The Crime Awareness and Campus Security Act (Clery Act)

The Crime Awareness and Campus Security Act, more commonly known as the Clery Act, is contained (along with other security-related disclosure requirements) in section 485 of the Higher Education Act, codified at 20 U.S.C. § 1092. It requires colleges and universities to keep records and report annually on the nature, date, time, and place of crimes occurring on campus, including hate crimes. It also prescribes a number of security-related protocols for emergency response procedures, timely notifications for on-campus crimes and missing students, fire incident reporting, and the like.

The requirements of the Clery Act require significant coordination and organization among campus officials and administrators. All campuses aspire to provide a safe and secure environment for students and staff, and having solid procedures in place well in advance of a crime or other emergency is imperative to that effort. In the aftermath of a crisis on campus, one of the most common questions is whether the institution properly complied with all state and federal requirements, particularly the Clery Act. Failure to comply with the Clery Act can result in large fines for an institution, suspension, or limiting of Title IV funding. In addition, when crime reporting or other safety procedures are mishandled, significant public scrutiny can result, and can cause serious reputational damage to an institution and its senior leadership.

By contrast, sound procedures for handling crises can mitigate tragic outcomes, not to mention a public relations nightmare. Ultimately, when the health and safety of students and others are at stake, there is no room for error.

For more information, please go to the University of Memphis Police Services website at: http://www.memphis.edu/police/index.php

The basic requirements of the Clery Act fall into the following categories:

1. Campus crime reporting
2. Timely warning notices
3. Emergency notifications and emergency response testing
4. Fire safety reporting and missing student procedures
5. Notices to prospective students and employees
6. Policy statements
-Campus Crime Reporting-

By October 1 of each year, institutions are required to publish and disseminate an annual crime report providing crime statistics occurring on campus for the current calendar year and two preceding years, and a description of certain security-related policies.

In determining whether a crime should be included in the annual crime report, institutions must ask the following three questions:

a. Was the crime reported to a Campus Security Authority (CSA)?

b. Is it a Clery-reportable offense?

c. Did the crime occur in a Clery-reportable geographic area?

In preparing this report, institutions are required to request crime statistics from local law enforcement agencies with jurisdiction on campus. It is the responsibility of a CSA to report any crimes they become aware of to the institution’s reporting structure, which is typically the public safety or police department. Given other Clery requirements, such as the requirement to provide timely notices about crimes, and notification of emergency situations, it is important that CSA reporting be performed promptly.

The individual responsible for collecting Clery Act crime statistics for the University is Deputy Director Derek Myers of the University of Memphis Police, who can be contacted at (901) 678-4357.

-Timely Warning Notices-

The Clery Act requires institutions to communicate a serious crime or emergency to the campus community in a timely way. This is a particularly important piece of the law, since the vast majority of complaints triggering Department of Education Clery audits are at least partially related to a failure to issue these notices.

Timely warning notices must be considered for all Clery Act crimes that are (a) reported to a CSA or local police and (b) determined by the institution to represent a serious or continuing threat to students and employees.

-Emergency Notifications and Response Testing-

Institutions must distribute immediate emergency notification warnings to the campus community upon confirmation of a dangerous situation on campus involving an immediate threat to the health or safety of students or staff regardless of whether a crime is involved.
Examples of emergencies that would warrant such a notification include: an active shooter on campus, a riot, a bomb threat, a tornado, a fire, and similar situations involving active and substantial threats. Also, every institution must conduct yearly tests of emergency response and follow-through activities designed for assessment and evaluation of emergency plans and capabilities.

-Fire Safety and Missing Persons-

Institutions such as University of Memphis that have on-campus residential facilities must publish a fire safety report, including fire statistics and a description of each fire safety system, as well as seven fire-related policy statements.

Each institution must also have a stated procedure for gathering missing person contact information from students living in residential facilities. The mere collection of emergency contact information is not sufficient—institutions must have a written procedure regarding the handling of missing persons reports, including identification of administrators to whom missing persons should be reported, and procedures for immediate referral to the institution’s police or security department. Moreover, this document must give students the option to identify a specific contact person in case he or she is reported missing. If after an investigation, the student is determined to be missing, the institution must make two and possibly three mandatory notifications, depending on whether they are over or under 18 years of age.

-Notice to Current and Prospective Students and Employees-

Institutions must provide a notice of availability of the annual crime and fire safety reports to all current and prospective students and employees. The notice must include at least four elements: a statement of the report’s availability, a statement that a paper copy will be provided upon request and how to obtain one, a brief description of the contents, and the exact electronic address of the report.

-Policy Statements-

The annual crime and fire safety reports must also contain statements about your policies, procedures, and practices. Campuses must include statements of current campus policies and procedures on reporting criminal actions or other emergencies occurring on campus, making timely warning reports to members of the campus community regarding the occurrence of crimes listed in the Clery Act, preparing the annual disclosure of crime statistics, and so on.
Clery-Reportable Offenses

The Clery Act requires reporting on the following offenses:

- murder;
- sex offenses, forcible or non-forcible;
- robbery;
- aggravated assault;
- burglary;
- motor vehicle theft;
- manslaughter;
- arson;
- arrests or persons referred for campus disciplinary action
  for liquor law violations;
- arrests or persons referred for campus disciplinary action
  for drug-related violations;
- arrests or persons referred for campus disciplinary action for weapons possession; and
- hate crimes, [which for Clery Act purposes include any crime listed in points (I) through (VIII)
  and, as of 2008, larceny-theft; simple assault; intimidation; and destruction, damage, or
  vandalism of property in which the victim is intentionally selected because of his or her actual or
  perceived race, gender, religion, sexual orientation, ethnicity, or disability.]

**On March 7, 2013, President Obama signed the Violence Against Women Reauthorization Act
of 2013 (VAWA). Among other provisions, this law amended the Clery Act to
require Universities to include in their Annual Clery Act Report all instances of domestic
violence, dating violence and stalking; and instances of gender identity and national origin
crimes which fall under the category of Hate Crimes.
Geographic Area

The Clery Act requires each institution to disclose crime statistics that occur on three types of property: campus, non-campus buildings or property, and public property areas. An institution may choose to publish a map in their annual security report depicting the boundaries of these areas.

“Campus” is defined as buildings or property owned or controlled by the institution within the same reasonably contiguous geographic area and used by the institution in a manner related to the institution’s educational purpose, including residence halls. It also includes property in that contiguous area owned by the institution but controlled by another person, if that property is used by students and supports institutional purposes (e.g. food or retail vendor). Branch campuses and geographically disconnected administrative divisions or schools would be considered separate campuses for the purposes of reporting. “Public property” is property that is located within the same reasonably contiguous geographic areas of the campus, like a sidewalk, street or public parking lot, that is adjacent to a facility owned or controlled by the institution for purposes related to the institution’s educational purposes. Crimes occurring on “public property” must also be reported in the crime statistics. A “non-campus building or property” is one that is owned or controlled by a school recognized student organization, or one that is owned or controlled by the institution and used by students or by the institution for education-related purposes and that is not within the same reasonably contiguous geographic area of the campus. Again, crimes occurring on “non-campus property” must be reported. Please note, however, that incidents occurring on public property adjacent to “non-campus buildings or property” need not be included.

For more information, please go to the University of Memphis Police Services website at:
http://www.memphis.edu/police/index.php

(Material Adapted from the American Council on Education- President’s Guide to the Clery Act)
Clery Act FAQ’s

Who keeps and discloses information about crime as required by the Clery Act at the University of Memphis?

At the University of Memphis, Police Services is responsible for recording and disclosing information about crime on and near the University’s campus. Police Services maintains a public log of all crimes reported.

What should I do if I (or someone I know) is the victim of a crime on campus or if I become aware of a crime having been committed on campus?

If you witness, learn about or are the victim of criminal activity that involves a danger of continuing harm or a threat of serious/imminent harm to individuals on our campus, you should immediately call the University of Memphis Police at (901) 678-4357 or call 911.

Will information I provide to University Police or campus officials be confidential?

While the University makes every attempt to protect individual privacy, it still has a responsibility to report certain crimes and to provide “timely warnings” to the University community. This is done without providing the names of victims. However, there may be instances where University Police and University officials cannot honor a request for complete “confidentiality” because of their duty to report.

Who is entitled to receive information under the Clery Act?

Currently enrolled students and employees receive the University’s annual campus security report automatically. Others, including parents and the news media, have access to the University of Memphis crime log as well. There is a link to the current report and the daily crime log on the University Police Services website located at: http://www.memphis.edu/police/index.php

Does someone have to be convicted of a crime before it is reportable under the Clery Act?

No. Crimes are counted when they are reported regardless of prosecution.

Who enforces the Clery Act and what are the penalties for noncompliance?

The United States Department of Education is charged with enforcing the Clery Act and may level civil penalties against institutions of higher education and possible suspension from participating in federal student financial aid programs.
Links to More Information on the Clery Act

http://www2.ed.gov/lead/safety/campus.html
http://clerycenter.org/
http://www.memphis.edu/police/
http://www.memphis.edu/studentconduct/
http://www.memphis.edu/studentlife/index.htm