

Overview of Clery Act and Understanding the Campus Sexual Violence Elimination Act (VAWA)

Know your rights and the college's responsibilities



Dallas County
Community College District



Overview of Clery Act

The Clery Act is the landmark federal law, originally known as the Campus Security Act. The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act require that colleges and universities publicize campus crime statistics and reports of serious crime incidents.

Jeanne Clery:

- Raped and murdered April 5, 1986 in her dorm
- Perpetrator was another student whom she did not know
- Death led to national awareness of campus crime





Requirements on Clery Act:

- Annual Security Report
 - Statements of policy
 - Campus crime statistics
 - Campus Sexual Assault Victim Bill of Rights
 - SaVe Act (VAWA) Statistics
- Ongoing Disclosures
 - Emergency notifications
 - Timely warnings
 - Public Crime Log

The U.S Department of Education enforces the Clery Act.



To comply with federal law, institutions must:

- Define who the campus security authorities are in their Annual Security Report (ASR);
- Protect the confidentiality of victims to the extent permissibly by law; and
- Describe CSA responsibilities and train them for their role
- Provide Annual Notification identifying CSA's
- Supply Crime Definitions



What is the SaVe Act (VAWA)

In March 2013, a new Campus Sexual Assault Violence Elimination Act was passed that updates the Jeanne Clery Act to create transparency, accountability, education and collaboration. The act seeks to address the violence women face on campus. The Campus SaVe Act has four central components:

1. Identify the institution's Campus Security Authority personnel
2. Create a Campus Sexual Assault Victim Bill of Rights
3. Expand sexual crime reporting on campus
4. Ensure the college has standard operating procedures for handling incidents of sexual violence



Campus Security Authorities (CSA's)

Who is a Campus Security Authority (CSA)?

- Officials with significant responsibility for student and campus activities
 - Professional staff in a Dean of Students/ office (including leaders in student affairs)
 - Student Activities Staff
 - Faculty or staff advisors to student organizations
 - Coaches
 - Title IX coordinator
- A campus police or security department
- Individuals or offices designated to receive crime reports
- Individuals who have responsibility for campus security

Who is NOT a Campus Security Authority (CSA)?

- A faculty member who does not have responsibility for a student or campus activity beyond the classroom
- Clerical staff
- Cafeteria staff
- Facilities or maintenance staff



Campus Sexual Assault Victim Bill of Rights

Victims of sexual assault will have the right to the following:

- Reasonable changes to the academic and living situations
- Referrals to counseling, assistance in notifying law enforcement
- Same opportunity as accused to have others present at disciplinary hearing
- Unconditional notification of outcomes of hearing, sanctions and terms of sanctions in place
- Opportunities and assistance to speak (or choose not to speak) to anyone regarding the outcome
- Name and identifying information kept confidential (FERPA)



Violence Against Women Act (VAWA)

The Violence Against Women Act (VAWA) is a landmark piece of legislation that sought to improve criminal justice and community-based responses to domestic violence, dating violence, sexual assault and stalking in the United States. The passage of VAWA in 1994 and its reauthorization in 2000, 2005 and 2013, has changed the landscape for victims who once suffered in silence. Victims of domestic violence, dating violence, sexual assault and stalking have been able to access services, and a new generation of families and justice system professionals has come to understand that domestic violence, dating violence, sexual assault and stalking are crimes that our society will not tolerate.

Under VAWA, colleges are required to:

- Report domestic violence, dating violence, and stalking, beyond crime categories the Clery Act already mandates;
- Adopt certain student discipline procedures, such as for notifying purported victims of their rights; and
- Adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.



Texas Family Code and Texas Penal Code

Consent:

- Consent is an act of reason and deliberation.
- A person who possesses and exercises sufficient mental capacity to make an intelligent decision demonstrates consent by performing an act recommended by another.
- Consent assumes a physical power to act and a reflective, determined, and unencumbered exertion of these powers.

Texas Family Code §71.004

Sexual Assault:

- Intentionally or knowingly for adult or child.
- Causes the penetration of the anus or sexual organ of another person by any means, without that persons consent.
- Causes the penetration of the mouth of another person by the sexual organ of the actor, without the person's consent.
- Causes the sexual organ of another person, without the persons consent, to contact or penetrate the mouth, anus, sexual organ of another person, including the actor.

Texas Penal Code §22.011



Sexual Assault cont....

Is without the consent of the other person if;

- The actor compels the other person to submit or participate by the use of/or threatening the use of physical force or violence against the other person, or
 - the person believes that the actor has the present ability to execute the threat.
 - The person has not consented and the actor knows the person is unconscious or physically unable to resist
- The actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting
 - The other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring
 - The actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other persons knowledge.

Texas Penal Code §22.011





Domestic Violence and Dating Violence

Domestic Violence:

- An act by a member or a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places a member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself
- Abuse, by a member of the family or household toward a child of the family or household.

Texas Family Code §71.004

Dating Violence:

- An act, other than a defensive measure to protect oneself, by an actor that:
- Is committed against a victim
- With whom the actor has or has had a dating relationship
- Because of the victims marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage
- Is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury assault or sexual assault.

Texas Family Code §71.0021



Dating Violence/Dating Relationship

For the purpose of this title Dating Relationship means:

- A relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature.
- Determination based on:
 - Length of the relationship
 - Nature of the relationship
 - The frequency and type of interaction between the persons involved in the relationship.

A casual acquaintance or ordinary fraternization in a business or social context does not constitute a “dating relationship.”

Texas Family Code §71.0021



Warning signs of Dating/Relationship Violence or Abuse:

- Isolates you from friends or family
- Having angry outbursts
- Blames others for their problems
- Threatens to hurt you during arguments
- Gets extremely jealous for no reason
- Acting cruel towards animals or children
- Trying to control you by belittling you or your ideas





Stalking

- A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct, including following the other person.
- The actor knows or reasonably believes the other person will regard as threatening.
- Bodily injury or death for other person Bodily injury or death for a member of the other persons family or household.
- That an offense will be committed against the other persons property.
- Would cause a reasonable person to fear bodily injury or death for him/her self.
- Bodily injury or death for a member of the person's family or household.
- That the offense will be committed against the persons property.

Texas Penal Code §42.072



Protective Orders:

Emergency Protective Orders(MOEP): May be requested by victim or law enforcement but shall be entered if Aggravated Assault (SBI or DW) Texas CCP art 17.292

EPO prohibits: go to or near residence, work or school/childcare, communicate in threatening or harassing manner, threats through any person, acts of family violence, stalking, possession of firearm.

Protective Order: May be entered when there is a reasonable belief that: Family Violence, Sexual Assault, Stalking, have occurred and are likely to occur in the future. Third parties, a third party, may also apply for a protective order, must prove violence occurred between third party and respondent, third party is usually new dating partner of respondent's ex.



How and Where to file a Protective Order:

Where to file? (Venue) The county where applicant resides, county where respondent resides.

201312 Process: Application filed with sworn statement from Applicant, Hearing will be set within 14 days, Temporary (Ex Parte) Order if clear and present danger of family violence, entered without respondent being there, Respondent may be “kicked out” = ordered to leave shared residence

Hearing: Court must find family violence occurred and is likely to occur in the future, court may enter order if finds respondent violated previously entered order, if more than 2 year order then more findings, an agreed order may be criminally enforced without Family Violence finding.



How to report to Law Enforcement:

If you have experienced any of these crimes or have witnessed any of these crimes on campus, you may remain anonymous when reporting.

Call the police at 972-860-4290, or pick up a RED Emergency phone located in each building at each campus.





Preventive Tips

- Date people you know and trust.
- Be extra careful about meeting people On-line.
- Tell your parents or a friend when you are going out on a date, where and when.
- Know your limits and express them.
- Avoid drugs and alcohol.
- Go out, don't hang out.



Partnering Resources

Useful Websites

- Texas Council on Family Violence - www.tcfv.org
- Family Violence Prevention Fund - www.fvpf.org
- Dept. of Justice VAWA - www.ojp.usdoj.gov/vawo
- Nat'l. College of District Attorneys - www.law.sc.edu/nca
- Nat'l. District Attorneys' Assoc./APRI - www.ndaa.org
- Technology Assistance - www.safetynet.org
- National Stalking Resource Center - www.ncvc.org
- Center for Domestic and Sexual Violence - www.ncdsv.org • National Hotline 1-800-799-SAFE