

*Better Late Than Never: The Handbook for Campus Crime Reporting*

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In July, we received a gift from the Department of Education. Beware of bureaucrats bearing gifts, or something similar goes the saying. Actually, the Handbook for Campus Crime Reporting is helpful, overall. We've only had to wait fifteen years for it (the Clery Act was enacted in 1990), and by this point, many campuses are figuring out the intricacies of compliance on their own. For those that have not, or who want to make sure that each t is crossed and each i dotted, there is a new resource available, and it is free (well, it cost us taxpayers a rumored \$750,000).

When I wrote my Clery Act Compliance Manual in 1998, it ran to a dizzying 57 pages, and I don't recall it costing me \$750k to compile. Astoundingly, the DOE Handbook is 136 pages in length (200 with the Appendices), so the cost must be on a per-page basis. Remember, the actual law is only seven pages long, but its complexity means we need a 200 page tome to explicate it. This article is not meant as a book review of the Handbook. Instead, it is more like a Cliff's Notes version of the Handbook for those of us too busy to curl up with the entire thing one night. In summarizing, I decided to use bullet points, rather than a narrative, and the content was chosen based on the fact that its publication in the Handbook was either a first or the information had been relatively obscure prior to publication. So, the following list assumes familiarity with the Clery Act and its compliance on the part of the reader. The list assumes you have kept up with the available publications and letters from the DOE. What follows is what the Handbook has added to our current understanding of Clery compliance (some of the points are taken directly from the Handbook text):

- The Clery Act imposes reporting requirements on property that is "owned or controlled" by your institution. When I wrote my Compliance Manual, I drafted a multipart definition to help determine control, in the absence of guidance from the Department. Subsequently, my inquiries resulted in a more restrictive definition from DOE than the one I conjured, and it has been committed to writing in this Handbook. "A building or property that an institution owns, rents or leases is considered to be 'controlled by' the institution." Handbook, p.12.
- The "on campus" definition only includes fraternity and sorority houses that are owned or controlled by the institution. This does not include fraternity or sorority houses on your campus that are owned or controlled by the fraternity or sorority. These would be classified under the "non-campus buildings and property" category. UNLESS, the campus owns the land upon which the fraternity-owned and controlled (or sorority-owned and controlled) house sits, in which case land ownership trumps control, and the crimes that occur there DO belong in the "on-campus" category. A rare exception, to be sure. And this from a resource that proclaims that it does not expand the law or regulations. Try to find this nuance in the regulations, folks. Handbook, pp.12, 14.
- As a subset of the "on campus" category, crimes reported in the "dormitories or other residential facilities for students on campus" category must be less than or equal to the number of reported crimes for the "on campus" category. While the regs make

this reality clear, it has never been stated as a rule or formula before. Handbook, p. 13.

- Do not include faculty-only residence facilities in the “dormitories or other residential facilities for students on campus” category. It falls under the “on campus” classification. Handbook, p. 13.
- Examples of non-campus buildings and property. Handbook, p. 15.
  - “A publicly owned athletic stadium that is leased by the institution for football games. Report crimes that occur during the time the facility is used by your students. If your institution leases parking space associated with this facility, you must also disclose reports of crimes occurring there during the time of use by your institution.”
  - “Institutionally owned research vessels (ships) carrying students participating in institutional programs”
  - If you lease a floor of a building as class space on Tuesdays and Thursdays between the hours of 6:00 a.m. and 10:00 p.m., you must disclose crimes that occur in that space during those times, only. You must disclose crimes that happen at those times, even if you are not occupying the space at the time. Any spaces associated with the leased space, such as parking, access hallways and stairwells, is also included.
- Preferred landlord lists for off-campus housing do not create an obligation to report crimes that occur involving students who rent from those recommended landlords. Handbook, p. 17.
- Public property—include the sidewalk across the street from your campus, but do not include the public property beyond the sidewalk. You do not have to include public property that surrounds non-campus buildings or property. If a large public park is immediately adjacent to and accessible from your campus, reporting park crimes within a one mile distance of your campus is as far as you will likely need to go. This rule applies only to parks and similar areas, not all public property. Handbook p. 17.
- A branch campus is a specific DOE designation. What you consider to be a branch is not a branch for Clery purposes unless it designated as such by DOE. See p. 19 for the definition.
- If your institution shares ownership or control of a campus with another Title IV institution, each must comply separately with the Clery Act. Do not divide the property for reporting purposes. (Great, we are now institutionalizing inaccuracy). Handbook, p. 19.
- More on branch campuses: “If your institution has multiple campuses each located in different geographically separate buildings that are rented or leased by your institution, compliance requirements must be met separately for each location...Remember to disclose reports of crimes occurring on public property for each location.” Handbook, p. 20.
- And even more on branch campuses: “If your institution’s campus consists solely of rented classroom space on the campus of another institution, you must disclose crimes that occur in that classroom space while it is occupied by your students.” This rule works differently than if the same space fell under the noncampus buildings and property category. Handbook, p. 20.
- Distance education locations are not required to comply with Clery. Handbook, p. 20.

- Campus security authorities must believe that a crime report was made “in good faith” in order to include it for Clery purposes as a statistic. “*In good faith* means there is a reasonable basis for believing that the information is not simply rumor or hearsay. That is, there is little or no reason to doubt the validity of the information.” Handbook, p. 23. In practice, I have not found that DOE program reviewers pay this requirement much heed. If you hear about it you report it seems to be a more accurate representation of their expectations, in my experience.
- If a student slipped a rape drug into another student’s drink, but there was no consumption of the drink, and no subsequent sexual contact, the Handbook says to score that as an Aggravated Assault rather than as an attempted forcible sex offense, because there is no evidence of the perpetrator’s intent. Handbook, p. 28. That’s an interesting hair to split, though it is apparently the FBI, and not DOE, who has made that interpretation.
- In an aggravated assault where a number of people are involved in a dispute or disturbance (riot), and the aggressors cannot be distinguished from the victims, count the number of persons assaulted as the number of offenses you report for Clery purposes. Handbook, p. 33.
- If one burglar breaks into four residence hall rooms all in a row successively, count four burglaries. If the same burglar breaks into four offices all in a row successively in an academic building, count one burglary. Handbook, pp. 34, 35. I’m just the messenger, remember. I’m sure this makes sense to someone.
- “It is the perception of the perpetrator, not the perception of the victim, that determines whether a crime is classified as a Hate Crime.” Handbook, p. 43.
- “If local police do not comply with your request to provide you with statistics, document this. Be sure to retain any written correspondence to and from the police agencies.” Handbook, p. 54.
- There is an additional geographic location that applies exclusively to the crime log: reports of crimes that occurred within the patrol jurisdiction of the campus police or security department. Handbook, p. 67.
- “Note that your institution is not required to update the disposition of a crime log entry after 60 days have passed. This means 60 days after the entry was made in the log—not 60 days after the crime occurred.” Handbook, p. 70.
- Your institution may withhold information from a crime log on the basis of four reasons that are clear within the statute. The Handbook adds that the individual making the judgment to withhold information should document at the time the reason for doing so. P. 70.
- “Only sworn or commissioned law enforcement authorities that investigate the crime can make a determination that it is unfounded. A crime cannot be determined to be unfounded by a campus security authority other than a law enforcement authority.” Handbook, p. 70. This has profound implications for colleges without campus police forces.
- If an individual is arrested for one type of weapon, drug or liquor law violation, and referred for disciplinary action for a different type of weapon, drug or liquor law violation during a single incident, count only the arrest. Handbook, p. 76.
- If a person is arrested for multiple violations during a single incident (liquor and drugs, for example), law enforcement discretion should determine which violation

should be counted. The Handbook recommends documenting the justification for this determination. Handbook, p. 76.

- Arson is exempt from the Hierarchy Rule. We know that when another crime is committed in addition to an arson, we report both. “When multiple offenses are committed during the same distinct operation as the Arson offense, the most serious is reported along with the Arson.” Handbook, p. 79.
- The Handbook recommends that “...schools add a caveat to the entire statistical disclosure section stating that reported crimes may involve individuals not associated with the institution.” Handbook, p. 80.
- “Now that you know more about defining, classifying and counting crimes, you may be concerned that, due to more accurate reporting, your current crime statistics will show a significant increase or decrease from the prior year’s numbers...If this is the case, you may provide an explanation to readers that the increase or decrease may be due to your institution’s better understanding of the regulations regarding how crimes should be classified and counted, and is not due to an actual increase or decrease in reported crimes.” Handbook, p. 81. I’d run that by legal counsel, first.
- “Zero (0) is a statistic. Do not leave any cells blank even if you have no crimes to disclose for a particular category.” Handbook, p. 83.
- Arrests and referrals are exempt from Hate Crime reporting. Handbook, p. 84.
- If your compliance is being audited, I strongly recommend downloading the Program Review Guide, which is the handbook for your reviewers. It is public information, and is posted at [www.ifap.ed.gov](http://www.ifap.ed.gov)

*All information offered in this publication is the opinion of the author, and is not given as legal advice. Reliance on this information is at the sole risk of the reader.*

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