


# COMPLYING WITH CLERY

Education abroad professionals say the Clery Act is often something of a morass when it comes to providing useful information to parents on crime statistics for risk assessment.



An abstract graphic with a solid red background. It features several white dashed lines that zigzag across the upper half of the page. Interspersed among these lines are numerous small, solid red squares of varying sizes, some arranged in vertical columns. A single solid black circle is positioned on the left side, connected to a short white line segment.

**A COLLEGE UNDERGRADUATE** attending a summer abroad program in Madrid is sexually assaulted while in her dormitory room, which is rented by the U.S. university she attends. Under the Clery Act—named for a university freshman who was raped then murdered in 1986—the university will probably have to record this crime with the U.S. Department of Education in an annual report that is made public.

But if the same assault happens to the same young woman at a Madrid disco, which the student's university doesn't control or operate, the crime won't go in the Clery Act report. The school she attends may, as a matter of internal policy, document the offense at its security office for the public to view—if requested—but no law requires this transparency for students who may, in the future, apply to the same overseas program.

The Jeanne Clery Disclosure of Campus Crime Statistics Act requires colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their campuses, or in off-campus facilities that the Act defines.

The documentation requirement applies to education abroad programs if the domestic campus controls or operates facilities—such as classrooms or sleeping accommodations—where a Clery reportable crime happens.



Most university sources interviewed for this article agree that the reach of the Act is limited. Crimes are reported based on where they happened, they note, not based on what happened, or to whom they happened. That means many offenses against students on abroad programs go unreported under Clery. It means that crimes against people other than faculty, staff and students on abroad programs might go in the report. Moreover, the recording is done in such a way that it can be difficult to tell where off-campus crimes happen—whether at a sorority house or in a university-operated hostel in London. And for all the time, paperwork, and expense university officials say they put into Clery reporting, they tend to agree that the return for their efforts is often negligible.

“I commonly have consultations with parents and students who’ve never heard of Clery, and those who have heard of the law haven’t asked to see the report,” said Stacey Tsantir, director of International Health, Safety, and Compliance for the University of Minnesota, who counts one parent in the past five years who’s asked for crime data for a study abroad program.

## The Clery Act

The aim of the Clery Act is to provide accurate and timely information to the public, parents, students and potential students about

crimes, student alcohol use and drug violations that happen on a campus and at its education abroad programs.

The Act requires universities to publish an annual report disclosing three years of statistics on specific crimes, including: murder and non-negligent manslaughter; negligent manslaughter; forcible and non-forcible sex offenses; robbery; aggravated assault; burglary; motor vehicle theft; arson; and arrests and disciplinary actions for violating weapons, drug, and liquor laws. In addition, universities must report hate crimes.

The Department of Education (DOE) 2011 Handbook for Campus Safety and Security Reporting recommends that each campus designate an individual or office to coordinate and oversee the Clery reporting process. In addition, each campus, depending on size and structure, must have at least one Campus Security Authority (CSA) who provides incident reports to the coordinating office or person.

Yet the complexity of complying with the Act becomes apparent with abroad programs when one considers that universities need only report incidents or crimes where they “own” or “control” housing, classroom space, office space or the like. Hence, if the institution sends students abroad on programs run by other universities or third-party

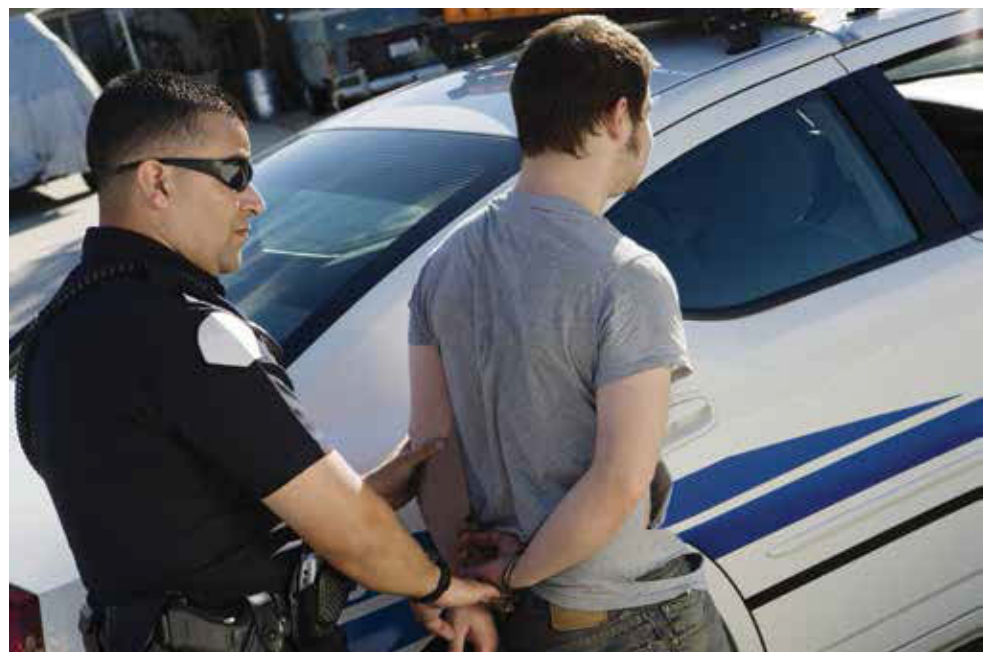


PHOTO CREDIT: SHUTTERSTOCK

**“The legislation was built with the U.S. culture and infrastructure in mind . . . . Adaptation to education abroad programming can be tricky.”**

providers, no reporting is required, no matter how heinous the crime. Or, if the crime happens in public places such as restaurants, bars, or public transportation, it's not Clery reportable. Or, the crime may only be reportable if it happened in university-rented classrooms during specific hours, days or months included in the rental agreement. And in many cases, Clery incidents that happen within host family placements won't be reportable, depending on the nature of the school's agreement with the host family, and the level of institutional "control" over that host arrangement.

"You might have a vicious crime that involves one of your students, but it wouldn't count for the Clery Act if it happens in a mall or open-air bazaar or in certain hotels," said Joseph Storch, associate counsel for the State University of New York, or SUNY system. "At the same time, we might have a crime that occurs between two people who have absolutely nothing to do with our college community, but because it happens in a certain geographic area, it would count."

Storch gives an example: A courier walks into a university administrative building to deliver a package and a rival courier cuts him off at the door. Words grow heated, punches fly, and one of the couriers ends up breaking his counterpart's tooth and facing an aggravated assault charge. Though the episode involved no students, faculty, or school staff, the university must include it in its Clery report.

Storch provides a second example: A local Washington, DC university professor strolling the National Mall gets involved in precisely the same brawl with a student from his institution. The university "would definitely want to take some action, but it wouldn't count it for Clery Act purposes," Storch said.

## Location, Location, Location

There are four broad categories of locations that trigger Clery reporting. The one that best applies to education abroad programs is called "non-campus property." For education abroad purposes, this is best defined as property owned, controlled or leased by the institution, used for the institution's mission or in relation to its mission not in the same geographic area, and frequently used by students.


A lot of attorneys' time is spent, Storch said, breaking down what is meant by terms such as "owned," "controlled," "mission" or "frequently used."

For instance, if a university rents a London apartment for an exchange program, "that's a pretty clear example of non-campus property," Storch said, noting that DOE guidelines indicate that a three-week study program at such an apartment would fall under Clery reporting requirements.

"But what if [students] were there only a week?" Storch asks. "Or you're in one hotel for part of the trip, but in another hotel for the other part? What if we do [the program] every two years? Every four years?"

This is what some call trying to fit a round Clery Act peg into a square education-abroad hole.

"The legislation was built with the U.S. culture and infrastructure in mind," said Joanna Holvey Bowles, executive vice president and COO for Butler University's Institute for Study Abroad in Indianapolis, which arranges education abroad programs for universities and collects incident information so schools can identify crime victim trends. "Adaptation to education abroad programming can be tricky. Will the campus be able to procure a police report from a police department in a foreign country? In what language will the police



compile the report? Will the campus request for information from police first need to be translated? In some cultures, the police may not create reports. In others, they may not issue information to third parties without first obtaining written permission from the victim. In still others, it may not be possible to obtain a report in a timely manner or the police may not be trusted in the locale where students are studying."

Then there's this consideration, said Natalie Mello, vice president for member services and training for the Forum on Education Abroad: "If you have a sexual assault in a very different culture, local police could interpret that she committed the crime because she had sex outside of marriage. Offenses don't travel across cultural lines cleanly. There are many instances where you would not want to go to the local authorities to report a crime."

Language and cultural barriers are not the only time-consuming aspect of Clery when it's applied to education-abroad programs. Let's say U.S. students based in London for the summer go on a weekend excursion to Amsterdam. If the excursion is longer than two nights, university officials must get crime

statistics not only for the London location where the program rests, but also for the Amsterdam region where students will visit.

"If you have a study-abroad office that sponsors a lot of faculty-led programs that travel—five nights in Barcelona, four in Paris, three in Bonn—somebody has to reach out to the [law enforcement] jurisdiction in each community for crime stats," said Julie Anne Friend, director for Northwestern University's Office of Global Safety and Security.

Dru Simmons, Ohio State University's international risk manager, said the Clery Act requires a significant investment in training staffers which crimes to report, how to log incidents, how to analyze data, and how to

communicate with law enforcement officials.

"It can easily mean the investment of dozens of staff hours, and for under-resourced offices, that could be particularly daunting," he said.

The Forum on Education Abroad, the not-for-profit standards development organization for the field of education abroad, is creating a national database that helps universities identify and track university-related crimes, including those reportable under the Clery Act. Crime statistics are published in the aggregate so as not to identify any specific program, school or student. Instead, the aim is to let members know what types of offenses are happening, where they happen, and what the contributing factors may have been. The nation's largest universities tend to have comparable—and sophisticated—databases of their own. But for smaller schools, the Forum's database can prove enormously helpful, said Natalie Mello, the Forum's vice president for member services and training. It can, for instance, force university officials to review whether they need to change the housing location for an education abroad program, or beef up orientations before students get on a plane.

## Fuzzy Picture

A school's Clery report, which anyone can review by going on the DOE website, only tells part of the picture, and sometimes a misleading one at that. Not required to be included in the reports are thefts, for instance—by far the most frequent crime perpetrated on students studying abroad.

"Students put stuff down, walk away, come back and it's gone," Friend said. "Those are not Clery reportable. So this is one of my beefs with Clery. [The reports] make it look like they don't happen, when that's the most common crime that a study-abroad student is exposed to."

In most cases, university officials don't have to report crimes that happen on property controlled by third-party providers of education abroad experiences. As noted above, the reports include crimes that may have nothing to do with university students, faculty or staff. And because most Clery reportable crimes that fall under the "non-campus" classification would be lumped together—regardless of whether



they happened on the main U.S. campus, a satellite campus or at an overseas program—the informative nature of Clery reports can be questionable, experts said.

For instance, if one were to go to the DOE website and look at the 2012 Clery Act Annual Security Report for University XYZ, one would see a single number under the “non-campus” category for “sexual assault”—indicating how many such assaults happened that year in places “owned” or “controlled” by the university. The assaults might have happened at a fraternity house, in a park adjacent to the U.S. campus, or in a dormitory in Paris.

“Congress passed the law because it wanted students to have data that would help them make informed decisions,” Tsantir said. “Arguably, it’s not informing anyone, because the data is slopped in with data from all over.”

The DOE could not provide a Clery expert to be interviewed for this story before publication.

**“If you’re like 99.9 percent of parents, you’ll take a cursory look at the annual security report and stop there. I can’t think of any case where the parents came in and asked to see police reports, even though anyone is welcome to come in and look at anything that’s a closed investigation.”**

Many institutions, as a matter of policy, will openly discuss education abroad crimes with inquiring families—so long as divulging the information doesn’t compromise a victim’s privacy. But the fact is, said one Clery expert who asked not to be named, that very few parents or students ask for standard campus security reports, much less Clery reports.

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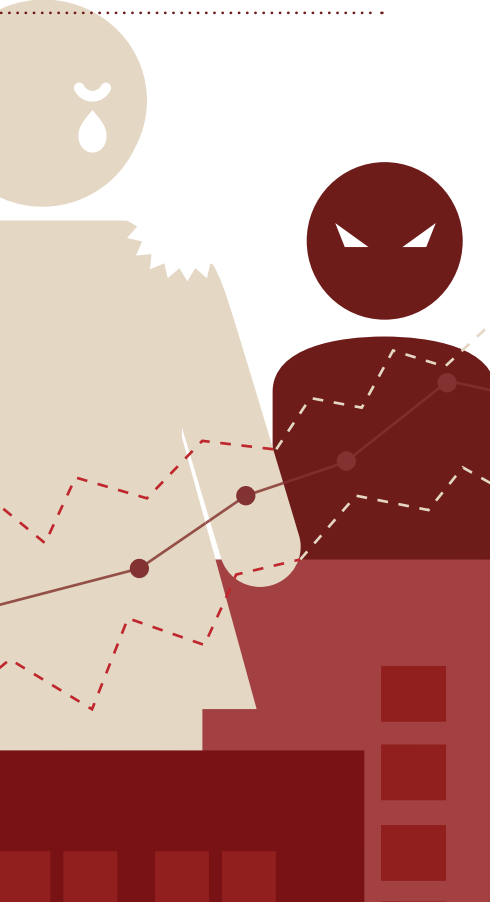
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any case where the parents came in and asked to see police reports, even though anyone is welcome to come in and look at anything that's a closed investigation."

Currently, there's a potential \$35,000-per-violation fine for running afoul of the Clery Act. Proposed legislation in Congress would increase that maximum fine to \$150,000 for some violations, and to 1 percent of a university's budget for other violations.

Other proposed regulations would implement changes to the Clery Act made by the Violence Against Women Act (VAWA)



Reauthorization Act, which was signed into law last year. That Act expands the information colleges must incorporate into their annual crime reports, including the new "Clery crimes" of domestic violence, dating violence, and stalking.

Campuses would be required to have ongoing programs and awareness campaigns aimed at preventing dating violence, domestic violence, sexual assault and stalking. Final regulations are expected to be published before November 1, 2014.

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