

Clery Hot Topics

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Disclaimer

We can't help it – we're lawyers!

- We are not giving legal advice today.
- Please consult with your legal counsel regarding specific situations.
- Use Q&A function to ask general questions and hypotheticals. We encourage questions!
- Yes, we will send out the slides. If you used your email to register, look for a “Thank You For Attending!” email.

Today's Agenda

- What's new?!
 - New Review
 - Stop Campus Hazing Act
 - NIBRS Updates
- Building your Clery Team
- Timeline for ASR Prep.
- Timely Warnings and Emergency Notification Reminders



UC Berkeley “Focused Review”

- Dep’t of Ed. announced November 25, 2025 it would launch a “focused review” following a November 2025 incident on campus and “ongoing compliance issues.”
- November 10, 2025 TPUSA Event on campus “turned violent” and “jeopardiz[ed] the safety of its students and staff”
- The DOJ and FBI joint terrorism taskforce are also investigating.
- Background: in 2020, UB Berkeley underwent a review and paid a \$2.4 million fine.
- FSA is requesting that Berkeley turn over various records including (but not limited to) the 2025 ASR, an “audit trail” of 2022-2024 categorization of crime statistics, and “post event response assessment”

Stop Campus Hazing Act

Background on Stop Campus Hazing Act (“SCHA”)

- [Public Law No: 118-173](#)
- SCHA amends the Clery Act
- Introduced in the House on September 21, 2023
- Signed into law on December 23, 2024

ASR: Crime Statistics

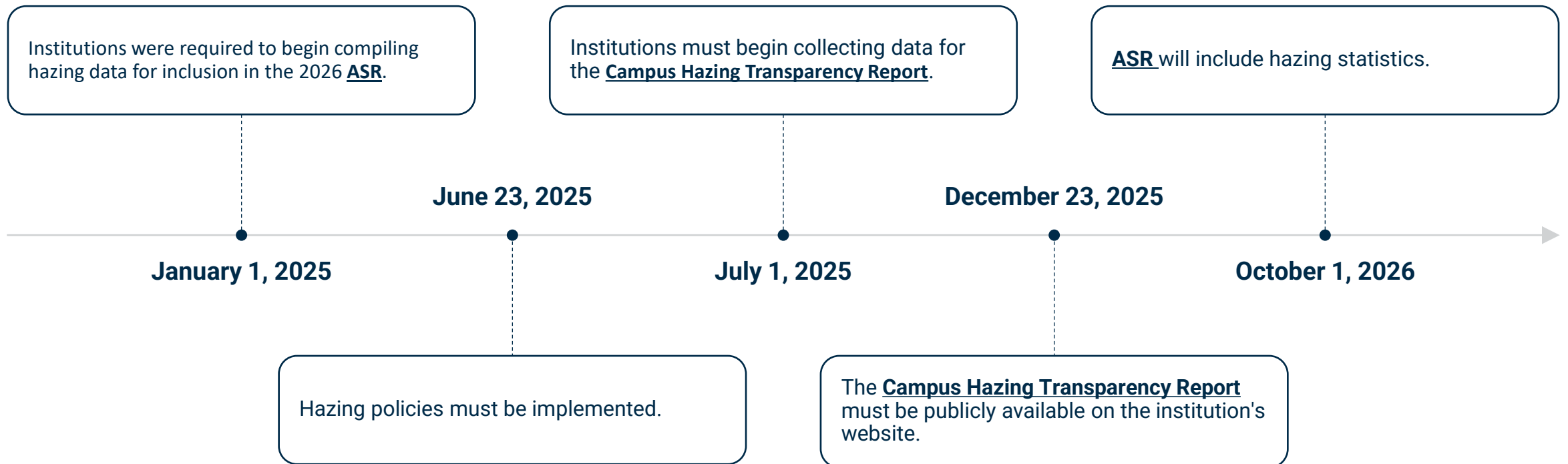
Primary crimes <ol style="list-style-type: none">1. Murder/Non-Negligent Manslaughter2. Negligent Manslaughter3. Rape4. Fondling5. Incest6. Statutory Rape7. Robbery8. Aggravated assault9. Burglary10. Motor vehicle theft11. Arson	Arrests and referrals for disciplinary actions for: <ol style="list-style-type: none">1. Liquor law violations2. Drug law violations3. Illegal weapons possessions	VAWA Offenses <ol style="list-style-type: none">1. Domestic Violence2. Dating violence3. Stalking
	Hate Crimes: All primary crimes PLUS <ol style="list-style-type: none">1. Larceny-theft2. Simple Assault3. Intimidation4. Destruction/damage/vandalism of property	

New for 2026 ASR: Hazing

Notes on ASR Crime Statistics

- An institution must report to the Department and disclose in its ASR statistics for the three most recent calendar years concerning Clery crimes (now including hazing):
 - That occurred on or within its Clery geography and
 - That are reported to local police agencies or to a campus security authority

Timeline – New for SCHA & Clery



SCHA - Definitions

- For purposes of reporting for your ASR

Hazing

Student
Organizations

Hazing Definition



Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that--

- I. is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and
- II. causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including—

(cont. next slide)



Hazing Definition (cont.)



- a) whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity;
- b) causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
- c) causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
- d) causing, coercing, or otherwise inducing another person to perform sexual acts;
- e) any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
- f) any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and
- g) any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law."



Already have a definition of **hazing**?

- Remember the purpose of the new definition – ASR reporting
- Remember the purpose of your current definition
- Do you want to adopt the new federal definition for purposes of student/organizational conduct?
 - Does it fit your institutional ethic of care?
 - Is it required by state or local law?
 - Does it impact the consistency of your sanctions?
 - **Note the Act's definition of Student Organization

Student Organization Definition

“

“An organization at an institution of higher education (such as a club, society, association, varsity or junior varsity athletic team, club sports team, fraternity, sorority, band, or student government) in which two or more of the members are students enrolled at the institution of higher education, whether or not the organization is established or recognized by the institution.”

”

Already have a definition of **student organization**?

- The Act's definition includes groups not formally recognized by the institution
 - "... an organization at an institution of higher education (such as a club, society, association, varsity or junior varsity athletic team, club sports team, fraternity, sorority, band, or student government) in which two or more of the members are students enrolled at the institution of higher education, whether or not the organization is established or recognized by the institution." [Emphasis added].
- Does that definition make sense for your student conduct process?
 - Jurisdiction under existing Policy
 - Ability to Sanction
- Consider impact to internal recognition policies

Notes on ASR Crime Statistics (cont.)

- Must be recorded by location
- Cannot remove from statistics based on a decision by court, jury, etc.
- Must be recorded by calendar year (not academic year)
- Hate crimes must be recorded by category of bias
- Must make reasonable, good faith effort to obtain statistics, may rely on the information supplied by a local or State police agency



- Your ASR must include hazing policies and a prevention programming information
 - These should be in place by June 23, 2025
- The Act specifies that your policy can define “Hazing” for your institution
- Your Policy **must** include :
 - How to report incidents (as defined by the institution)
 - The Process used to investigate
 - Information of local, State, and Tribal laws on hazing

NIBRS Updates

NEW: A Note on NIBRS

- The NIBRS User Manual was updated on June 23, 2025.
- Key Updates:
 - “Fondling” → “Criminal Sexual Contact” (see, pp. 8, 73)
 - “Rape” reverted to prior definition under SRS (see, pp. 72-73)
 - “Sexual Assault with an object” + “Sodomy” now counted as part of “Rape” definition. (see, pp. 72-73)
- Clery Act Statute defines “sexual assault” in 20 U.S.C. 1092(f)(6)(A)(v) as “forcible or nonforcible sex offenses” under the “Uniform crime reporting system” of the FBI
 - BUT the Clery Regulations define Sexual Assault under the Appendix A to the Regulations – which uses the former definition of “fondling” not the new definition of “Criminal Sexual Contact”
 - Work with general counsel to identify which definitions will be used for Clery statistics purposes

Sexual Assault: Fondling (Criminal Sexual Contact)

NIBRS Update 2025:

The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Old: The touching of the **private body parts** of another person **for the purpose of sexual gratification**, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault: Rape

NIBRS Update 2025: “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.”

Sexual Assault: Sodomy

NIBRS 2025 update: “[Sodomy] and [Sexual Assault with an object] may still be reported to the FBI’s UCR Program and will be reclassified and recoded under the broader category of [Rape]”

OLD: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with an Object

NIBRS 2025 update: “[Sodomy] and [Sexual Assault with an object] may still be reported to the FBI’s UCR Program and will be reclassified and recoded under the broader category of [Rape]”

OLD:

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

An “object” or “instrument” is anything used by the offender other than the offender’s genitalia, e.g., a finger, bottle, handgun, stick.

Gather Your Clergy Team

Clery Coordinator

What does a Clery Coordinator do/facilitate?

CSA reporting and
identification

Athletic, Title IX,
and Student
Conduct reporting
and reconciliation

CSA Training

Policy Update
Process

Local
police/noncampus
property statistics
outreach

ASFSR Prep

Timely Warning
Emergency
Notifications

What is a CSA?

Any of the following:

A campus police department or campus security department

An individual who has responsibility for campus security but isn't a police/security department (e.g. monitors entrances)

An individual or organization that is included in your campus security policy as someone to whom individuals can report criminal offenses

Official as a CSA
(Most complicatedly...)



What does a CSA do?

- Undergo training
- Report crimes within the Clery geography of which you become aware

Who should be on your Clery Team?

- Clery Coordinator
- Public Safety
- Emergency Management
- Title IX/Civil Rights
- General Counsel
- Student Conduct
- Athletics
- HR
- Who else?

ASR Preparation

Overview of ASR Contents

1. Crime Statistics
2. Policy on student reporting crimes
3. Policy on security of and access to campus facilities
4. Policy on campus law enforcement
5. Description of programs to inform students about campus security
6. Description of programs to inform students about prevention of crimes
7. Policy on non-campus orgs and crime monitoring through law enforcement
8. Policy on drinking
9. Policy on drugs
10. Description of any drug or alcohol-abuse education programs
11. Policy on the programs to prevent VAWA crimes (dating violence, domestic violence, sexual assault, and stalking)
12. Where sex offender information can be found
13. Policy on emergency response and evacuation procedures
14. Policy on missing student notification procedures
15. NEW: Hazing Policies/Procedures

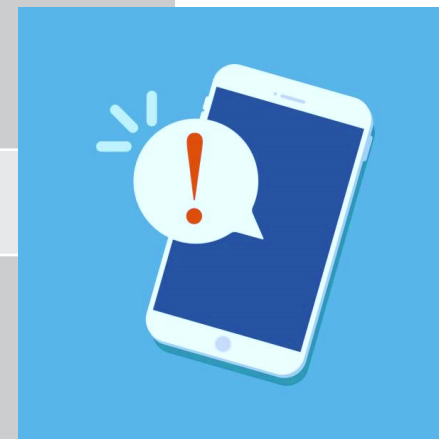
Sample Timeline

- January: Convene your Clery Team
- February to June: Collect and reconcile statistics.
- June to August: Compile copies of all relevant policies and procedures and continue data reconciliation
- August: Compile first draft of ASR/AFSR
- September: Circulate and Finalize ASR/AFSR
- By October 1: Disseminate Report

Emergency Notifications & Timely Warnings

What's the difference?

	Emergency Notifications	Timely Warnings
What level of concern?	Significant emergency or dangerous situation	Serious or continuing threat
Clery crimes only?	No	Yes
Location?	On campus or imminent threat to campus	Clery Geography
When issued?	Immediately on confirmation	Warning as soon as information is available



Thank You



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