

CLASSIFYING HATE CRIMES

Under the Clery Act

#NCSAM18



TODAY'S PRESENTERS



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CLERY CENTER: MISSION AND VALUES

Mission Statement

Working together with college and university communities to create safer campuses.

Values and Distinguishing Characteristics

- We honor our organization's history by leading with mind and heart.
- We are collaborative and pursue strong partnerships that are based on joint success and open, constructive communication.
- We believe that prevention is critical to campus safety.
- We are persistent, action-oriented, and deliver results that have real impact.

JEANNE ANN CLERY



NCSAM 2018: WHAT'S YOUR MESSAGE?

- Commit to year-round work that examines effectiveness of messages about campus safety.
- Visit **ncsam.clerycenter.org** to review all resources provided this month including recorded webinars and resources available for download.
- Looking ahead to next year: what should NCSAM 2019's focus be?

KEY RESOURCES

- The Clery Act – Statute and Regulations
- The Handbook for Campus Safety and Security Reporting
- Westat
 - campussafetyhelp@westat.com
 - 800-435-5985
- ED Program Review Findings

TODAY'S GOALS

- Review how hate crimes are defined and classified under the Clery Act
- Explore how incidents might be violations of policy but not a Clery crime statistic
- Discuss helpful strategies to explain the distinctions between hate crimes under Clery versus bias related incidents in general
- Share messaging for campuses to use to encourage reporting of all concerning bias-related incidents

DURING THIS WEBINAR

- Questions – Group Discussion Pod/Q&A Pod
- Polls
- Highlighted Resource: *Explaining Hate Crimes under the Clery Act*
- Participant Questions

CLERY ACT: REFRESHER

WHO: Campus Security Authorities (CSAs) and local law enforcement

WHERE: Clery Act geography

WHAT & HOW:

- Annual
 - Annual security report (statistics, policy statements)
 - Statistics to Department of Education
- Ongoing
 - Timely warnings
 - Emergency notification
 - Daily crime log
 - Rights & options for survivors of sexual assault, domestic violence, dating violence, & stalking

ENFORCEMENT: U.S. Department of Education Clery Compliance Team

POLL

Who's in the room?

- A. Campus Police/Security
- B. Student Affairs (Residence Life, Student Conduct, etc.)
- C. Chief Diversity Officer
- D. Director of Health or Counseling Center
- E. Clery Coordinator
- F. Title IX Coordinator
- G. Other



Clery Crime
+
Clery Geography
=
Clery Statistic

CLERY ACT CRIMES

Criminal Offenses

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

Hate Crimes

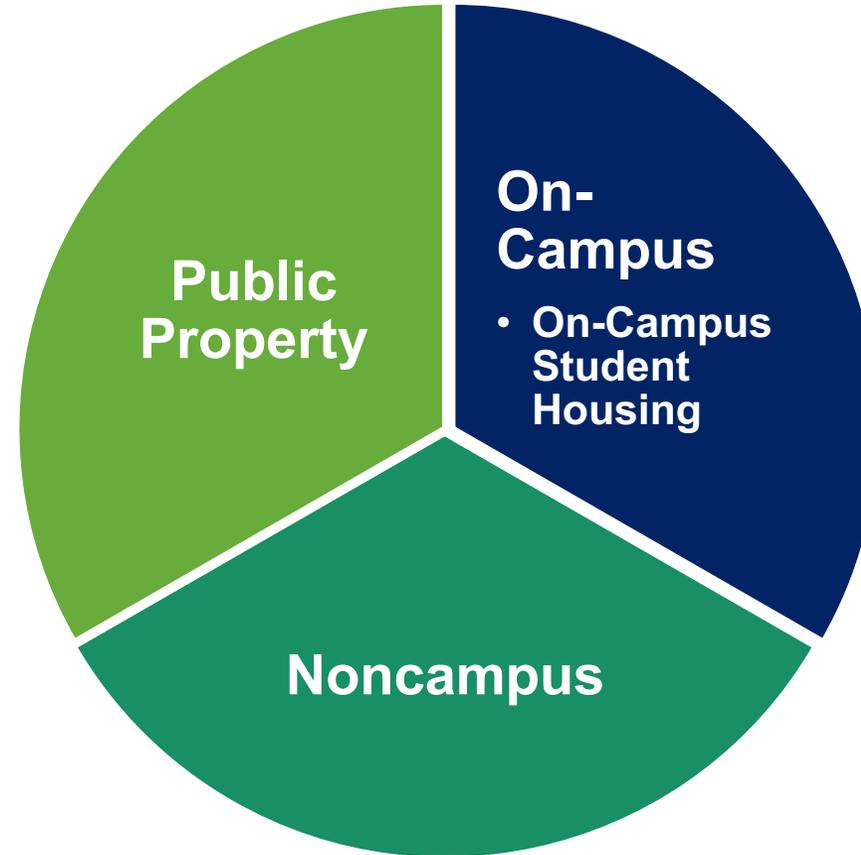
VAWA Offenses

- Dating Violence
- Domestic Violence
- Stalking

Arrests & Disciplinary Referrals

- Liquor law violations
- Drug law violations
- Weapons law violations

CLERY GEOGRAPHY



HATE CRIMES ARE...

Any of the criminal offenses:

- Homicide
 - Murder
 - Non-negligent manslaughter
- Sex Offenses
 - Rape, Fondling, Incest, Statutory Rape
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson



- Larceny-Theft
- Simple Assault
- Intimidation
- Destruction/Damage/Vandalism of Property

WHEN...

Motivated by a bias in one of the bias categories:

- Race
- Religion
- Sexual orientation
- Gender
- Gender identity
- Ethnicity
- National origin
- Disability

CHAT BOX: CASE STUDY



A campus police officer overhears a white student and a Black student arguing over a parking space on campus. They are shouting obscenities at one another and the white student shoves the Black student who scrapes his hand on the asphalt when he falls. The officer approaches the students and asks for an explanation for the argument. The students tell him that one of them was driving toward the parking space first but didn't use his turn signal to indicate he wanted to park there. The other student drove into the space not knowing that the first student had intended to park there. The officer did not find any evidence that the Simple Assault was motivated by bias.

Is this counted as a hate crime? If so, how?

CLASSIFYING HATE CRIMES UNDER CLERY

REQUIRED ELEMENTS

- Clery crime occurring within Clery geography
- Reported to a campus security authority (CSA)
- Manifests evidence of a bias on the part of the perpetrator towards the victim
 - Difficult, at times, to definitively capture

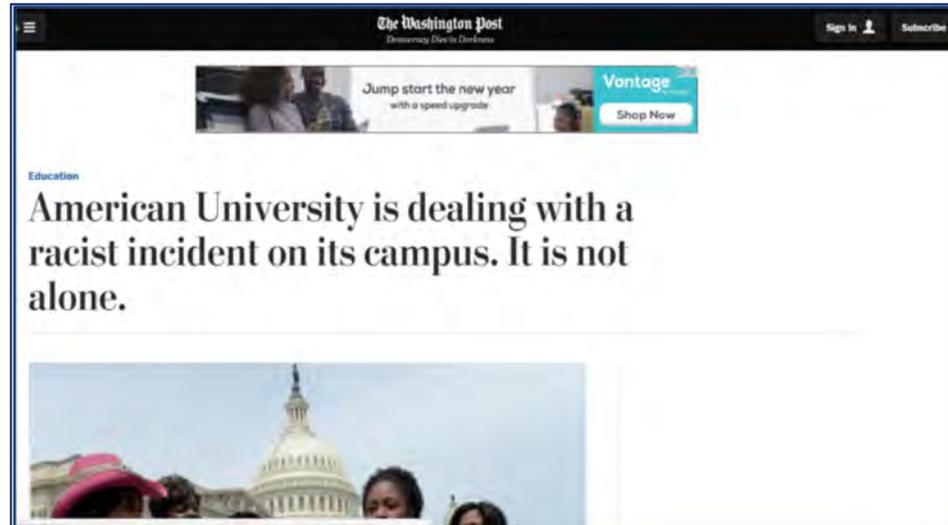
EXAMPLES OF EVIDENCE OF MANIFESTATION OF BIAS

- The offender and the victim held different identities.
- Bias-related oral comments, written statements or gestures were made by the offender, that indicate the offender's bias.
- Bias-related drawings, markings, symbols or graffiti were left at the crime scene.
- Certain objects, items or things which indicate bias were used.

EVIDENCE OF MANIFESTATION OF BIAS (CONT'D)

- The victim was engaged in activities related to his or her race, religion, disability, sexual orientation, ethnicity, national origin, gender or gender identity.
- The incident coincided with a holiday or a date of particular significance relating to a race, religion, disability, sexual orientation, ethnicity, national origin, gender or gender identity.
- The offender was previously involved in a similar hate crime or is a hate group member.

COMMUNITY PERCEPTION



The Washington Post
Democracy Dies in Darkness

Jump start the new year with a speed upgrade
Shop Now

Education

American University is dealing with a racist incident on its campus. It is not alone.



U.S.

White Nationalists March on University of Virginia

By HAWES SPENCER and SHERYL GAY STOLBERG AUG. 11, 2017
More Articles by SHERYL GAY STOLBERG



RELATED COVERAGE

- Man Charged in Charlottesville
AUG. 12, 2017
- Airbnb Cancels Nationalist Ra
AUG. 8, 2017



THE WORLD POST

Montreal University Buildings Evacuated After Bomb Threats Target Muslim Students

These threats are the latest in a string of anti-Muslim events in Canada.

By Aileen Branning

Multiple buildings were evacuated at a Canadian university on Wednesday after a bomb threat to a mosque on campus. Evacuations in Montreal targeted Muslim students.

Students and staff at Concordia University in downtown Montreal were ordered to temporarily leave their campus buildings after the latest (alleged) bomb threat for an off-campus mosque. Classes in those buildings were also canceled for the remainder of the day.

A group calling itself the Council of Conservative Citizens of Canada (CCC) recently sent a letter complaining about Muslim students on campus, the result of several months of work, including CCC letters. Alleged copies of the letter were found on social media on Wednesday, claiming the attack wasn't meant to hit, but rather to scare Muslim.

SUBSCRIBE TO & FOLLOW THE WORLD POST

Newsletter

HATE CRIMES VS. BIAS INCIDENTS

CLERY HATE CRIMES VS. BIAS INCIDENTS

- Hate crimes under Clery need to meet certain requirements to be classified as such.
- Not all bias incidents might be hate crimes under Clery, but all hate crimes under Clery are bias incidents.
- Bias or bias-related incidents can be defined by institutions.
- Thoughtful and compassionate campus response is necessary and important regardless of whether or not an incident is counted under Clery.

INTERSECTION OF FIRST AMENDMENT

- **Intimidation** is 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.*
- When is speech a Clery Act crime?

West Virginia State Bd. of Educ. v. Barnette (1943)

“[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.” (p. 642)

Terminiello v. Chicago (1949)

“Accordingly a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech, though not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest. See *There is no room under our Constitution for a more restrictive view. For the alternative would lead to standardization of ideas either by legislatures, courts, or dominant political or community groups.*” (pp. 4-5)

Saxe v. State College Area School District (2001)

"There is no categorical 'harassment exception' to the First Amendment's free speech clause. There is of course no question that non-expressive, physically harassing conduct is entirely outside the ambit of the free speech clause. But there is also no question that the free speech clause protects a wide variety of speech that listeners may consider deeply offensive, including statements that impugn another's race or national origin or that denigrate religious beliefs."

TRUE THREATS

“Those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals” (Virginia v. Black, 2003, p. 343).

REPORTING RESPONSIBILITIES UNDER CLERY

- Report to the official or office designated by the institution to collect crime report information allegations of Clery Act crimes
- Nature of crime, date and time it occurred, date and time reported, location (non-identifiable information)
- **Not** responsible for investigating
- **Not** responsible for reporting incidents overheard in hallway, mentioned in in-class discussion, speech, workshop, etc. (indirect)

REPORTING BEST PRACTICES

- Make sure all documentation is detailed.
- Collect narrative and photos of any evidence at scene.
- Do not wait until investigation to ask questions about meaning of evidence at scene - dependent on what CSA is receiving the report.
- Know examples of what would constitute bias ahead of time.

CASE STUDY

Several students call the campus security office to report swastikas spray-painted on the hallway walls of an on-campus student housing facility. The spray-painting follows a week of escalating tension between some Jewish and non-Jewish students over news about the Israeli-Palestinian conflict, however, the spray-painting does not occur on a floor or in a housing facility particularly designated or inhabited by Jewish students. Campus security personnel investigate and, based on the evidence, conclude that...

Fill in the blank.

Is this incident a hate crime? If so, how is it classified? If not, could it be considered a bias incident? What information is needed to make a determination?



CASE STUDY

Flyers have appeared on across campus which appear to be affiliated with the white supremacist group, Identity Europa. Although the flyers have been removed, several students have complained to Campus Security Authorities that they feel threatened by the flyers' presence on campus. Campus security personnel investigate and, based on the evidence, conclude that... Fill in the blank.

Is this incident a hate crime? If so, how is it classified? If not, could it be considered a bias incident? What information is needed to make a determination?



WHAT CAMPUSES CAN DO

- Encourage ongoing transparent communication between administration and student body/staff.
- Demonstrate a commitment to timely and robust responses to reports of hate crimes to support desire to come forward.
- Establish collaborative relationships between campus safety/pd, student conduct, human resources and diversity/cultural offices or centers and offices of institutional equity.
 - Policy or resource development
- Provide training on cultural proficiency for all campus community members, especially those responding to, investigating or adjudicating hate crimes.

Explaining Hate Crimes under the Clery Act

CLERY CENTER **National Campus Safety Awareness Month** **EXPLAINING HATE CRIMES UNDER THE CLERY ACT** *continued*

8 BIAS CATEGORIES

Disability
A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

Ethnicity
A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term "race" in that "race" refers to a grouping based mostly upon biological criteria, while "ethnicity" also encompasses additional cultural factors.

Gender
A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

Gender Identity
A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals. Gender non-conforming describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

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QUESTIONS?



National Campus
Safety Awareness Month

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