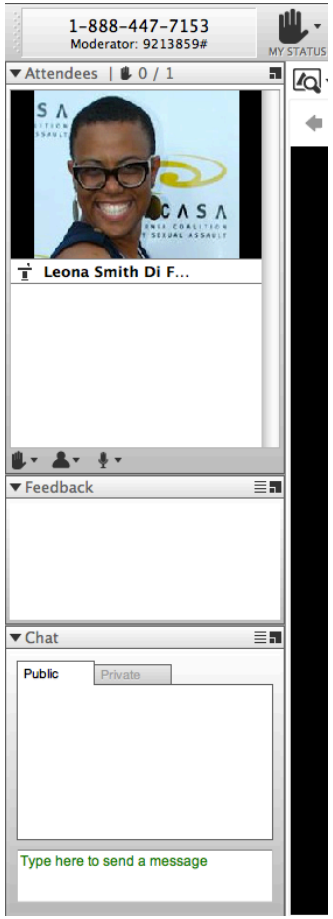
CAMPUS

Technical Assistance and Resource Project



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CAMPUS
Technical Assistance
and Resource Project

CLERY CENTER
FOR SECURITY ON CAMPUS

Moving Forward

Making a Good Faith Effort with the VAWA Amendments to Clery

This project is supported by Grant No. 2009-TA-AX-K066 awarded by the Office on Violence Against Women, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

www.clerycenter.org
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CAMPUS
Technical Assistance
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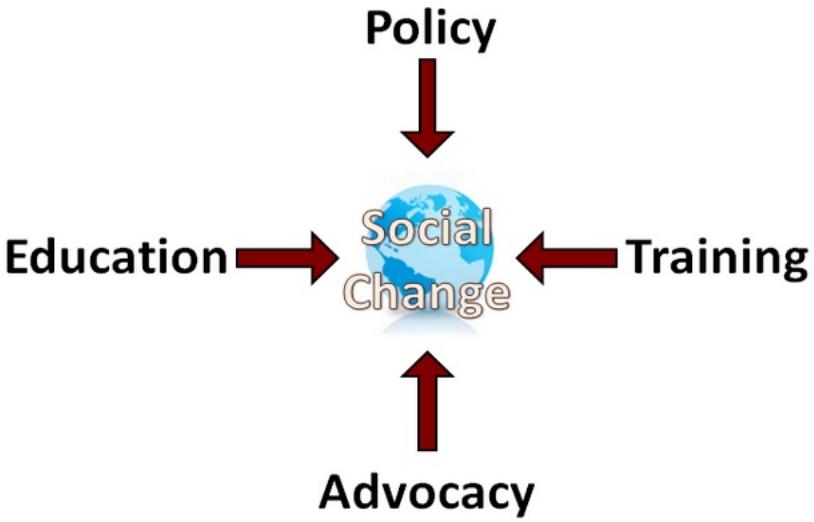
About the Clery Center



Presentation Agenda

- Clery Act Updates – VAWA, March 7, 2013
- Collaboration for Compliance

Background Knowledge

On a scale of 1-10, how would you rate your understanding of the requirements of the Jeanne Clery Act?

1-2: Basic Level

3-4: Some Familiarity

5-6: Competence

7-8: Mastery

9-10: Should be teaching

Jeanne Clery Act Requirements

Annual Security Report

- Statements of policy
- Campus crime statistics
- Campus Sexual Assault Victim Bill of Rights

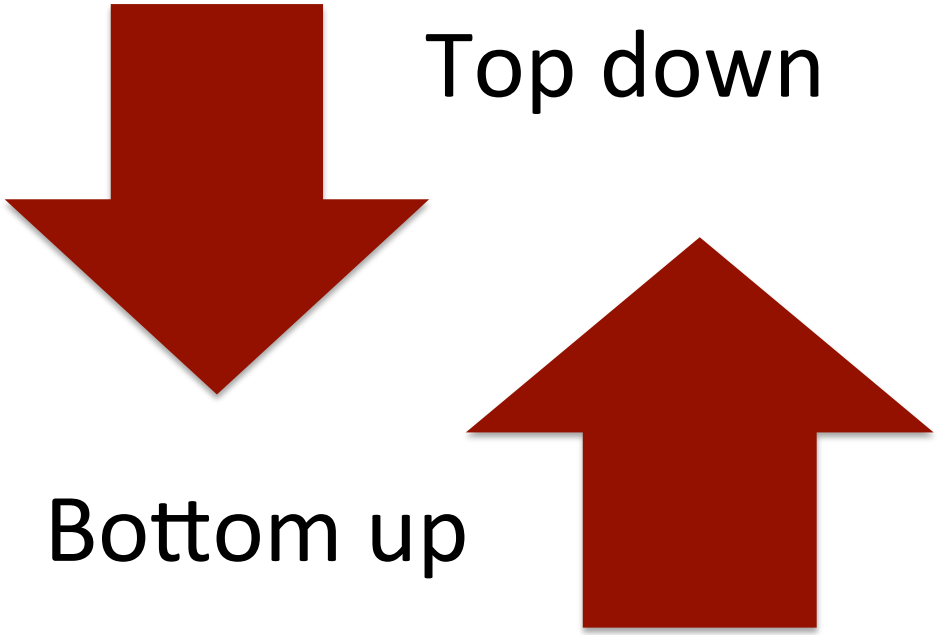
Ongoing Disclosures

- Emergency notification
- Timely warning
- Public crime log

U.S. Department of Education Enforces

- $35,000 fine per violation

What kind of support do you have?



Jeanne Clery Act Crime Statistics

- Criminal homicide
  - Murder and non-negligent manslaughter
  - Negligent manslaughter
- Sex offenses
  - Forcible sex offenses
  - Non-forcible sex offense
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

Jeanne Clery Act Crime Statistics

- Arrests and disciplinary referrals for:
  - Liquor law violations
  - Drug law violations
  - Illegal weapons possession
- Hate crimes
  - May be reported in a narrative form
  - Also includes larceny-theft, simple assault, intimidation, and destruction/ damage, vandalism of property

Who reports?

- Campus security authority
- Local police (good faith request)

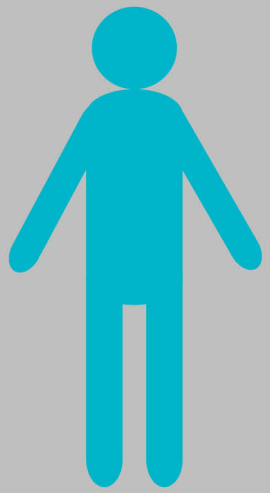
CSA Training at the University of Pennsylvania

WHO IS A...

CAMPUS SECURITY AUTHORITY?

Officials with significant responsibility for student and campus activities

Individuals or offices designated to receive crime reports



A campus police or a campus security department

Individuals who have responsibility for campus security

Examples of CSAs

- Professional staff in a dean of students office (including leaders in student affairs/ housing)
- Staff in student center building
- Student Activities Staff
- Faculty or staff advisors to student organizations
- Resident Assistants
- Coaches

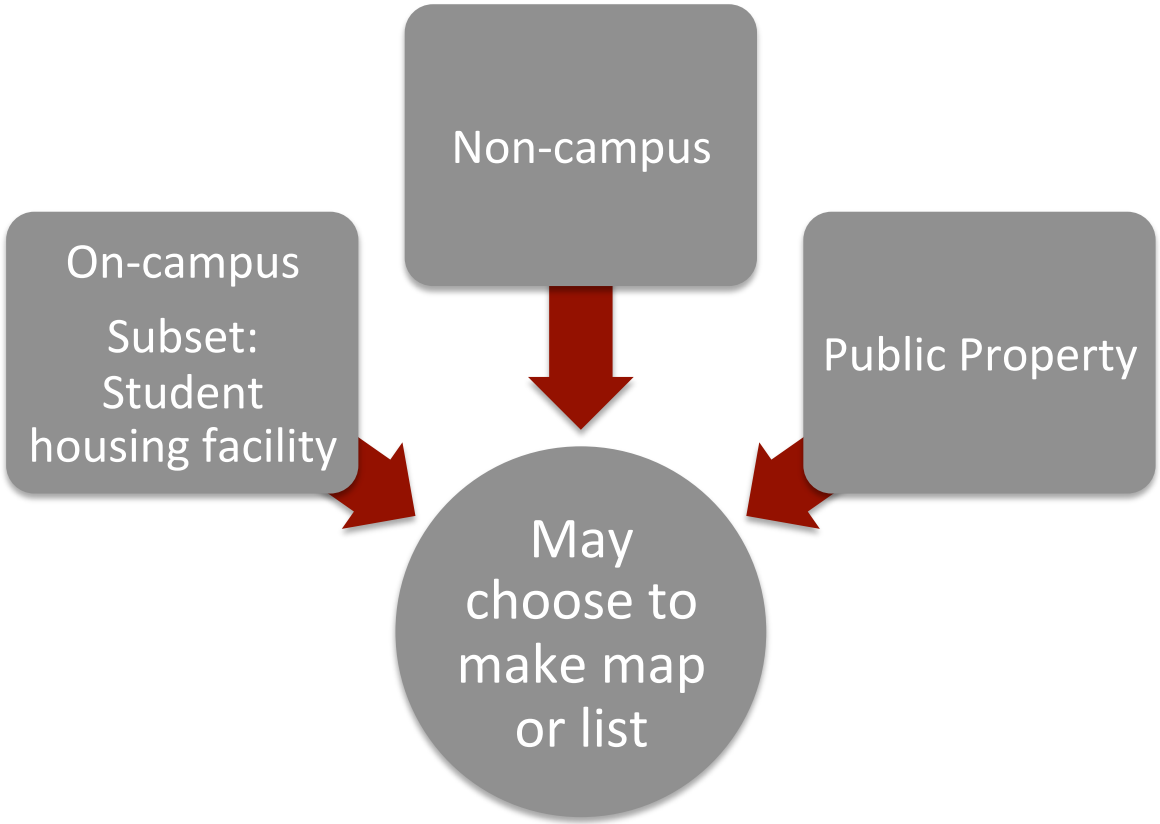
CSA's Primary Responsibility

- "to report to the official or office of the institution allegations (Clery Act crimes) made in good faith to the reporting structure established by the institution"
- A CSA is NOT responsible for determining whether a crime took place – that is the function of law enforcement.

Examples of CSA Training/Education

- Presentations to staff (i.e. Campus Safety, Police, Student Affairs, Athletics)
- Annual notification/ letter to CSAs
- Online Program

Clery Geography



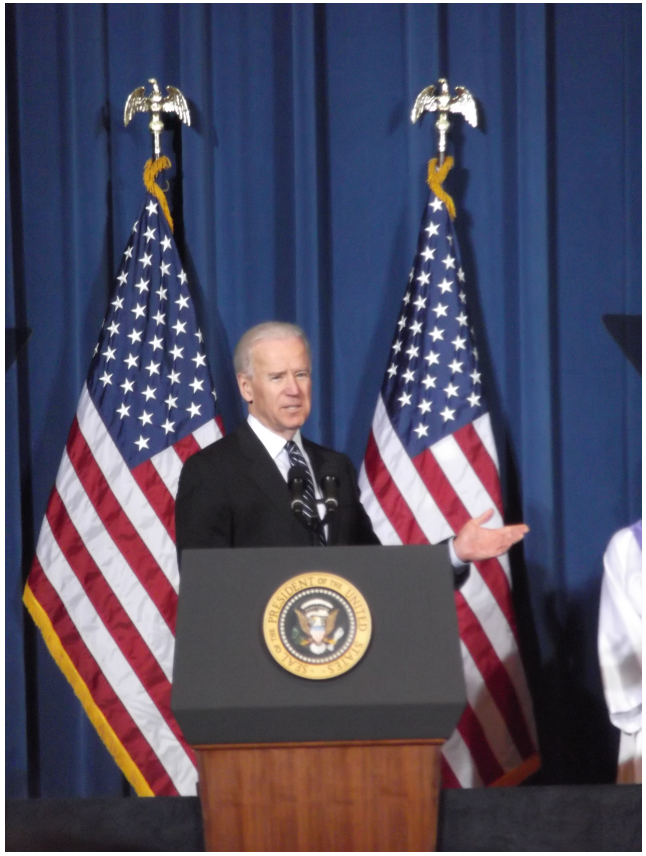
Clery Act Updates

- VAWA amendments to Clery
- Preliminary Department of Education Guidance
- Elements of the Law

2013 VAWA Amendments to Clery

- Signed into law on March 7, 2013
- Covers students and staff of institutions
- Most dramatic expansion to sexual violence reporting and policy since 1992

U.S. Department of Education Preliminary Guidance



- Negotiated rulemaking process for VAWA amendments to the Clery Act
- Final regulations after the rulemaking process
- ASR – October 2014 – Make “good faith” effort to include statistics

Negotiated Rulemaking

- Used by the Department of Education to develop Notice of Proposed Rulemaking (NPRM)
- Collaboration with representatives affected by the regulations
- Consensus was achieved on April 1, 2014
- NPRM will be published in the Federal Register and open for public comments

Negotiated Rulemaking

Violence Against Women Act (Sect. 304) Highlights

- Addition of domestic violence, dating violence, and stalking
- Prevention and awareness programs (primary prevention)
- Procedures to follow
- Information in writing
- Change in academic/living/transportation/working situation
- Option to notify law enforcement
- Campus disciplinary procedures
- Sanctions following a final determination

VAWA Language

VAWA

Dating Violence

VAWA

- "Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim
- Where the existence of such a relationship shall be determined based on the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship"

Domestic Violence

VAWA

- "A felony or misdemeanor crime 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 laws of the jurisdiction in which the crime of violence occurred
  - 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."

Stalking

VAWA

- "Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress"

Additional categories of bias

VAWA

- National origin
- Gender identity

Procedures Following a Sex Offense

Written Information

Importance of preserving evidence	VAWA
To whom to report the offense	VAWA

Procedures to follow….

VAWA

Importance of Preserving Evidence

- "…as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order."

Importance of Preserving Evidence

- Proof in criminal or campus disciplinary proceeding
- Knowledgeable of what may be preserved and how long
- Know state forensic testing laws
- 2005 reauthorization of VAWA
  - Sexual assault forensic exams without official law enforcement report first
  - No expense to victim

Procedures to follow….

VAWA

To Whom to Report the Offense

- "To whom the alleged offense should be reported
- Options regarding law enforcement and campus authorities, including notification of the victim's option to:
  - Notify proper law enforcement authorities, including on-campus and local police
  - Be assisted by campus authorities in notifying law enforcement authorities of the victim so chooses; and
  - Decline to notify such authorities
  - Where applicable, the rights of victims and the institution's responsibilities for orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court"

To Whom to Report

- Does the campus have sworn police or security officials?
- How do students know which police/ security official to contact if there is a choice?
- If there is only non-sworn security on campus, who is the contact for students who wish their cases to be investigated?

Confidentiality

VAWA

"Information about how the institution will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law"

Written Notification

VAWA

- "Statement that the institution will provide written notification to students and employees about existing:
  - Counseling
  - Health
  - Mental Health
  - Victim Advocacy
  - Legal Assistance
  - Other Services Available for Victims
- Both on-campus and in the community"

Written Notification

VAWA

- "Statement that the institution will provide written notification to victims about options for, and available assistance in, changing:
  - Academic
  - Living
  - Transportation
  - Working"

Accommodations

VAWA

- If:
  - Requested by the victim
  - Such accommodations are reasonably available
- Regardless of whether the victim chooses to report the crime to campus police or local law enforcement

Written Explanation

VAWA

- “A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee’s right and options.”

Procedures for disciplinary action

VAWA

- "The procedures such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported
- Statement of the standard of evidence that will be used during any institutional conduct proceeding arising from such a report
- Possible sanctions or protective measures that such institution may impose following a final determination of an institutional disciplinary procedure…"

Procedures for disciplinary action

VAWA

- "Must include…clear statement that such proceedings shall:
  - Provide a prompt, fair, and impartial investigation and resolution
  - Be conducted by officials who receive annual training on:
    - The issues related to domestic violence, dating violence, sexual assault, and stalking
    - How to conduct an investigation and hearing process that protects the safety of victims and promotes accountability"

Procedures for disciplinary action

VAWA

- "The accuser and accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice."

Procedures for disciplinary action

VAWA

- "Both the accuser and the accused shall be simultaneously informed, in writing, of:
  - The outcome of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault or stalking
  - The institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding
  - Of any change to the results that occurs prior to the time that such results become final; and
  - When such results become final"

Programs to prevent…

VAWA

- "Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include…"
- "Ongoing prevention and awareness campaigns for students and faculty"

Programs to prevent…

VAWA

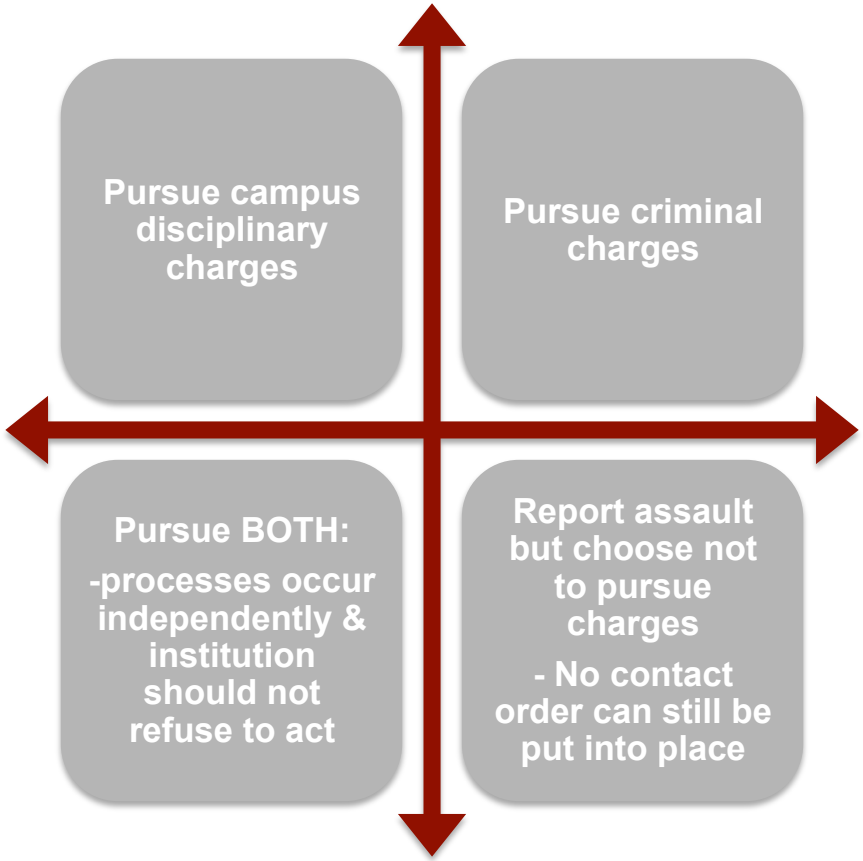
"…Primary prevention and awareness programs for all incoming students and new employees which shall include:

- A statement that the institution of higher education prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking
- The definition of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction
- The definition of consent, in reference to sexual activity, in the applicable jurisdiction
- Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks"

WHAT DOES PREVENTION EDUCATION LOOK LIKE ON YOUR CAMPUS?

Chats With The Chief University 100 Don't Cancel Class Greek Programs Theater/Art Production Campus Posters Resident Assistant Training Rape Aggression Defense Program Campus Men of Strength Club Safe Spring Break No Zebras Campus Security Authority Training Department of Justice Office On Violence Against Women Tool-kit Rape Crisis Center Programs Identity Theft Shredding Events Toilet Talk Night Shuttle/Escort Vehicle Assistance Feedback Form Patrol Alerts Green Dot Program New Student Orientation Radio/TV PSAs Parent Programs Peer Education Walk a Mile in Her Shoes Guest Speakers National Campus Safety Awareness Month

Options for Campus Sexual Assault Victims



Common Mistakes in Clery Act Implementation

- Failure to Report Crimes Based on Proper Geography
- Lack of or Inadequate Policy Statements
- Failure to Publish and Distribute an ASR
- Inadequate Methods in Collecting Crime Statistics

Compliance Challenges

- Inconsistent/Non-existent Underlying Policies/Practices
- Failure to Survey All Campus Security Authorities/Local Police
- Lack of Training
- Failure to Coordinate
- Poor Record Keeping (7 Years)
- Lack of Institutional Support

Institutional Responsibility

- Leadership and Coordination from the Top
- Collaboration:
  - Campus Police or Security
  - Student Affairs
  - Facilities/Housing Management
  - Human Resources
  - Academic Departments

Clery: Past, Present, and Future

- *"I think (the Clery Act's) most positive legacy has been that it's advanced the debate from whether to address campus violence to how to address it."*
- ***"Colleges and universities now are more focused on solving problems than on admitting one exists."***

-US Attorney Zane Memeger, October 19, 2011

Where do we go from here?

- Evaluate compliance
- Build a team
- Coordinate efforts
- Learn from colleagues
- Make good faith effort – http://www.ifap.ed.gov/eannouncements/052913ImplementofChangesMade2CleryActViolenceAgainstWomenReauthorizationAct2013.html

Thank You

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