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NACCOP is issuing this reminder to campuses in light of recent media coverage regarding bias-related incidents on college and university campuses that may be Clery-reportable Hate Crimes.¹ Additionally, NACCOP is offering a few other important reminders to assist your institutional efforts to comply with the Clery Act in response to current events.

Important reminders regarding properly classifying and counting Hate Crimes:

- A **hate crime** is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias.
 - **Bias** is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity or national origin.
- Hate crimes must be collected and reported according to category of prejudice for all Clery Act Primary Crimes (except Manslaughter by Negligence) as well as:
 - Larceny-Theft
 - Simple Assault
 - Intimidation
 - Destruction/Damage/Vandalism of property
- Hate crimes are not reported for:
 - Liquor, Drug or Weapons Law Violations
 - Dating Violence, Domestic Violence or Stalking

The importance of conducting an investigation for all bias related incidents is critical to properly classifying hate crimes. Reference the [FBI's Hate Crime Data Collection Guidelines and Training Manual](#) (Updated 2/27/2015) for guidance to assist the investigation process. The FBI manual contains an important reminder that is reiterated, in part, in the [Handbook for Campus Safety and Security Reporting](#) (2016 Handbook): “Due to the difficulty of ascertaining the offender’s subjective motivation, bias is to be reported *only if* investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender’s actions were motivated, in whole or in part, by bias” (FBI, 2015, p. 4).²

The 2016 Handbook also contains important facts and other information for institutions of higher education to consider when determining whether a crime was motivated by bias (see pages 3-30 through 3-32). Of note, “Remember, it is the perception of the offender, not the perception of the victim that determines whether a crime is classified as a Hate Crime. Also, knowing that an offender is prejudiced is not enough to classify a crime as a Hate Crime. There must be evidence that the offender was motivated by that prejudice to commit the crime” (2016 Handbook, p. 3-32).

¹ See the Chronicle of Higher Education’s “Here’s a Rundown of the Latest Campus-Climate Incidents Since the Election” at <http://www.chronicle.com/blogs/ticker/heres-a-rundown-of-the-latest-campus-climate-incidents-since-trumps-election/115553>. The Southern Poverty Law Center has documented more than 700 bias-related incidents nationwide since the election, including more than 100 occurring at universities. See <https://www.splcenter.org/hatewatch/2016/11/18/update-incidents-hateful-harassment-election-day-now-number-701>.

² Underlined text appears in the 2016 Handbook on p. 3-30



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Assessing crime reports to determine if a Timely Warning Notice is required:

Are you evaluating potential Hate Crimes for the purpose of issuing a Timely Warning Notice? According to the 2016 Handbook for Campus Safety and Security Reporting, “You must issue a timely warning for all *Clery Act* crimes that occur on your *Clery Act* geography that are:

- reported to campus security authorities or local police agencies; and
- considered by the institution to represent a serious or continuing threat to students and employees.

The requirement for timely warnings is not limited to violent crimes or crimes against persons so you should not have a timely warning policy that contains this restriction” (p. 6-12). Although not every bias-related incident will meet the criteria necessary to classify it as a Hate Crime, and not every Hate Crime may warrant a Timely Warning Notice, it is of critical importance to assess each of these reports to determine **IF** a Timely Warning Notice is warranted. Institutions should document why a warning was not issued if a Hate Crime was reported in a timely fashion and the institution has not sufficiently mitigated the continuing danger to the campus community (such as by immediately apprehending the offender or offenders).

Department of Education Media Assessments

The Department of Education (ED) assesses media reports to identify whether a compliance review should be initiated.³ New stories coverings incidents on campus may lead to evaluation by ED to determine if the institution responded in a Clery Act compliant manner. In some instances, ED is contacting the institution to request documents pertaining to the incident within a few hours of the news breaking. This request typically includes the campus public safety department’s incident report and any notice issued to the campus community (or, if a notice was not issued, a written explanation that outlines the rationale for not issuing a warning). ED is also requesting copies of the institution’s crime log to evaluate whether an entry was made to the log within two business days of being reported to campus police/public safety, as required. Institutions should expect to provide this type of documentation as well as any related policies pertaining to responding to reports of crime and issuing Timely Warning Notices.

³ The Department notes that a Clery Act review may be initiated when “a media event raises certain concerns.” See <https://studentaid.ed.gov/sa/es/sites/default/files/fsawg/datacenter/cleryact/CleryDataCenterv3.pdf>. Also, the June 2014 congressional testimony of James Moore, who oversees the Clery Act Compliance Team, indicated “The Clery Division also monitors media coverage of campus crime activity and conducts a preliminary assessment of major campus crimes to determine if any additional investigation is needed to determine if the institution complied with the Clery Act in response to these incidents. Since this program was put into place in January 2012, 477 incidents requiring an assessment have been identified. To support this work, the Clery Division has developed a strategic plan through which they are leveraging crime analytics and other technology to more effectively monitor crime trends and identify possible compliance failures.”



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CSA Reporting Responsibility

- Make sure that you have properly identified and trained your institution's Campus Security Authorities (CSAs). If you have not trained CSAs, or your training did not address Hate Crimes, now may be an opportune time to advise your CSAs of reporting requirements related to Hate Crimes and reiterate how you want CSAs to submit crime reports to the reporting structure of the institution.
- It may be prudent to remind your CSAs of the importance of reporting all bias related incidents immediately to the institution's reporting structure. This is important so that these incidents can be investigated to determine if they are Clery Act reportable Hate Crimes AND so these incidents can be promptly assessed to determine if a Timely Warning Notice needs to be disseminated.
- Institutions should not expect that CSAs assess bias related incidents for Clery Act reporting purposes to determine if they are in fact a Hate Crime, rather CSAs need to understand the importance of prompt reporting.