

THE CITY UNIVERSITY OF NEW YORK

Office of the General Counsel and Vice Chancellor for Legal Affairs

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**Administrative Advisory
Memorandum No. 13**

February 7, 1992

To: College Presidents

From: Vice Chancellor Robert E. Diaz 

Re: Federal Campus Crime Awareness and Campus Security Legislation

This memorandum, in question and answer format, will serve as a briefing on the new federal law known as the "Campus Crime Awareness and Campus Security Act," hereinafter referred to as the "Campus Security Act" (20 U.S.C.A. §1092 (f)).

1. What information has already been sent to the colleges on the Campus Security Act?

Two "Dear Colleague" letters dated March 1991 and August 1991 were distributed by the U.S. Department of Education to all college presidents, registrars and financial aid administrators setting forth the interim requirements of the Campus Security Act pending the issuance of regulations. If you do not have a copy of the August 1991 letter (DCL GEN 91-27), one will be provided on request. Enclosed with one copy of the August 1991 Dear Colleague letter were two FBI publications on crime definitions, the Uniform Crime Reporting Handbook and the Hate Crime Data Collection Guidelines.

2. When will proposed regulations be issued by the Department of Education and what should be done with them?

Proposed federal regulations to implement the law were to be issued for comment in September 1991, but have been delayed. A Notice of Proposed Rulemaking and Final Regulations will probably be issued within the next several months. When they are issued, the Department of Education will request comments. This office will coordinate the University's comments. All suggested comments should be mailed to the Deputy General Counsel, Roy Moskowitz.

3. What does the Campus Security Act purport to do?

The Campus Security Act requires the establishment and disclosure of campus security policies, and the collection and distribution of campus crime statistics. The campus security policies and crime statistics must be distributed to applicants for enrollment or employment upon request, and to all current students and employees, through appropriate publications and mailings on an annual basis.

4. When must the college begin providing information on campus security policies and crime statistics?

On September 1, 1992, and each year thereafter, the college must distribute this information.

5. How does the Campus Security Act define "campus"?

The Act defines the "campus" to include any building or property owned or controlled by the college within the same reasonable contiguous geographic area and used in support of, or related to its educational purposes. The campus is defined to also include any building or property owned or controlled by student organizations recognized by the college such as fraternity or sorority houses. Branch campuses or schools that are not within a reasonably contiguous geographic area are considered separate campuses. Control is the operative word in determining whether buildings or grounds are part of the campus for reporting purposes. If a student is a victim of a crime while walking from one building to another, and the street on which the crime took place is a public street not controlled by the college, the college is not required to statistically disclose the crime. (DCL GEN 91-27, at p. 10)

6. What type of security policies must a college have and distribute?

Each college must publish and distribute, on an annual basis, policy statements regarding:

- (1) procedures for students and others to report criminal actions or other emergencies occurring on campus and the college's response to such reports;
- (2) security and access to campus facilities, and security considerations used in the maintenance of campus facilities;

- (3) campus law enforcement, including (a) the enforcement authority of campus security and its working relationship with police; and (b) a description of policies which encourage accurate and prompt reporting of all crimes to campus security and the police;
- (4) type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others;
- (5) programs designed to inform students and employees about the prevention of crimes;
- (6) monitoring criminal activity at recognized off-campus student organizations, such as fraternity and sorority houses, through the police; and
- (7) alcohol and drug prohibitions, including underage drinking laws, and a description of drug or alcohol abuse education programs.

7. Will the Legal Affairs Office distribute model policies?

This office will work with the University Security Director on drafting policy statements for your consideration, and will be available to review policies which you wish to propose for your campus. Please send us any local policies you may have now. The college should already have alcohol and drug policy statements in place which conform with the Federal Drug Free School and Campuses Act.

8. If a college currently describes its policies regarding alcohol and drugs in the materials distributed annually to comply with the Federal Drug Free Schools and Campuses Act, does the information have to be distributed again?

No, but a reference must be made to the materials containing these policies. Your materials distributed under the Drug Free Schools and Campuses Act should be reviewed to assure they contain the required statements of policy regarding the possession, use, and sale of alcoholic beverages; enforcement of state underage drinking laws; possession, use, and sale of illegal drugs; enforcement of federal and state drug laws; and a description of any drug or alcohol abuse education programs.

9. What crime statistics on occurrences must be reported and for what period?

A. **Reportable Occurrences.** Each college must report, for the most recent calendar year and the two preceding calendar years, the number of occurrences on campus of the following crimes (*i.e.*, reported to campus security or the police, not necessarily resulting in arrest or conviction):

- (1) murder;
- (2) rape;
- (3) robbery;
- (4) aggravated assault;
- (5) burglary; and
- (6) motor vehicle theft.

B. **Reporting Periods.** Data to be disclosed on September 1, 1992 will be for the period August 1, 1991 through July 31, 1992, and any two preceding years for which data are available. For the September 1, 1992 disclosures only, the preceding two years data may be for any one year period, (*e.g.*, January through December, August through July). For the time period prior to August 1, 1991, data need only be provided to the extent it is available or can be collected. (DCL GEN 91-27, at p. 9) The calendar year reporting period will be required for the following year, *i.e.*, for September 1, 1993 disclosures, the reporting period will be from January 1, 1992 to December 31, 1992.

10. Must the college do any other reporting of the crimes listed in the above question number nine?

Yes. In addition to distributing crime statistics annually, the college must make timely reports to the campus community on any such crimes considered to be a threat to other students and employees, and must disseminate the information in a manner that will aid in the prevention of similar occurrences.

11. Does the college have to maintain any other crime statistics and for what periods?

A. **Reportable Arrests.** Each college must also report the number of arrests (*i.e.*, not occurrences or convictions) for the following crimes:

- (1) liquor law violations;
- (2) drug abuse violations; and
- (3) weapons possessions.

B. Reporting Periods. Arrest statistics must be reported for only one year. The reporting period for these arrests is now August 1, 1991 through July 31, 1992, but may be changed in the future to the calendar year by federal regulations. (DCL GEN 91-27, at p. 9)

12. How must the campus security policies and crime statistics be distributed?

Appropriate publications for the disclosure of the college's crime security policies and statistics are a college catalog, student and employee handbooks, a crime prevention manual or brochure, an information leaflet, etc. (DCL GEN 91-27, at p. 9) The policies and statistics should be contained in one document, if possible. The distribution should take place by mail, or otherwise, to ensure that all students and employees receive the information. An alternative to mail for students would be distribution with registration materials which all students must be provided, or for employees, with paychecks.

13. What definitions should the college use to record crimes?

The definitions contained in the crime definition manuals of the FBI, *i.e.*, the Uniform Crime Reporting Handbook and the Hate Crime Data Collection Guidelines. The U.S. Department of Education has mailed one copy of each of the manuals to the colleges.

A. Occurrences. The six listed crimes for which occurrences must be reported are generally defined by the FBI as follows:

Murder - is the willful (nonnegligent) killing of a person by another.

Rape - is the carnal knowledge of a female forcibly and against her will, or where the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity. Attempts to commit rape by force or threat of force are also included. This definition of "rape" is limited to sexual intercourse and does not include attacks on males. (Under the FBI reporting system, sex crimes other

than rape would be classified as "sex offenses" which do not have to be reported. Depending upon the extent of injury, such a sex offense may also be counted as an "aggravated assault.")

Robbery - is the taking or attempting to take anything of value from the care, custody, or control of a person by force or threat of force or violence.

Aggravated assault - is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

Burglary - is the unlawful entry into a building or structure to commit a felony or theft. Burglary includes forcible entry, unlawful entry where no force is used, and attempted forcible entry.

Motor vehicle theft - is the theft or attempted theft of a motor vehicle.

B. **Arrests.** The three crimes for which arrests must be reported are generally defined by the FBI definitions as follows. Although the FBI definitions should be used for categorizing reportable arrests, colleges will have to rely on statistics and reports received from the police.

Liquor law violations - are violations of laws prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages (but do not include driving under the influence or drunkenness).

Drug abuse violations - are violations of laws prohibiting the possession, sale, use, growing, manufacturing, and making of narcotic drugs including opium, cocaine, morphine, heroin, codeine, marijuana, demerol, methadones, barbiturates and benzedrine.

Weapons possessions - are violations of laws prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of guns, firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

14. What are the reporting requirements under the Campus Security Act?

There are no reporting requirements to the U.S. Department of Education, but upon the request of the Secretary of Education, a copy of the crime occurrence and arrest statistics must be provided. Each college has been provided by the Department of Education with an amended Program Participation Agreement (PPA) for Title IV Student Financial Assistance complying with the Campus Security Act. The Deputy Chancellor will file a certification covering the entire University. The PPA at Article II, paragraph 5(b) certifies that the college/university is in compliance with the requirements of the Campus Security Act, under which policies and crime statistics must be disseminated beginning September 1, 1992.

c: Cabinet
University Director of Security
Chief Administration Officers
Legal Affairs Designees
Security Directors

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