domestic Violence:** The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- (K) Dating Violence:** Violence committed by a person:
- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. Where the existence of such a relationship shall be determined based on a the reporting party's statement and with consideration of the following factors: The length of the relationship
 - i. The type of relationship
 - c. The frequency of interaction between the persons involved in the relationship.
- (L) Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- a. Fear for his or her safety or the safety of others; or
 - b. Suffer substantial emotional distress.
- For the purposes of defining **Stalking (L)**

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- Course of conduct means 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

(M) Arrests and Referrals for Disciplinary Action related to Illegal Weapons Possession, Drug Law Violations, and Liquor Law Violations

- Illegal Weapons Possession:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons.
- Drug Law Violations:** The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use.
- Liquor Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful 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.)
 - Arrest:** Persons processed by arrest, citation or summons.
 - Referred for Disciplinary Action:** The referral of any person to any official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

CSAs must report the Clery Reportable Crimes when they are alleged to have occurred on Clery Geography, which is defined by the Clery Act as:

(A) On Campus:

- Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls.
- Any building or property that is within or reasonably contiguous to paragraph 1 of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

(B) On-campus Student Housing Facility: Any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus.

(C) Noncampus Building or Property

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- f. Any building or property owned or controlled by a student organization that is officially recognized by the institution.
- g. Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

(D) Public Property: All public property – including thoroughfares, streets, sidewalks, and parking facilities – that is within the campus, or immediately adjacent to and accessible from the campus.

.040 Issuing Timely Warnings

The issuing of a timely warning will be decided on a case-by-case basis. The University will issue a timely warning to members of the campus community when there is a report to a Campus Security Authority of a Clery Reportable Crime within the University's Clery Geography that the University considers a threat to students and employees. CSAs must promptly report information (include link to CSA reporting page) so K-State can determine whether a timely warning is necessary.

For the Manhattan campus, KSUPD will consult with the Office of Student Life and the Division of Communications and Marketing, review the reported facts of the case, and determine whether to issue a timely warning, and if so, to coordinate its issuance and its contents. For the Polytechnic campus, the Safety and Security department will generally consult with the Office of Academic and Student Services and the Division of Communications and Marketing to perform these functions. For the Olathe campus, Olathe Security and Facilities will generally consult with Olathe Academic and Student Services and the Manhattan campus Office of Student Life and the Division of Communications and Marketing to perform these functions. Decisions will be made in light of all the pertinent facts surrounding the alleged crime, such as the nature of the alleged crime, the potential of a continuing danger or threat to the campus community, possible risk of compromising law enforcement efforts, and the privacy of the alleged victim, the ability of the warning to aid in the prevention of similar crimes, and the relationship to Clery Geography.

Timely Warnings may take the form of a press release, posted material, through the automated calling or the campus emergency notification system, and other dissemination processes identified by campus administration as applicable to the situation.

.050 Training

All K-State Campus Security Authorities (CSAs) are expected to complete annual online, training. Additional training may be assigned dependent on the individual's employment or affiliation to the university system. In-person training may also be required and/or requested for individuals and groups.

.060 Multiple Reporting Obligations

Please note that CSAs have distinct reporting obligations from other mandated reporters. In most states, including Kansas, professionals who engage in regular contact with children under the age of 18 are defined as mandatory reporters. Typically, mandatory reporting applies to people who have reason to

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suspect the abuse or neglect of a child, but it can also apply to people who suspect abuse or neglect of a dependent adult or the elderly.

Moreover, under K-State's anti-discrimination policy (PPM 3010), the term "responsible employee" applies to individuals that must report information about discrimination (which may overlap with a Clery Reportable Crime), including harassment and sexual violence, to the Office of Institutional Equity Supervisors (over the area in which they supervise) and administrators are responsible employees under PPM 3010 (more information can be found under Responsible Employees/Confidential Employees here: <http://www.k-state.edu/oie/resolution/faqs.html>).

Additionally, all employees are obligated to report threatening or violent behavior in accordance with the terms and requirements set out in the University's Threat Management Policy (PPM 3015).

Therefore, CSAs may have reporting obligations that are in addition to the reporting obligations resulting from their status as a CSA.

.070 Additional Resources

Additional information about Clery compliance, and the annual security report for each campus be found at: <http://www.k-state.edu/report/>

.080 Questions

Information for students and employees regarding this policy, CSA designations, or the Clery Act in general may be directed to the Clery Act Compliance Coordinator at ksuclery@ksu.edu.

.090 Policy Cross References

3010 Policy Prohibiting Discrimination, Harassment, and Sexual Violence, and Procedure for Reviewing Complaints

3015 Threat Management Policy and Critical Incident Response Team (CIRT) Process

<http://www.k-state.edu/studentlife/cirt/>

3320 Division of Communications and Marketing