

TOPIC:

THE CLERY ACT AND OVERSEAS/DISTANCE STUDY: NEW DEVELOPMENTS AND COMPLIANCE GUIDANCE

INTRODUCTION:

The original Clery Act guidance, The Handbook for Campus Crime Reporting [1], issued in 2005, contained little mention of Clery Act reporting requirements for overseas locations. The 2005 Handbook briefly stated that U.S.-owned institutions that actually *operated* locations abroad had to comply with the Clery Act [2] and “make a good faith effort to obtain statistics from the local police authorities,” [3] but that simply sending students on exchange programs did not trigger reporting obligations. [4]

That changed significantly with the February 2011 publishing of the revised guidance, The Handbook for Campus Safety and Security Reporting. [5] The 2011 Handbook contained new references to counting crimes that occur overseas, including in private spaces and homes. Further guidance from the Department of Education in 2011 has clarified and interpreted some of those newly-published requirements. [6]

The purpose of this NACUANOTE is to review the new requirements and offer some tips for complying. It is best read in conjunction with previous NACUANOTES covering HEOA changes to the Clery Act [7] and the distinctions between the 2005 and 2011 Handbooks. [8]

DISCUSSION:

Part I of this Note addresses some of the models that institutions use to send students to study overseas or to other locations within the United States, and provides guidance for complying with the Clery Act based upon those particular models. Part II of the Note highlights important information for classifying and reporting Clery Act offenses overseas or on distance campuses, under various reporting situations.

Two preliminary items should be noted. First, foreign institutions not owned or maintained by domestic institutions are not governed by the Clery Act and have no Clery Act reporting requirements. [9] As such, they will not be addressed in detail in this Note. Second, for brevity, this Note may use the terms “overseas” or “abroad,” but the same rules apply to all distant properties owned or controlled by an institution, whether in another country or in another part of the United States (e.g. housing for students participating in a “semester in Washington” program).

I. Clery Reporting Requirements for Various Models of Sending Students Overseas

One of the most important lessons of Clery Act compliance is that Clery Act reporting is not based on *who* the victim or assailant is, but on *where* the crime occurred. The Clery Act only requires that institutions report in the Annual Security Report crimes that occur in one of four geographic areas: on campus, in campus residence halls, on noncampus property (as defined below), and on public property adjacent to and accessible from a campus. [10] Crimes that occur anywhere else are not reportable. [11]

A. Online or Correspondence Education Only (Including Military Education)

If an institution offers coursework in an online or correspondence environment only, there are no Clery Act requirements provided that the “students are never present on a physical campus.” [12] This is so regardless of whether the students are domestic or international. If your institution offers online or correspondence classes to soldiers located on a military base, or the institution sends faculty to teach at a base, but the institution does not own or have a written agreement to control *specific space* at that military base, then that space is not covered under the Clery Act. [13]

B. Students Overseas are Taught and Housed by a Local Institution or Third Party

If your institution sends students abroad but does not maintain an overseas campus, nor own or control property abroad that is frequently used by students, then you have no reporting requirement for crimes that occur in those locations regardless of whether your students, faculty, or staff are the victims or aggressors. [14]

Controlling property is a defined term for Clery Act purposes. “Controlled by’ means that your institution rents, leases or has some other type of *written* agreement (including an informal one, such as a letter or e-mail) for a building or property, or a portion of a building or property.” [15] Further, “[e]ven if there is no payment involved in the transaction, under Clery, a written agreement for use of space gives your institution control of that space for the time period specified in the agreement.” [16]

So if, for instance, your institution contracts with an overseas university or a third party agency to provide educational *programs* for your students, but your institution does not own or have a written agreement for specific space in a building or property, then crimes that occur there need not be reported for Clery Act purposes. However, if your institution sponsors a study abroad program with an overseas university, and has some form of written affiliation agreement for housing and/or classroom *space*, your institution will be required to report crimes for Clery purposes.

C. Your Institution Maintains an Overseas or Distance Campus

As noted above, foreign campuses owned or controlled by a domestic institution that is covered by the Clery Act will likewise be covered, provided that they have an organized program of study and administrative personnel on campus. [17] Once you determine that such a campus is covered by the Clery Act, the rules for including policy statements and reporting crimes are the same as those that govern your main campus. [18]

Clery Act reportable on-campus property will include:

- 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; and

- 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). [19]

If your institution also maintains residence halls at such a campus, and those residence halls are located on the campus or immediately adjacent to the campus, Clery Act reportable crimes or arrests or referrals for drugs, alcohol, or weapons that occur in those residence halls must be reported twice; once as on-campus and once as on-campus residential. [20] If an institution-associated foundation “owns or controls a building or property that is operated in support of, or in relation to, your institution’s educational purposes, your institution is considered to be in control of that building or property.” [21]

The public property requirement covers only public property around on-campus property, not around noncampus property owned or controlled by the institution. [22] For there to be a public property reporting requirement, the public property must be both adjacent to, and accessible from, the on-campus property. [23] If the campus is surrounded by a fence or other barrier to the public property, or is surrounded by private property, then there is no public property reporting requirement. [24]

In addition to reporting requirements, institutions that maintain a distance or overseas campus must also comply with the policy statements, [25] fire reporting (on-campus residence only), [26] missing persons (on-campus residence only), [27] crime log, [28] emergency notifications and timely warning [29] requirements of the Higher Education Act.

D. Your Institution Owns or Controls a Research Vessel or Ship Upon Which Your Students Travel, Study, or Stay

Crimes occurring on “research boats or ships that carry students for educational purposes” must be disclosed as noncampus incidents. [30] This is true no matter where in the world the boat happens to be at the time the crime occurs. If the institution owns the boat, then all crimes in all areas of the ship must be reported; if your institution controls parts of the ship, then only crimes occurring in those parts of the ship during the time in which your institution has control are reportable. To the extent that technology allows you to do so, students should be provided appropriate emergency notifications and timely warnings for applicable incidents, crimes, or dangers. [31]

E. Students Studying Overseas are Housed in Private Homes

In discussing reporting requirements for noncampus property, the Handbook specifically states that “[h]ost family situations do not normally qualify as noncampus locations *unless* your written agreement with the family gives your school some control over space in the family home.” [32] If your agreement with the host family gives your institution that control, any crimes occurring in that home that are reported to Campus Security Authorities or to the local police (from whom you will have to request statistics) would be counted in the noncampus property category.

Such an agreement to have control over specific space in the home may be rare, however, and to the extent that your institution simply agrees with host families to host students, or contracts with a local third party and that third party places the students, there is no reporting requirement for such host family situations.

F. Your Institution Owns or Controls Overseas Property Frequently Used By Students

If your institution owns or controls property overseas or at a distance, that does not meet the definition of a separate campus but that is frequently used by students, crimes that occur there must be reported in the noncampus property category. Included in this definition is “[a]ny 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." [33] The noncampus property does *not* include property that is not frequently used by students (e.g., space for back office employees, housing or labs for researchers without students, etc.). [34]

One area that can cause confusion is how to classify crimes that occur on day-long or overnight, college-sponsored trips. Typically, these crimes are not reportable, because they did not occur on property "owned or controlled" by the institution. [35] However, the Department of Education provided some additional clarification on this point, regarding incidents that occur during overseas study programs at hotels or other locations to which students travel (including satellite trips from the main study location). Specifically, the Department wrote:

The situation is addressed by the discussion of study abroad programs on p. 30 of the Handbook. If the institution has an *arrangement* to rent or lease space for students in a hotel or other facility then it's noncampus property. *The length of time is not important if it is a formal arrangement.* The primary concern is whether a location is frequently used by students. If students are involved in a study abroad program for which there are overnight side trips to various locations and the same hotels or hostels are used on a regular basis, those hotels and hostels fall under the noncampus reporting category regardless of the amount of time each group of students spends there. (They would report for those locations in the manner described on p. 27 of the handbook.) *Additionally, if students stay in one location for an extended amount of time (i.e., more than one night), that location falls under the noncampus reporting category regardless of whether the institution ever houses students there again.* [36]

Therefore, according to the clarification, Clery Act crimes are reportable as noncampus incidents if they occur:

- In space that the institution owns or controls overseas or at a distance, which is used to support the institution's mission and are frequently used by students;
- On an overseas study trip which includes overnight trips and either:
 - The same hotel/hostel is used on a regular basis (the institution has a long-term agreement with the hotel or housing company to utilize its space or has a practice of using the same hotel or housing company); or
 - More than one night is spent in a particular hotel/hostel.

Only crimes that occur during the time in which that hotel or housing company is used by the institution are reportable (e.g. if the institution hosts only a summer trip to France, a crime occurring in the winter at that location is not reportable). [37] Also, only crimes in the area that is actually controlled by the institution or that are necessary to access that area are reportable. [38] Thus, if the hotel blocks off the second floor for use by the institution's students, a crime that occurs in a student's room, in a public area of the second floor, or in the lobby, elevator, escalator, or stairwell to the second floor is reportable; a crime that occurs on the ninth floor or inside a hotel room not used by a student is not. Additionally, any crime that occurs in a public location accessible to students in the hotel during that time is reportable. [39]

Crimes that occur on trips or in locations that are organized by students, but are not officially organized by the institution are not reportable, as the institution has no agreement to own or control the location in which the crime or incident occurs.

As noted above, the public property reporting requirement does not cover public property around noncampus property owned or controlled by the institution. [40]

II. Properly Classifying, Counting and Reporting Under the Clery Act

A. Learning About Reportable Crimes and Referrals

Institutions typically learn about Clery Act reportable crimes and referrals through Campus Security Authorities or through local law enforcement in the relevant jurisdiction.

i. Campus Security Authorities

The Handbook defines certain institutional employees as Campus Security Authorities, and they are so even if they are overseas or away from the main campus of the institution. [41] Campus Security Authorities include police or security personnel, others with responsibility for security, and personnel with “significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.” [42] “Official” is defined rather broadly as “any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.” [43]

The individuals included above must be given the responsibilities of Campus Security Authorities. Institutions *may* also designate other personnel as Campus Security Authorities, by listing those individuals in the Annual Security Report as “an individual or organization to which students and employees should report criminal offenses.” [44] Pastoral and professional counselors who are so practicing when they receive a report of a crime are exempt from any requirements of Campus Security Authorities, even if they otherwise meet the requirements. [45]

Institutions must request statistics from all Campus Security Authorities each year to be included in the institution’s Annual Security Report. [46] Campus Security Authorities must forward to the individual or office responsible for Clery Act incident collection (usually Campus Police, Security, or Student Affairs) any allegations of Clery Act crimes that they believe were made in good faith. [47] At a minimum for Clery Act purposes, the Campus Security Authority should disclose the details of the crime and the location where the crime occurred. [48] The Campus Security Authority *may* disclose the name and contact information for the victim or individual reporting the crime, or may agree to keep that information confidential at the request of the victim or individual reporting the crime. [49]

All Campus Security Authorities should be trained in the obligations of Campus Security Authorities. In overseas programs, institutions may wish to designate all personnel working frequently with students as Campus Security Authorities, even if they do not meet the technical requirements. In that way, students abroad can feel they can speak to any institutional official overseas to report a crime. This is not a requirement, but is simply a good practice.

ii. Local Law Enforcement

The 2011 Handbook instructs that a U.S. college with additional campuses or noncampus property in foreign countries or distance locations “has an obligation to make a good-faith effort to obtain statistics from local law enforcement authorities there.” [50] However, domestic and international law enforcement authorities are not subject to the Clery Act, and some may not provide the information requested. U.S. institutions satisfy this Clery Act requirement by timely requesting appropriate statistics in writing from local law enforcement and being clear and specific about the information being requested. [51] If the statistics are not supplied, it is not a violation on the institution’s part. [52] If the statistics are supplied in a manner that can be utilized, then they must be included in the Annual Report. [53] If not, add a caveat that the statistics were requested but were not supplied or were not supplied in a usable format. [54] If the local police agency requests payment to provide the statistics,

“you may pay the agency, but you are not required to do so.” [\[55\]](#)

B. Using the Correct Law for Classifying and Counting Clery Act Crimes

Institutions must report certain arrests and referrals for drug, alcohol and weapons law violations that occurred on property subject to the Clery Act, so understanding the correct way to classify and count Clery crimes is important.

Part I Crimes: The Handbook requires that institutions categorize and report Part I Clery Act crimes [\[56\]](#) using Federal definitions. [\[57\]](#) Further, using the FBI’s Uniform Crime Reporting hierarchy rules, when more than one crime is committed, only the most heinous Part I crime should be reported. [\[58\]](#) Completed and attempted crimes are both counted as completed. [\[59\]](#)

For jurisdictions in which your institution owns or controls on-campus or noncampus property (including residence halls and public property adjacent to, and accessible from, the campus), your institution must request that the local law enforcement provide those statistics using the U.S. Federal definitions, regardless of where in the world the jurisdiction is or whether the local law enforcement is familiar with these Federal definitions. [\[60\]](#) Again, law enforcement is under no compulsion to provide the statistics, so an institution is in compliance if it timely and clearly requests the statistics in writing, even if those statistics are not provided. [\[61\]](#)

Drug, alcohol and weapons law arrests and referrals for discipline: Unlike Part I Crimes, these offenses must be reported based on the local law for the jurisdiction in which the crime occurs. [\[62\]](#) This law may differ from the law that governs your home institution. For instance, if a Campus Security Authority finds an eighteen-year-old drinking a beer, it may be a violation of law in your institution’s home state, as well as a violation of institutional policy, but it is not a violation of the law in London, and therefore a referral for such activity would not count for Clery statistics. Likewise, possession of marijuana does not violate the law for students in Amsterdam and so a referral for such activity would not be included in your institution’s statistics. [\[63\]](#) For institutions that operate a research vessel or semester-at-sea program, multiple countries’ laws or international maritime law may apply, depending on the boat’s location. To be reportable, referrals for discipline for violations of drug, alcohol, or weapons laws must actually be *violations of law*, not just violations of your institutional policy. [\[64\]](#) In a case where a student is arrested and referred for discipline for the same action, count only the arrest. [\[65\]](#)

C. Distributing the Annual Security Report to Distance and Overseas Students

In addition to distributing the Annual Security Report to currently enrolled students and all employees (via a clear, standalone notice), at your institution’s main campus, your institution may have requirements to distribute the Report to students overseas. [\[66\]](#) If your institution maintains a campus overseas, students at that campus must receive an Annual Security Report specific to that campus, since that campus has its own compliance requirements. [\[67\]](#)

If your institution does not maintain a separate campus and simply sends students overseas, either through a local campus or third party, or to noncampus property owned or controlled by the institution, then each student should receive a copy of the main institution’s Annual Security Report (which may be sent to them electronically), as the Handbook requires that the Report be sent to “all currently enrolled students (including those enrolled less than full time and those not enrolled in Title IV programs or courses).” [\[68\]](#) The Report must be sent to all employees, with no exceptions. [\[69\]](#)

The Clery Act also requires that institutions issue the report to prospective students and employees. [\[70\]](#) Based upon guidance in the Handbook and conversations with employees of the Department of Education, the following method should comply with the requirement to notify prospective students of your overseas programs (who may or may not be students at your institution): Place a clear, readable

link to your institution's crime statistics on your overseas study or international education page. Additionally, place text somewhere in publications on overseas study or international education notifying readers of the existence of Clery Act statistics. [71] Importantly, the Handbook states that this notice may be provided along with other information in a document. [72]

D. Retaining Clery Act Records from Overseas or Distance Locations

All Clery Act records must be retained for at least seven years to facilitate a Department of Education program review. [73] Note that such documents include police and fire reports, judicial reports, crime logs, timely warnings and emergency notifications, letters to local jurisdictions requesting crime statistics, correspondence with Campus Security Authorities and any other documents used to comply with the Clery Act. [74] As a practical matter, auditors conducting a program review of Clery compliance have asked to see not only underlying reports of Clery Act crimes, but also underlying reports that were *not* Clery Act crimes to determine whether the institution is properly classifying incidents. To that extent, to avoid difficulty in a program review, such documents should be retained for the applicable time period as well.

CONCLUSION:

This NACUANOTE is not intended as a replacement for a careful reading of the Clery Act statute, regulations, and Handbook, but is rather intended to highlight and explain subjects that are important for complying with the overseas and distance reporting requirements of the Clery Act. Institutions should carefully review their overseas and distance programs, determine what aspects (if any) of the Clery Act govern such programs, and train personnel to properly comply with the Act and correctly report applicable statistics to the campus community.

FOOTNOTES:

FN1.

U.S. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Crime Reporting*, Washington, D.C., 2005 (hereafter 2005 Handbook).

FN2.

2005 Handbook at 19.

FN3.

2005 Handbook at 56.

FN4.

2005 Handbook at 19.

FN5.

U.S. Department of Education, Office of Postsecondary Education, [*The Handbook for Campus Safety and Security Reporting*](#), Washington, D.C., 2011 (hereafter 2011 Handbook).

FN6.

An argument could be made that nothing has changed; that the requirements were always there, but were not specified in the Handbook. Such a debate is outside the scope of this Note. This Note will seek simply to explain the recently published and clarified guidance from the Department of

Education. It should be noted that the Handbook is a valuable tool, but it is not itself law. Where in conflict, the law and regulations take precedence. That said, it is the Handbook which guides auditors from the Department of Education when they conduct program reviews of compliance with the Clery Act, so an understanding of this guide is critical.

FN7.

See Joseph Storch, [Safety, Missing Students and Fire Reporting Requirements of the Higher Education Opportunity Act](#), NACUANOTE, NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY ATTORNEYS, VOL. 8, NO. 13 (August 25, 2010).

FN8.

See Joseph Storch, [The 2011 Clery Handbook: New Developments and Important Changes](#), NACUANOTE, NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY ATTORNEYS, VOL. 9, NO. 12 (June 10, 2011).

FN9.

2011 Handbook at 3 (crime reporting); 171 (fire reporting).

FN10.

2011 Handbook at 12-32.

FN11.

The one exception is in terms of crime logs that each institution with a security or police department must maintain. In rare cases, institutions will have an additional patrol area outside of the four geographic areas for reporting. In such cases, any crime (Clery reportable or otherwise) reported within that patrol jurisdiction must be noted in the crime log, although it will not be included in the statistics submitted to the Department of Education and published in the Annual Security Report. 2011 Handbook at 23, 31, 91-92.

FN12.

2011 Handbook at 3. Note that if students only come to the institution to attend commencement or graduation, attendance at this event alone does not result in Clery Act obligations. 2011 Handbook at 3.

FN13.

2011 Handbook at 17.

FN14.

This is not to say that you have no responsibilities or should not or may not take any action. Your institution may indeed take action in those circumstances pursuant to its policy. Also recall that Clery Act reporting is based on geographic location, not who the victim or assailant is. Crimes that occur in reportable geographic areas are included in Clery reporting even if the victim or assailant is a stranger to the institution.

FN15.

2011 Handbook at 12.

FN16.

2011 Handbook at 12.

FN17.

2011 Handbook at 17.

FN18.

2011 Handbook at 16-17.

FN19.

2011 Handbook at 12.

FN20.

2011 Handbook at 17-18.

FN21.

2011 Handbook at 13.

FN22.

2011 Handbook at 26-27. For an in-depth discussion of public property reporting requirements, see Joseph Storch, [*The 2011 Clery Handbook: New Developments and Important Changes*](#), NACUANOTE, NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY ATTORNEYS, VOL. 9, NO. 12 (June 10, 2011).

FN23.

2011 Handbook at 18-24. In some cases, where a public road or bikepath runs through a campus, there can be public property within a campus, provided it is accessible from the on-campus property (e.g. a sealed highway running over a campus with no entrance or exit ramps from the campus is not accessible from the campus and so crimes occurring on that highway are not reportable as occurring on public property).

FN24.

2011 Handbook at 19-20, 23-24.

FN25.

2011 Handbook at 119-148.

FN26.

2011 Handbook at 171-197.

FN27.

2011 Handbook at 161-169.

FN28.

2011 Handbook at 89-96.

FN29.

2011 Handbook at 97-118.

FN30.

2011 Handbook at 31.

FN31.

For information on emergency notifications and timely warnings, see 2011 Handbook at 97-118.

FN32.

2011 Handbook at 31. Emphasis supplied. One example provided by the DOE is a host family home that includes a separate apartment, and the institution is renting that apartment.

FN33.

2011 Handbook at 25.

FN34.

2011 Handbook at 26.

FN35.

2011 Handbook at 30.

FN36.

Communication between Author and Representatives of Department of Education, November-December, 2011. Emphases added.

FN37.

2011 Handbook at 27.

FN38.

2011 Handbook at 27-28.

FN39.

While crimes occurring behind closed doors in hotel rooms not occupied by students are not reportable, the Department of Education has advised that crimes occurring in public places where access is granted to an institution's students through the written agreement (e.g. the hotel pool or sauna, breakfast area, lounge, etc.) are reportable as crimes occurring in noncampus property. Note that if an institution owns the property, crimes occurring in any part or at any time are reportable, even if students are not in that part on that particular day. 2011 Handbook at 27.

FN40.

2011 Handbook at 26-27. For an in-depth discussion of public property reporting requirements, see also Joseph Storch, *The 2011 [Clery Handbook: New Developments and Important Changes](#)*, NACUANOTE, NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY ATTORNEYS, VOL. 9, NO. 12 (June 10, 2011).

FN41.

2011 Handbook at 74-81.

FN42.

2011 Handbook at 74.

FN43.

2011 Handbook at 74.

FN44.

2011 Handbook at 74.

FN45.

2011 Handbook 77-78.

FN46.

2011 Handbook at 79-81.

FN47.

2011 Handbook at 76.

FN48.

In this manner, the institution can properly determine which Clery Act crime to classify the incident as, and determine whether the crime occurred in one of the four applicable geographic locations. Please note that this does not mean that an institution may not or should not take appropriate additional actions, including involving local police, referring an assailant for judicial or conduct charges, providing counseling to a victim or other appropriate actions. This is simply the minimum information gathering required for compliance with the Clery Act. In fact, other laws, such as Title IX, may require that institutions take certain additional actions when they know or should have known about certain incidents involving sexual harassment and sexual violence. See [Department of Education: Office for Civil Rights, "Dear Colleague" Letter](#), (April 4, 2011).

FN49.

2011 Handbook at 81.

FN50.

2011 Handbook at 82.

FN51.

As a best practice, institutions should send these letters early in the year, to better ensure that the information is available in time to be included in the statistics submitted to the Department of Education and published in the Annual Security Report. A program reviewer may not view letters sent to local law enforcement shortly before the deadline as a "good faith effort." The institution should include in the letter how to respond appropriately and in an efficient manner, as well as any other pertinent information that helps the local law enforcement respond to the request. As a best practice, for those local law enforcement agencies that will not provide usable statistics, some institutions include language in the letter instructing the local law enforcement to notify the institution that they are not able to so provide through an email or mailing address.

FN52.

2011 Handbook at 82.

FN53.

For instance, if a city police department, foreign or domestic, provided an institution with statistics for all crimes that occurred in the city in a calendar year, with no geographic or temporal breakdown, those numbers are not in a form that can be utilized since the Clery Act requires that a college report crimes within designated geographic areas (and for certain noncampus property, only at times frequently used by students), not all crimes that occur in an entire city. 2011 Handbook at 82, 87.

FN54.

2011 Handbook at 87.

FN55.

2011 Handbook at 86.

FN56.

Part I Clery Act crimes are described in the Handbook at 34-52. They include Murder and Non-Negligent Manslaughter; Negligent Manslaughter; Forcible Sex Offenses; Non-Forcible Sex Offenses; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson. Additionally, when conducted as a hate crime (and only when conducted as a hate crime) institutions also must report the following crimes: Larceny-Theft; Simple Assault, Intimidation; and Destruction, Damage, or Vandalism of Property. See 2011 Handbook at 55-64.

FN57.

Regarding such Federal crime definitions, the Handbook states that, "you must classify crimes based on the Federal Bureau of Investigation's (FBI's) *Uniform Crime Reporting Handbook (UCR)*. For sex offenses only, use definitions from the FBI's *National Incident-Based Reporting System*

(NIBRS) edition of the UCR. Classify hate crimes according to the FBI's *Uniform Crime Reporting Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection*." Full definitions can be found in the 2011 Handbook at 35-53.

FN58.

2011 Handbook at 53-54. Two exceptions to the hierarchy rule are that arson and hate crimes are always counted separately, even if there are graver crimes that are attempted or completed in the same incident. See 2011 Handbook at 54, 61-62.

FN59.

2011 Handbook at 54. The exception to this rule is attempted murder. If the victim does not die, this should be classified as an aggravated assault, not a murder.

FN60.

2011 Handbook at 82-87.

FN61.

2011 Handbook at 82, 86-87.

FN62.

2011 Handbook at 64.

FN63. Cf. 2011 Handbook at 69 (discussing not counting marijuana civil citations in states that have decriminalized possession of marijuana).

FN64.

2011 Handbook at 64.

FN65.

2011 Handbook at 64. For information on hierarchy options in properly counting drug, alcohol, and weapons arrests see Joseph Storch, [*The 2011 Clery Handbook: New Developments and Important Changes*](#), NACUANOTE, NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY ATTORNEYS, VOL. 9, NO. 12 (June 10, 2011), pages 5-6 (PDF version) Chapter 3, Paragraph f.

FN66.

2011 Handbook at 154.

FN67.

2011 Handbook at 15-17.

FN68.

2011 Handbook at 154.

FN69.

2011 Handbook at 154.

FN70.

2011 Handbook at 154.

FN71.

2011 Handbook at 157. The language must include a statement of the report's availability; a description of its contents; the exact URL at which Clery information may be found and the opportunity to request a paper copy. For a sample notice and list of information to include in the

notice, see Handbook at 155; Figure 40.

FN72.

Please do not take this advice as an instruction to destroy current documents in use! That is wasteful and unnecessary. Rather, in an effort to continually improve Clery compliance, you may consider making this statement a part of appropriate *future* publications, and alerting and educating publications and marketing personnel of the need to include this statement somewhere in these documents.

FN73.

2011 Handbook at 157. Note that your institution or state may require specific retention periods for Clery Act records or the Annual Safety and Fire Reports that are longer than seven years.

FN74.

Depending upon the policies and practices of your institution, this is almost certainly *not* a comprehensive list.

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RESOURCES:

- [2011 Clery Act Handbook](#)
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