

**Complaint Of Non-Compliance With The
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
(Crime Awareness and Campus Security Act of 1990)**

20 USC § 1092(f); 34 CFR 668.46

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Annual Security Report Due: October 1, 2003

Participating Institution

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Introduction

Through media reports, and an independent review of institutional documentation we have been made aware of possible violations of the federal Jeanne Clery Act by La Salle University relating to their handling of sexual assault. Specifically, it has been widely reported that a member of the women's basketball team was discouraged by one or more members of the school's coaching staff from reporting to the authorities that she had been sexually assaulted in April of 2003 allegedly by a member of the men's basketball team.

Our subsequent review of the University's Clery Act annual security report revealed related compliance issues that, along with the allegations reported in the media, warrant a prompt, and thorough review by the U.S. Department of Education of the issues detailed in this complaint.

Incident Not Reported To Law Enforcement

Perhaps the most disturbing Clery Act compliance issue we identified concerns a policy that the University does have in place, but apparently did not follow in the April 2003 case. The first page of the annual security report (Exhibit A) clearly states that "victims of crime are encouraged to file a report with the Philadelphia Police Department."

The Clery Act regulations at 34 CFR § 668.46 (b)(4)(ii) require schools to have a policy statement that "encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies." This requirement goes to the core of the Clery Act. Failing to follow this policy, and or misrepresenting the institution's actual practice puts student safety at

serious risk by allowing criminal acts to go unchecked by those best suited to deal with them, the police.

Steps need to be taken to ensure that no University employees ever again attempt to keep a student from reporting a crime to the police. Also, a thorough investigation is warranted to discover any other instances where students may have been dissuaded from reporting to the police.

Incomplete Sexual Assault Policy

The University's annual security report (Exhibit A) fails to include in the sexual assault victims' rights policy disclosures "a statement that institutional personnel will assist the student in notifying (local police), if the student requests the assistance of these personnel" as required by the Clery Act's implementing regulations at 34 CFR § 668.46 (b)(11)(iii). Instead the report states in a separate section only that campus security officers "will assist students who become victims of crime on or off campus by contacting the appropriate emergency service agency."

This policy is too narrow in scope to be in full compliance with the Clery Act. It fails to encompass all campus officials to whom students may report a rape such as coaches, and does not clearly state that police officials will be contacted. Also, while the La Salle University student handbook on page 36 (Exhibit B) states that the "Security and Safety Office is required by law to contact local police any time a crime has been committed" this statement is not found in the annual security report itself.

Under the Clery Act's regulations at 34 CFR § 668.46 (a) a campus security authority is broadly defined as any "official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings" in recognition of the reality that students aren't going to report crimes only to the police or campus security. Accordingly the University's policy must address these officials too, not just the Security and Safety Office.

This statement also does not make it explicit that school officials are legally obligated to assist a student in reporting a sexual assault. Assisting a student is far different from merely contacting local police about a complaint they have made, and involves supporting them both emotionally and logistically.

Further, this statement in their annual security report is separate from the policies on sexual assault. Congress intended for institutions to exercise a higher level of care when dealing with sensitive crimes of this magnitude, and there needs to be a specific policy disclosure stating that the school will specifically assist sexual assault victims in notifying the police.

Had such a policy been in place, and well known among students and employees, it is possible that the student reporting the April 2003 assault would have received the assistance she needed rather than been turned away in her time of need.

Timely Warning Not Issued

According to published reports (Exhibit C), the University did not notify law enforcement or issue any warnings to students about the April 2003 forcible sex offense reported to one or more team coaches. It is important that students be warned about this type of criminal activity on campus so that they can make informed decisions about steps to avoid future victimization, either by the same individual and or under similar circumstances.

The Clery Act regulations, at 34 CFR § 668.46 (e), require that institutions “must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are... reported to campus security authorities... and... represent a threat to students and employees.” According to U.S. Department of Education guidance found at 64 FR 59063 a “team coach” is considered a campus security authority for Clery Act purposes. This means that the requirement is triggered when a crime that poses an ongoing threat is reported to a coach.

The University should have issued a timely warning. Had they issued one it is possible that the La Salle University community would have taken steps to better address this problem, and that a second assault which has also been widely reported in the media would never have occurred.

Policy Statements Missing Or Incomplete

The annual security report (Exhibit A) omits policy statements concerning how the crime statistics are compiled, and whether or not there is a voluntary, confidential reporting system for statistical purposes only. These statements are required by 34 CFR § 668.46(b)(2).

Explaining how the statistics are compiled helps ensure that the community understands that they include crimes reported not only to campus security, but also local police and campus officials such as deans and coaches. It also helps to ensure that an institution is actually collecting information from all required sources.

While the annual security report does state that “anonymously reported crimes are investigated” by the Security and Safety Department, this is not the type of confidential reporting system the Clery Act regulations refer to. This policy statement is intended to clearly explain whether or not mental health and pastoral counselors can refer individuals to a program to report a crime confidentially, not anonymously, for inclusion in the annual statistics and not necessarily for investigation by the Security and Safety Department or the local police.

A related policy disclosure, a description of procedures, if any, encouraging pastoral and mental health counselors to refer persons they are counseling to a voluntary, confidential reporting program is also missing. This separate disclosure is required by 34 CFR 668.46(b)(4).