

# REPORTING ON STUDENT SAFETY AND SECURITY ABROAD: LEGAL REQUIREMENTS AND BEST PRACTICES

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## I. Introduction:

Colleges and universities send more and more students each year to a myriad of different international higher education experiences. These experiences are a very important part of the educational experience for many students and almost all students have a positive and safe experience when they go abroad. A very small percentage of students who study internationally are arrested, go missing, or are injured or killed. While incidents occur domestically as well, in the international environment, a number of overlapping laws and standards apply to international education, and those different laws and standards are compounded by language and cultural differences in these countries.

Several United States federal laws govern higher education overseas study. These laws should not be confused with risk management standards or best practices for insuring safety. In fact, some of the laws when applied in certain ways may actually lead to greater danger for our students. Colleges should endeavor to comply with the laws discussed in this presentation and outline but should not do so at the cost of properly managing risk.

This conference paper assumes a general knowledge of the Clery Act, Title IX and related obligations.<sup>1</sup> Further, this conference paper concentrates on international reporting and response requirements, not general liability questions in study abroad.<sup>2</sup>

## II. Legal Requirements:

Federal law, regulations and sub-regulatory guidance require that colleges and universities report statistics of certain crimes in specific locations, and take certain actions when they learn of certain crimes and of harassment or unequal treatment on the basis of sex. The laws and guidance overlap somewhat when students study overseas, but they use different standards and definitions that can be confusing to higher education professionals, and the regulatory regimes leave substantial gaps that can be filled by institutional policy.

As a note, the Clery Act (including VAWA) and Title IX are not risk management laws, nor should they be seen as prescriptions for running safe overseas programs.<sup>3</sup> Primarily these

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<sup>1</sup> Rather than including general information this paper will, where applicable, point towards resources that may assist in compliance.

<sup>2</sup> Readers interested in the more general questions of liability are commended to a recent Journal of College and University Law article on point. *See* Footnote 20 in Robert J. Aalberts, Chad Marzen, and Darren Prum, *Studying is Dangerous? Possible Federal Remedies for Study Abroad Liability*, 41 J. of College and Univ. L. 189 (2015) (collecting articles on point).

<sup>3</sup> For information on risk management standards, please *see* *Standards of Good Practice for Education Abroad* (5<sup>th</sup>

laws require response and consumer reporting, and do very little to lower the risk of injury, illness, or victimization in study abroad.<sup>4</sup> Below please find information on these laws and special issues raised in the overseas environment.

### A. The Clery Act:<sup>5</sup>

Prior to 2011, the 2005 Clery Act Handbook<sup>6</sup> listed few requirements outside the United States. The 2011 Clery Act Handbook<sup>7</sup> significantly expanded reporting and response requirements in certain international programs.<sup>8</sup> These reporting requirements maintain the Clery Act's geographic rules and require reporting of certain incidents that occur in certain locations, referred to as Clery geography. In 2013, the reauthorization of the Violence Against Women Act<sup>9</sup> amended the Clery Act to add new reporting within those geographic locations. Interestingly, while reporting maintains the traditional geographic standards, the VAWA added certain response requirements that eschew geography and require action based on status as victim of a crime, regardless of where the incident occurred. This aspect of the VAWA looks more like Title IX, discussed below.

### B. Title IX:

Title IX prohibits unequal treatment on the basis of sex in access to educational programs. While the text of Title IX begins "No person in the United States shall..." the Department of Education has been inconsistent in its interpretation of this law in international environments. There is no written ED guidance on the topic, and different regional offices of the Office for Civil Rights have said that Title IX does not apply outside of the United States while others insist that Title IX is completely applicable outside of the United States and, in fact, is not based on geographic location at all. Case law is similarly split on whether Title IX applies outside of the U.S.<sup>10</sup> Due to the unsettled nature of this requirement, this conference paper will assume *arguendo* that Title IX applies overseas.

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*Ed.*), FORUM ON EDUCATION ABROAD, available at <http://www.forumea.org/wp-content/uploads/2014/08/Standards-2015.pdf> (2015).

<sup>4</sup> There are aspects of the Violence Against Women Act that *do* address training and risk reduction in an effort to address and prevent future crimes and incidents.

<sup>5</sup> For a more detailed treatment of precise Clery Act requirements in the distance and overseas environment, please see Joseph Storch, *The Clery Act and Overseas/Distance Study: New Developments and Compliance Guidance*, 10 NACUA Notes 5 (Apr. 5, 2012). Please ensure that you are using the version with the *Editor's Note*, as federal sub-regulatory guidance changed after the NACUA Note was initially published. Please also note that the NACUA Note precedes VAWA Reauthorization.

<sup>6</sup> U.S. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Crime Reporting*, Washington, D.C., 2005.

<sup>7</sup> U.S. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting*, Washington, D.C., 2011.

<sup>8</sup> It should be noted that the Department, in a conversation agreed that these requirements had never been written down, but insisted that the same rules had always applied; they just had never been placed in writing. There were no relevant statutory or regulatory changes to Clery Act geography during the time period between 2005 and 2011.

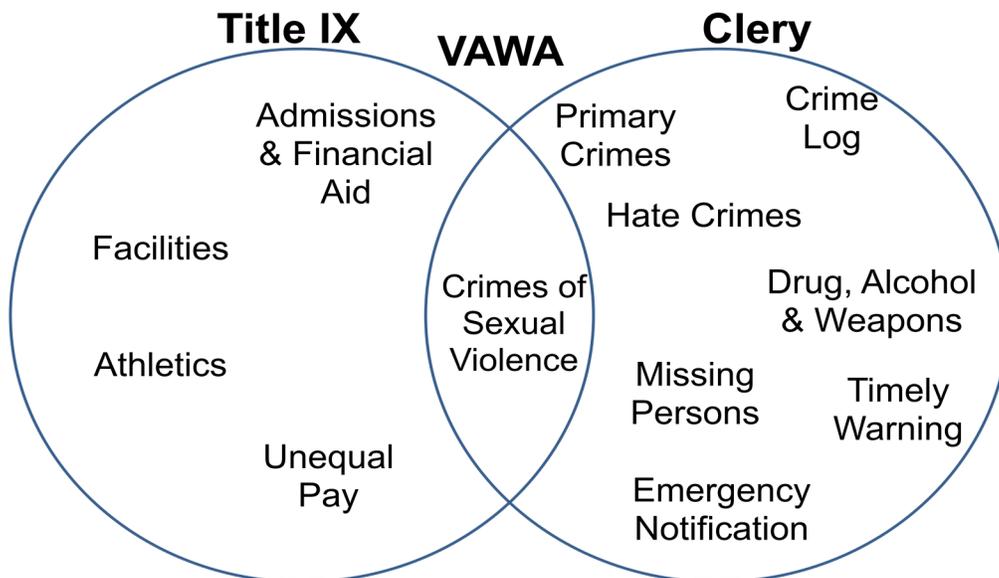
<sup>9</sup> P.L. 113-4, Mar. 7, 2013; Codified at 20 U.S.C. §1092(f).

<sup>10</sup> *Compare* King v. Board of Control of Eastern Michigan University, 221 F.Supp. 2d 783 (E.D. Mich. 2002) with *Mattingly v. Univ. of Louisville*, 2006 WL 2178032 (W.D. Ky. July 28, 2006) and *Phillips v. St. George's University*, 2007 WL 3407728 (E.D.N.Y. Nov. 15, 2007). For an excellent in-depth discussion of each of these cases in a very recent *Journal of College and University Law*, please see Aalberts, *supra* Note 2.

Title IX currently requires no formal reporting (as Clery does in the Crime Log and Annual Security Report). The applicability of Title IX in the overseas environment is primarily in the area of response to reports of sex discrimination. Title IX guidance requires prompt response, investigation and (where called for) action to address and ameliorate unequal treatment on the basis of sex.<sup>11</sup>

**C. Where VAWA and Title IX Meet:<sup>12</sup>**

Though they are often discussed together, most of Title IX *does not* overlap with most of the Clery Act. In addition to using different standards, very little of each law is also included in the other law. The following Venn diagram (prepared with SUNY Associate Counsel Andrea Stagg) shows where these laws do not overlap and highlights the very limited area where these laws and the concepts in these laws overlap.



Title IX and VAWA/Clery meet in the area of response to (most)<sup>13</sup> sexual and

<sup>11</sup> It goes without saying that it is a best practice to address discrimination, including sex discrimination, whether it is technically required or not.

<sup>12</sup> For a more detailed discussion of the requirements of the Violence Against Women Act, please see Andrea Stagg and Joseph Storch, *Preventing and Addressing Sexual Assault, Domestic Violence, Dating Violence and Stalking on College Campuses: Implementing the Violence Against Women Act Amendments to the Clery Act*, 13 NACUA Notes 5 (In Press 2015).

<sup>13</sup> Many in the popular media conflate these two laws, but higher education professionals must be careful as they do not completely overlap. There are several VAWA reportable crimes that do not implicate Title IX. For instance, if a student constantly contacts a professor regarding a paper, and the professor contacts student affairs to complain of the incessant contact, the report may count as a VAWA stalking if it meets all the applicable requirements (course of conduct directed at a specific person that could cause a reasonable person to suffer emotional distress, and either the student is on Clery property when sending the messages or the professor is on Clery property when reviewing the messages). But there is no unequal treatment on the basis of sex. Similarly if a father meets up with his son, a student, in institutional-owned property overseas and commits an aggravated assault against the student, that would be reportable as an aggravated assault and as a domestic violence felony or misdemeanor crime of violence, but it does not implicate Title IX responsibilities.

interpersonal violence. Colleges must provide certain notifications to all students and other notifications to all victims/survivors of these crimes. Further, the law and the guidance create rules that govern the conduct process. Inasmuch as the same rules apply overseas, institutions (and their vendors and partners) should prepare for the reporting and response requirements of sexual and interpersonal violence in the study abroad environment.

#### **D. Reporting for Clery/VAWA Overseas:**

The Clery Act requires that we report all Clery Act countable crimes which occur on relevant Clery geography that are either reported to a Campus Security Authority or to local law enforcement.<sup>14</sup> The Department of Education, in oral guidance to the author, stated that it looks positively on a policy of declaring all faculty and staff who travel overseas with students as Campus Security Authorities. This makes sense as our college students are most likely to look to faculty and staff from their home institution for support in crisis. The other requirement, querying local law enforcement is a bit more challenging.

Clery Act Part I (classic Clery crimes), Part III (hate crimes), and Part IV (VAWA crimes and incidents) are reportable using United States F.B.I. Uniform Crime Reporting definitions.<sup>15</sup> It goes without saying that local law enforcement in small towns and big cities outside of the U.S. look askance at being asked to report statistics using such definitions. While there is no empirical data on reporting rates, anecdotal evidence is that few if any schools receive useful information for Clery reporting when requesting statistics from overseas law enforcement. Colleges are in compliance simply by sending the letter,<sup>16</sup> even if they never hear back from the local law enforcement, or the data received back cannot be used.<sup>17</sup> The Department of Education has declined to exempt overseas locations from the requirement that we request statistics from local law enforcement, even when presented with an argument about how little data institutions receive back. The Department sees no difference between the law enforcement surrounding the main campus property or domestic non campus property, and such property on another continent.

But requesting such statistics is not without cost. Anecdotal stories have come back of local law enforcement in certain countries reacting very poorly to these requests. They become suspicious of the programs, especially since many of the questions revolve around sexual assaults, which they view very differently than we do here. On occasion, the request has led to heated discussions with program providers. The Department, to date, has declined to allow exemptions, even in countries where requesting such statistics might actually create more danger than it prevents (more on this in Section II(G) below).

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<sup>14</sup> See 2011 Clery Handbook at 73-87.

<sup>15</sup> See 2011 Clery Handbook at 34, 57-60. On occasion, the Department looks to definitions from the National Incident Based Reporting System.

<sup>16</sup> See 2011 Clery Handbook at 84.

<sup>17</sup> For example, if a request for statistics from local law enforcement after a semester in Paris where the institution rented apartments for students yields all the crimes in all of Paris for all dates, an institution need not report all those crimes unless they can be broken down to Clery Act crimes occurring in the relevant Clery geography during the times that the students lived in the apartments. Further, institutions need not pay for statistics or purchase special software to view statistics. See 2011 Clery Handbook at 83-87.

While Clery Act crimes in Parts I, III, and IV require that an institution report all reports of such crimes, regardless of whether victim or assailant is identified, and regardless of whether there is an arrest, trial, or conviction, for Part II drug, alcohol and weapons arrests and referrals for discipline, we only count arrests or referrals for discipline for breaking local law.<sup>18</sup> This leads to significant comparison issues domestically (some states ban all guns from campus while others allow open or concealed carry; state law on possession of marijuana can differ significantly) and even more difficulty internationally.

For example, a 19-year-old student becomes very drunk on a trip to England and is referred for campus discipline at the home campus for possession of alcohol and other bad behavior. While such a violation at the home campus would count for Clery, it does not here as such drinking does not violate local law in London. Additional examples abound. To correctly report, an institution must know what the local law is for each such violation. Frankly, this is a difficult bureaucratic exercise with little practical return for student consumer information. Neither the Department, nor any other federal agency, have published a list of drug, alcohol and weapons laws in other countries, making reporting difficult and leading to inconsistent reporting among different colleges.

#### **E. Confusion in Defining On Campus Property Overseas:**

In recent years, many institutions have opened campuses in overseas locations. These locations may count as on campus property under the Clery Act if they meet the definitions established in the Handbook.<sup>19</sup> The most important of these definitions for international programs is the definition of “separate campus.”<sup>20</sup> This definition covers distant locations owned or controlled by the institution that have an “organized program of study” and “at least one person on site acting in an administrative capacity.”<sup>21</sup> The Handbook does not define organized program of study, but in oral guidance, a Department representative told the author that this is a location wherein a student can complete a degree, diploma or certificate without ever taking a class at the main campus of the institution. The only written discussion of this rule (in a manner of speaking) is in a Final Program Review Determination of the Department of Education<sup>22</sup> where the Department says that “for Clery Act reporting purposes, educational instruction at a location does not have to result in a certification or a degree to be included in the crime statistics. Such locations may include satellite, extension, or similar types of noncontiguous sites that have an organized program of study regardless of length or resulting credentials.”<sup>23</sup> While inartful, this sentence seems to support the oral guidance provided by the Department.

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<sup>18</sup> Regardless of the United States definition. See 2011 Clery Act Handbook at 64.

<sup>19</sup> See 2011 Clery Handbook at 14-17.

<sup>20</sup> See 2011 Clery Handbook at 15.

<sup>21</sup> *Id.*

<sup>22</sup> Letter from Cynthia Thornton, Area Case Director, School Participation Team, Dallas, United States Department of Education to V. Burn Hargis, President, Oklahoma State University, *available at* <https://studentaid.ed.gov/sites/default/files/fsawg/datacenter/cleryact/oklahomastate/OklaFinalFPRD080411.pdf> (Aug. 4, 2011).

<sup>23</sup> *Id.* at 13.

## **F. Confusion in Defining Non Campus Property Overseas:**

Study abroad mostly makes use of the second definition of non campus property.<sup>24</sup> The first definition of non campus property<sup>25</sup> mostly applies to fraternity and sorority houses near the institution's on campus property, and rarely, if ever, applies overseas. Yet all non campus statistics are combined into a single column for reporting in the Annual Security Report.<sup>26</sup> Frankly, this makes the data all but useless. Combining crimes that occur in certain recognized Greek housing with the same crimes that occur on a study abroad trip does not provide useful data either about Greek housing or international and other non campus crimes. Thus, even if colleges work diligently to appropriately collect data from overseas local law enforcement and Campus Security Authorities, and even if they provide useful statistics, those statistics are made unusable when combined with the crimes that occur at certain houses near the campus.

The Department has never officially drawn the lines for when an international location must be counted as non campus property. The closest that we have is a set of Department of Education approved clarifications<sup>27</sup> that were issued in March of 2012. The clarifications outline two methods where a location for which an institution has a written agreement can rise to the level of non campus property. Either an institution makes "repeated use of a location" or an institution sponsors a "trip of longer duration."<sup>28</sup> The Department, despite repeated requests, has not defined the time period within which a second visit to a location would be considered "repeated use," and has not defined the minimum time period for a visit to be considered "longer duration." For longer duration, the clarification gives the *example* of "a three week art study trip to another city for a series of art lectures and demonstrations at a museum,"<sup>29</sup> but when asked, the Department would not agree that three weeks or 21 days is the line separating short duration (does not count) and longer duration (counts).

To address this, the SUNY policy below uses the somewhat conservative definitions of repeated use as twice within a 730 calendar day period (two years) and 20 days or nights as the line above which a trip counts as longer duration and, thus, reportable as non campus property. This is not the only way to define these terms. Each institution should develop definitions and use them consistently.<sup>30</sup>

## **G. Issues with VAWA and Title IX Response Overseas:**

The Clery Act, as amended by VAWA, and Title IX require responses to reports of

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<sup>24</sup> "Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution." 2011 Clery Handbook at 25.

<sup>25</sup> "Any building or property owned or controlled by a student organization that is officially recognized by the institution" 2011 Clery Handbook at 25.

<sup>26</sup> See 2011 Clery Handbook at 25-29.

<sup>27</sup> Department of Education, *Approved Clarifications*, available at [http://www.nacua.org/documents/Clery\\_Campus\\_Safety\\_Survey.pdf](http://www.nacua.org/documents/Clery_Campus_Safety_Survey.pdf) (Mar. 26, 2012).

<sup>28</sup> *Id.* at 2.

<sup>29</sup> *Id.*

<sup>30</sup> Study abroad is not the only program that can benefit from these definitions. Many institutions maintain athletic programs that travel to games at other locations. The same standards for repeated use and longer duration can assist with accurate and consistent Clery Act reporting for athletic travel.

VAWA crimes and discrimination on the basis of sex (for the purposes of this conference paper, these will be treated together as the requirements are very close, but with acknowledgment that not all VAWA crimes are Title IX discrimination and they are governed by two separate laws). The VAWA and Title IX response requirements include providing information/access to counseling, medical assistance, resources, the student conduct process and the opportunity to report to local law enforcement (as well as the choice not to report).<sup>31</sup> These rules apply uniformly with no flexibility for programs in the international environment.

There are countries where colleges and universities bring students to study at which a report to local law enforcement will have significant negative repercussions for the reporting student. Some countries do not recognize sexual assault for the crime that it is, while other countries severely punish gays and lesbians, even potentially including the death penalty.<sup>32</sup> While academic freedom supports the notion of studying in countries and cultures that have very different views as the United States, institutions should be especially careful in training students (as well as faculty and staff) about the consequences of reporting to local law enforcement (and even the consequences of seeking medical care locally, as some locations are mandated to report to law enforcement). The VAWA requires that the student makes the final decision on whether to report to local law enforcement, but they should do so with eyes wide open through useful and accurate advice by institutional personnel.

Institutions may choose to interim suspend a student accused of certain crimes from a program. It is recommended that in the initial waivers and information that the students sign, that notice be given that a student accused of certain crimes or policy violations of the home institution (as well as the policies of the host institution and third parties) may be interim suspended and sent home at their own expense. This will alleviate difficult conversations with parents (and their lawyers) who will seek institutional reimbursement for the expensive last minute flight from the international location that their student had to purchase. Institutions should also prepare (and work with third party providers to plan and prepare) accommodations for victims and survivors of crimes and policy violations that can include access to counseling (whether local or with institutional counselors over Skype or Google Chat, if permitted by the counselor's license), academic and housing accommodations, and access to the student conduct process, even from a distance. Department Guidance<sup>33</sup> is clear that when making accommodations, institutions must move the student accused of the violation before moving the victim, and must give the victim the choice in how to best accomplish this requirement.

#### **H. Differences With Study Abroad Home Stays:**

While the Department's Handbook uses the terms "ownership" or "control" to describe when property is covered under the definition of Clery geography, they only stray from that term once, in the area of home stays. There, the Department's sub-regulatory guidance says

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<sup>31</sup> For detailed information on these requirements, *see* Stagg and Storch NACUA Note referenced above.

<sup>32</sup> *See* Terri Rupgar, *Here are 10 Countries Where Homosexuality May be Punished By Death*, THE WASHINGTON POST, *available at* <http://www.washingtonpost.com/blogs/worldviews/wp/2014/02/24/here-are-the-10-countries-where-homosexuality-may-be-punished-by-death/> (Feb. 24, 2014). The countries referenced are Yemen, Iran, Iraq, Mauritania, Nigeria, Qatar, Saudi Arabia, Sudan, and United Arab Emirates. Note that this is not a complete list.

<sup>33</sup> *See* April 4 "Dear Colleague" Letter on Sexual Violence, U.S. Department of Education (April 4, 2011).

“Host family situations do not normally qualify as noncampus locations unless your written agreement with the family gives your school some significant control over space in the family home.”<sup>34</sup> Significant control is not defined, however.<sup>35</sup> In oral guidance to the author of this conference paper, the Department of Education indicated that significant control means that the students enter and exit the home through a separate entrance, rather than through the same entrance as the home owners. The comparison told to the author was an “in law apartment.” It is not clear why this is a difference that matters for Clery Act reporting, but that oral statement is the only guidance found on defining the difference between “control” and “significant control.”

### **I. Obligations Rarely Applying Overseas:**

In the 2008 Higher Education Opportunity Act, Congress added a requirement that institutions with on campus student housing collect data on certain fires and issue an Annual Fire Report concurrent with the Annual Security Report.<sup>36</sup> Likewise, institutions with on campus student housing must have policies for addressing missing on campus residential students.<sup>37</sup> To the extent that an institution is not operating an actual campus overseas that contains on campus student housing, neither of these obligations apply.<sup>38</sup> Further, the Emergency Notification component of that same law only covers emergencies occurring in on campus property as defined under the Clery Act.<sup>39</sup> The related Timely Warning provisions of the Clery Act apply for any Clery Act geography, regardless of whether that property is domestic or overseas.<sup>40</sup>

### **III. The Importance of Communication and Record Keeping:**

In order for any institution to appropriately comply with the Clery Act and Title IX requirements discussed above, clear communication channels and prior planning are required. No longer can a college assign one office the role of complying with these laws and assume all is well. While there are many methods to approach these requirements, this author recommends a “hub and spoke” approach to addressing Clery Act crime and Title IX violations in study abroad.

Each faculty or staff advisor who is accompanying students overseas should be declared as both a Campus Security Authority (Clery/VAWA) and a Responsible Employee (Title IX) and offered training on the meaning of those requirements.<sup>41</sup> When a reportable crime or

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<sup>34</sup> See 2011 Clery Handbook at 30-31.

<sup>35</sup> Compare *Id.* to 2011 Clery Handbook at 12 (defining “control” for the purposes of Clery Act reporting).

<sup>36</sup> See 34 CFR 668.49 et seq.; 2011 Clery Handbook at 171-179, 181-187, 189-197.

<sup>37</sup> See 34 CFR 668.46 et seq.; 2011 Clery Handbook at 161-169.

<sup>38</sup> See 2011 Clery Handbook at 161 (missing students) and 171 (fire reporting).

<sup>39</sup> See 2011 Clery Handbook at 97, 118.

<sup>40</sup> See 2011 Clery Handbook at 111, 118.

<sup>41</sup> For a chart comparing the reporting requirements of Campus Security Authorities and Responsible Employees in various crimes, please see Andrea Stagg and Joseph Storch, *Crime and Incident Reporting Guidelines for CSAs and Responsible Employees*, State University of New York, available at <http://system.suny.edu/media/suny/content-assets/documents/compliance/Crime-and-Incident-Reporting-Guidelines-for-CSAs-and-Responsible-Employees-FINAL.pdf> (Sep. 2014).

incident occurs, those individuals should immediately<sup>42</sup> contact the individual designated by the college or university as the spoke in the wheel (likely a Study Abroad Director or similarly titled individual). That individual can then reach out to the appropriate offices and individuals at the main campus, including the Title IX Coordinator, campus police or security, student affairs, conduct, counseling and health, president's office, media relations and others. This will only work if the college or university has planned out such communication in advance and either has written protocols or has run table top simulations (or both). The ideal result is that the hub can have individuals and offices at the various spokes work together to address all aspects of the incident.

Record keeping is also important. Statistics for an Annual Security Report may be prepared for publication months or more than a year after the incident or crime occurs. Memories fade, and so returning to a Campus Security Authority for details 18 months after they receive a report of a crime may not yield accurate information for Clery Act reporting. We are well-served by getting this information right at or near the time of the event. One method for doing so is the Forum on Education Abroad's Critical Incident Database<sup>43</sup> discussed in the companion paper for this conference session. Provided that all relevant Clery Act information is collected, institutions can use other appropriate methods. Regardless of what method is used, auditors from the Department of Education may request data to determine whether Clery Act reportable crimes occurring in relevant Clery geography are counted in the appropriate columns in the Annual Security Report.

Just as important as internal communication is communication between entities. It is not unheard of for a student from College A to attend a study abroad trip organized by College B, located at International College C, alongside students from Colleges D, E, F, G, and H. If a College A student sexually assaults a College E student in Clery geography (each of the colleges has a written agreement for use of the space, or as the Clery Handbook refers to it, "control"), then it is reportable in each college's Annual Security Report, and College A has responsibilities under the conduct process for its student, while College E (and perhaps College B) has responsibilities to provide the victim with resources and accommodations. At a minimum, it is incumbent upon College B and College C to share information with Colleges A and E such that they may take the required action.

This can be complicated, especially inasmuch as each of these students' records are covered by FERPA. The solution is agreements between the institutions to properly respond to these reports. Additionally, institutions may have students waive in writing their FERPA rights vis-à-vis these other institutions in the limited set of circumstances that require exchange of information after report of a crime or policy violation. The SUNY policy below addresses this requirement in the latter sections.

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<sup>42</sup> Or as soon as practicable taking into consideration emergency medical and other requirements. It should go without saying that immediate emergency needs must be addressed on site, but the study abroad office should be brought in as soon as possible.

<sup>43</sup> The Critical Incident Database includes a Clery Act notation for crimes and incidents that meet the definitions under the Clery Act.

#### IV. Recent Case of Note:

Although the case does not strictly address crime reporting, a recent case of note in a high school study abroad trip raises serious issues about the liability of institutions for injuries to students and is, thus, briefly discussed here. In *Munn v. Hotchkiss*,<sup>44</sup> Cara Munn, a high school student, contracted tick-borne encephalitis while on a trip to China run by her high school.<sup>45</sup> She was bit by a tick while on an excursion when, instead of taking the cable car down with her teacher and classmates, she and two or three other classmates walked down a path.<sup>46</sup>

Munn and her parents had received extensive pre-trip material from Hotchkiss including a list of items to bring, such as bug spray, but the material did not mention insect-borne diseases among its discussion of risks that students may encounter.<sup>47</sup> The court found that “as Munn headed to China, neither she nor her parents had notice that she would visit a non-urban forested area that might contain ticks or other insect carrying disease...[or] any warnings about how to prevent insect-borne disease during the trip.”<sup>48</sup> A jury found for Munn and assessed damages at over 41 million dollars.<sup>49</sup>

The court, in rejecting post-trial motions, found that Hotchkiss had a duty to Munn as she was a minor in its care.<sup>50</sup> This likely differs significantly from the duty owed by a college to its students on overseas travel.<sup>51</sup> Damages were clear, inasmuch as the encephalitis was debilitating in many ways to Munn.<sup>52</sup> The case really hinged on the question of whether contracting encephalitis in this way was foreseeable.<sup>53</sup> While it seems that everyone agreed that the chance of contracting tick-borne encephalitis in this manner was remote, the court downplayed the specifics of *this* injury, limiting the analysis to the “general nature”<sup>54</sup> of insect-borne diseases as a whole in China, which are more common than this specific injury.<sup>55</sup> The court wrote that the “test of foreseeability is not limited to whether a specific harm could have resulted from the defendant’s conduct; instead it determines whether the injury suffered falls within a reasonably foreseeable category of potential risks or harms.”<sup>56</sup>

Although the costs of the damage are high enough that, if the case stands, it may seriously discourage institutions at all levels from engaging in overseas study with students, the court rejected an argument that such a verdict violates public policy.<sup>57</sup> Also of note, in a prior ruling in the case, the court barred admissibility of the waiver signed by Munn and her parents,

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<sup>44</sup> *Cara Munn et al. v. The Hotchkiss School*, 24 F. Supp.3d. 155 (D. Conn. June 5, 2014).

<sup>45</sup> *Id.* at 163.

<sup>46</sup> *Id.* at 165.

<sup>47</sup> *Id.* at 164-165.

<sup>48</sup> *Id.* at 165.

<sup>49</sup> *Id.* at 163-164.

<sup>50</sup> *Id.* at 169-172.

<sup>51</sup> *See see* Aalberts, *supra* Note 2 at 208-213 (collecting cases).

<sup>52</sup> *See* *Munn v. Hotchkiss* at 208-213.

<sup>53</sup> *Id.* at 172-180.

<sup>54</sup> *Id.* at 172.

<sup>55</sup> *Id.* at 172-173, 179.

<sup>56</sup> *Id.* at 173-174.

<sup>57</sup> *Id.* at 194-198. The court disagreed with the notion that such a verdict would increase litigation or cause a wholesale abandonment of overseas travel and study. *Id.*

poking holes in the wording of the waiver in an analysis that is commended to any higher education attorney preparing a such a waiver.<sup>58</sup>

The case is currently on appeal to the Second Circuit, and a bevy of higher education organizations, led by the American Council on Education, have filed an amicus brief arguing against this verdict and pointing out the devastating impact such a regime can have on study abroad.<sup>59</sup>

## **V. Future and Pending Legislation:**

There has been an uptick in state and federal interest in injuries, crimes and accidents in overseas programs. The State of Minnesota passed reporting legislation, and a member of Congress proposed legislation that may be considered as part of the renewal of the Higher Education Act.

### **A. Minnesota Legislation:**

In 2014, the State of Minnesota adopted legislation requiring that all higher education institutions report health and safety statistics to the State Office of Higher Education.<sup>60</sup> For privacy purposes, institutions report statistics to the Office of Higher Education and the Office compiles them and issues a report on its website. The law requires reports of deaths, accidents, illnesses requiring hospitalization.<sup>61</sup>

Colleges and universities in Minnesota worked closely with the Office of Higher Education to implement the requirements in a workable way.<sup>62</sup> The law may become a model for other states to adopt, and is a model for federal legislation introduced in the last Congress that is discussed below.

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<sup>58</sup> Cara Munn at al. v. Hotchkiss School, 933 F. Supp.2d 343, 345-346 (D. Conn. March 22, 2013).

<sup>59</sup> Amicus Brief of American Council on Education et al. in Cara Munn v. The Hotchkiss School, *available at* <http://www.acenet.edu/news-room/Documents/Amicus-Munn-Hotchkiss.pdf> (Oct. 21, 2014). On a personal note, this was likely the last brief filed by ACE General Counsel Ada Meloy before she passed away in December of 2014. Ada was a leader in the field of higher education law and a person to whom many, including this author, owe a debt of gratitude for her knowledge of the law and the field, and for her mentoring and kindness.

<sup>60</sup> 2014 Minnesota Session Law, Chapter 312-H.F. No. 3172, Section 5.41, *available at* <https://www.revisor.mn.gov/laws/?year=2014&type=0&doctype=Chapter&id=312>.

<sup>61</sup> *Id.*

<sup>62</sup> For an analysis of the legislation and implementation, please see Minnesota Office of Higher Education, *Study Abroad Health and Safety Regulation: Report to the 2015 Legislature*, *available at* <http://www.ohe.state.mn.us/pdf/StudyAbroadReport.pdf> (Jan. 29, 2015); Forum on Education Abroad, *The Implications of New Legislation in the State of Minnesota*, *available at* <http://www.forumea.org/wp-content/uploads/2014/10/Minnesota-Legislation-Oct-13.pdf> (Oct. 15, 2014); Kris Kaplan, Interim General Counsel, *PowerPoint: Study Abroad: Meeting the New Reporting Requirements and More!*, Minnesota State Colleges and Universities Office of General Counsel, *available at* <http://www.ogc.mnscu.edu/documents/2ndThurs2015FebPowerPoint.pdf> (Feb 2015).

## B. Federal Legislation:

Ironically, some of the worst crimes that led to lawsuits and media attention occurred outside of Clery geography and, thus, are not reportable in the Annual Security Report.<sup>63</sup> A Bill proposed by Congressman Sean Patrick Maloney called the Ravi Thackurdeen Students Study Abroad Act<sup>65</sup> would amend the Clery Act to require extensive reporting of crimes, injuries, accidents, illnesses and deaths that occur on study abroad over a 10 year period.<sup>66</sup> Further, these incidents would be reportable internationally without regard for traditional Clery Act geography.<sup>67</sup> The Bill did not become law in the 2013-2014 session of Congress.<sup>68</sup> The language of the Bill may be included in the upcoming reauthorization of the Higher Education Act.

The main problem with such a regime is that the numbers of incidents from any individual institution (even those that send dozens of students to a single location) would be so small as to be meaningless when analyzed within the hundreds of thousands of students that study overseas each year. The numbers would not be large enough to analyze the relative safety or danger of a specific location with any type of confidence.

## VI. Conclusion:

While several federal laws require reporting and action by institutions when incidents occur during study abroad, the requirements do not align or use the same definitions, and they lack clear lines for institutions to rely upon. Institutions should use best practices and a good faith effort to develop policies and protocols that not only comply with the requirements but (more importantly) take steps toward providing a safer environment for our students when they travel overseas.

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<sup>63</sup> Perhaps the most famous case of a crime while studying abroad, the accusation that Amanda Knox murdered her roommate Meredith Kercher is not reportable as both Kercher and Knox were apparently renting space in a private apartment (not arranged for by an American institution) while studying in Italy. Knox was apparently on leave from the University of Washington to study at the University for Foreigners Perugia in Italy at the time of the murder. See Kristi Oloffson, *Amanda Knox, Convicted of Murder in Italy*, TIME, available at <http://content.time.com/time/world/article/0,8599,1945430,00.html> (Dec. 4, 2009). Her conviction was later overturned. Kercher was a British student on an exchange program. Nick Squires, *Amanda Knox freed: tears of joy as four-year nightmare is over*, THE TELEGRAPH, available at <http://www.telegraph.co.uk/news/worldnews/europe/italy/8805395/Amanda-Knox-freed-tears-of-joy-as-four-year-nightmare-is-over.html> (Oct. 4, 2011). Thus, for all the attention given to this case, no college had to report the crime in an Annual Security Report.

<sup>64</sup> For a detailed list and analysis of crimes committed by and against American students studying overseas, see Aalberts, *supra* Note 2 at 208-214. A careful analysis of the facts of each case cited by Aalberts et al. would show that not a single one would be reportable in a Clery Act Annual Security Report.

<sup>65</sup> H.R.5485 - Ravi Thackurdeen Safe Students Study Abroad Act, 113<sup>th</sup> Congress, available at <https://www.congress.gov/bill/113th-congress/house-bill/5485/text> (Nov. 17, 2014).

<sup>66</sup> *Id.*

<sup>67</sup> “with respect to the incidents described in items (aa) through (dd) of subclause (II), whether the incidents occurred— (aa) on campus; (bb) in or on a noncampus building or property; (cc) on public property; (dd) in dormitories or other residential facilities for students; or (ee) at a location not described in items (aa) through (dd) of this subclause, without regard to whether the institution owns or controls a building or property at the location.” *Id.* at § III.

<sup>68</sup> As of the date of this conference paper, the Bill has not been re-introduced in the 114<sup>th</sup> Congress. See list of legislation by sponsor, United States Congress, available at <https://www.congress.gov/member/sean-maloney/M001185?pageSize=250> (last accessed May 1, 2015).

## **SUNY Clery & Title IX Reporting Procedure for International Programs**

Adopted unanimously by the SUNY Council on International Education, October 28, 2014

Available at: <http://system.suny.edu/media/suny/content-assets/documents/compliance/international/SUNY-Clery-Policy-for-Council-on-International-Programs-FINAL.pdf><sup>69</sup>

### **SUNY Clery & Title IX Reporting Procedure for International Programs**

- I- SUNY campuses will include all Clery reportable crimes and incidents in the Annual Security Report when those incidents occur in geographic locations covered by the Clery Act. These locations include:
- On-Campus
    - All campuses of the institution.
    - At a Separate Campus, defined as a geographic location staffed by administrative personnel and where a student can take an organized program of study. An “organized program of study” means an entire educational program from which a student can attain a degree, diploma, or certificate. It does not include locations where a student can simply take some courses.
    - At any location designated as On Campus property, the institution will also collect and include crimes occurring in Public Property adjacent to and accessible from the On Campus property.
  - Non-Campus
    - All of the following factors must be met in order to make crimes at a given property reportable in the Non-Campus category:
      - Building or property;
      - Owned or controlled by the institution;
      - Used in direct support of, or in relation to, the institution’s educational purposes;
      - Frequently used by students; **and**
      - Not within the same reasonably contiguous geographic area.
    - Property is controlled by the institution if the institution has a written agreement for use of the geographic location or parts thereof, and it meets all the factors above. Analyze the following to determine whether the agreement meets the factors:
      - Geographic locations that are owned or controlled by the campus that are only used by faculty/staff and not students do not count for Clery reporting purposes.
      - The determination of whether an agreement for space meets the delineated factors will be determined based on an analysis of:
        - What the parties specifically agree to, whether the agreement outlines the terms of an experience without reference to any specific geographic location (e.g., building names or street addresses), or whether the agreement includes information regarding access and control of a specific geographic location;

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<sup>69</sup> This SUNY policy, as with all SUNY policies referenced here, is available for non-commercial higher education institutions to be used in whole or part, with appropriate attribution.

- Whether the institution maintains documents stating that students will live or study at a specific geographic location; and
    - Who makes the living or academic arrangements
      - If the student makes arrangements directly, the property does not count for Clery Act purposes; but
      - If the institution makes the arrangements, the property may count if it meets the factors delineated above.
  - Frequently used by students: Third party property, hotels, and hostels. Property is frequently used by students if it is used for a “long duration” **or** is subject to “repeated use.”
    - Long Duration: A trip of long duration is a trip to a single geographic location for which the institution has a written agreement for accommodation or other use that includes at least two students for at least 20 nights or 20 days.
    - Repeated Use: A location is subject to repeated use if the institution has a written agreement for use of the geographic area for at least two students and for at least two nights at least twice within a two calendar year period. If there is a separation of at least two calendar years (730 days between stays), the location would not be subject to counting as a repeated use location.
  - Host families: Count crimes in the geographic location used for housing students with a host family if the institution has “significant control” of the space. An institution has significant control over a property when the students have a separate entrance to their living space, but not in homes where the students and the host family use the same entrance.
- If an institution owns property, crimes are reportable year round.
- If an institution controls property pursuant to a written agreement, crimes are only reportable during the times when the institution has control, not before or after.
- There is no reporting obligation for public property around Non-Campus property.

Crimes committed at locations that do not meet Clery geography definitions are not counted for Clery Act purposes, although certain crimes may need to be reported to campus officials pursuant to Title IX and other laws.

- II- To properly learn of and report crimes that occur in international and domestic education, Campus Security Authorities shall report crimes to the institution’s designated Clery compliance official. In addition, the institution will query local law enforcement and Campus Security Authorities for information about crimes occurring in qualifying geographic locations during times of institutional use and/or control (as defined in Part I).
- Campus Security Authorities are:
    - Police/Campus Security (Department members and others affiliated);
    - Those designated by the institution as Campus Security Authorities; and
    - Faculty/staff with **significant responsibility** for students and campus activities.
      - All faculty or staff **travelling with students** overseas or to a distant location that meets Clery geographic definitions established in Part I, are automatically designated as Campus Security Authorities, regardless of

whether they ordinarily possess significant responsibility for student and campus activities.

*All faculty or staff travelling with students overseas or to a distant location regardless of whether it meets Clery geographic definitions established in Part I, are designated as responsible employees for Title IX purposes, and are required to report learned of or observed cases of sex discrimination, including sexual violence, to the institution's Title IX Coordinator or designee.*

- The institution will query local law enforcement for locations that meet the definitions of Clery Act geography in Part I asking for records of Clery Act reportable crimes occurring during the timeframes in which the institution controlled the property (or if the property is owned, during the entire calendar year). The institution will use “good faith” to contact these law enforcement entities via paper mail, telephone, or electronic messaging, and will keep a record of the contact and whether or not any statistics were received.
- Reporting Crimes:
  - Campus Security Authorities must report all crimes to the individual designated by the institution, with no exceptions.
  - Crimes are to be reported immediately or as soon as possible.
  - It is *never* appropriate for faculty or staff to handle crimes in house, investigate, or adjudicate, except as specifically instructed by institutional officials.
  - It is *never* appropriate for faculty or staff to attempt to mediate an accusation of sexual assault or sexual violence.
  - With the exception of crimes that include sexual violence or sexual harassment, the Campus Security Authority may keep the identity of the victim private.
  - If the Campus Security Authority receives a report of sexual harassment, including sexual violence, s/he is required to report to the Title IX Coordinator (or designee) regardless of where or when the incident is alleged to have occurred.
  - If the Campus Security Authority is a pastoral or professional counselor, s/he may keep reports confidential pursuant to law and policy.
- Timely Warnings: The College will provide students with Timely Warnings of crimes occurring in relevant Clery Act geography.
  - For Clery act crimes occurring in Clery Act geography:
    - The institution, trip leader or designee will notify students on the trip of such crimes in a timely fashion;
    - Notification may occur by use of paper or digital messaging or may have an oral warning come through the group leader;
    - While there is no defined method, the Timely Warning must be active, not passive.

III- To ensure student safety and Title IX compliance, SUNY campuses will follow the protocol established below when informed about cases of sex discrimination, including sexual violence, involving SUNY students or employees.

- Definitions:
  - Home Institution: Student's original institution, from which the degree is anticipated, or to which the study abroad credits will transfer.

- Host Institution: Domestic or overseas institution that student from Home Institution will be temporarily enrolled for a term or set length of time.
- Provider (Program, Administering, Sponsor): Non-SUNY institution or entity through which an overseas academic program is provided (e.g., partner).
- Complainant: Individual with a complaint of sex discrimination, including sexual violence (i.e., victim, survivor, accuser).
- Accused Individual: Person accused of misconduct.
- Host Institutions and Providers that learn about incidents of sex discrimination, including sexual violence, will work collaboratively with the Home Institution(s) of the complainant and accused individual to ensure the following:
  - The complainant is notified of any and all options, remedies, resources, and services available through the Home, Host and Provider;
  - The appropriate institution or entity can conduct a prompt, impartial investigation, which may lead to adjudication through the formal student conduct or Title IX grievance process.
- Students participating in study abroad through a Host or Provider are subject to the policies and procedures of the Provider or Host, as well as those of his or her Home Institution.
  - Which institution takes the lead in investigating and responding to allegations of sexual harassment and/or violence shall be determined immediately following the reporting of an incident. Factors to consider include:
    - the location of the incident;
    - the enrollment status of the student(s) involved;
    - the nature and duration of the program;
    - the timing of the report (during or after a program).
  - Generally, the institution with immediate and primary control over the parties and evidence shall lead the investigation and response.
  - At all times the fairness of the process, effectiveness of the investigation/response, and best interests of the parties shall govern the decision making of SUNY officials.
- The Title IX Coordinators of the SUNY institutions should consider all incidents and allegations consistent with their responsibilities to spot patterns and track complaints.
- Consistent with working collaboratively, a Host Institution or Provider will promptly provide any incident reports and related information to the Home Institution.

# REPORTING ON STUDENT SAFETY AND SECURITY ABROAD: LEGAL REQUIREMENTS AND BEST PRACTICES

**Natalie A. Mello**

Vice President, Member Services and Training  
The Forum on Education Abroad

## **I. Introduction to The Forum on Education Abroad**

The Forum on Education Abroad is a 501(c)(3) non-profit, membership association recognized by the U.S. Department of Justice and the Federal Trade Commission as the [Standards Development Organization \(SDO\)](#) for the field of education abroad. The Forum provides training and resources to education abroad professionals and its *Standards of Good Practice* are recognized as the definitive means by which the quality of education abroad programs may be judged. The Quality Improvement Program for Education Abroad (QUIP) and The Professional Certification for Education Abroad Program provide quality assurance for the field through use of the *Standards* in rigorous self-study and peer reviews for institutions and professional certification for individuals.

The Forum on Education Abroad's mission is to develop and disseminate comprehensive *Standards of Good Practice* for the field of education abroad. It promotes best practices and excellence in curricular design, engages in data collection and research, conducts program assessment and quality improvement, and advocates on behalf of its members and the field of education abroad. The Forum serves institutions and organizations that sponsor and support education abroad programs for students enrolled at U.S. colleges and universities. The Forum also collaborates with international member institutions and organizations to identify and facilitate best practices and standards for education abroad. <http://www.forumea.org/>

## **II. Introduction to the Critical Incident Database**

The field of education abroad has long been haunted by the fact that there has never been any sort of reliable or methodical means to track what happens when US students travel abroad for academic credit. In 2009, a committee came together to design a pilot database to track such data. Membership on this committee included representatives from a diverse group of organizations invested in the endeavor of education abroad (program providers; small, large, private, public, colleges and universities; not-for-profit organizations).

The CID was piloted in 2009-10 and a Preliminary Report was issued in March of 2010 by The Forum. During 2011 The Forum embarked upon a re-design of the CID based upon user feedback. This coincided with the Department of Education's release of *The Handbook for Campus Safety and Security Reporting*. Collaborating with colleagues in NACUA, the CID's re-design included tags for Clery crimes using appropriate vocabulary and definitions.

The CID was re-released for use in the 2012/13 academic year, and the first full year of data was gathered and reported for 2014.

### **III. What is the Critical Incident Database?**

The Critical Incident Database (CID) is a free tool for use by Forum member institutions in tracking critical incidents that occur while students are abroad. In addition, the CID serves as a method for tracking required information on incidents that should be reported in a member's Annual Security Report as required by the Department of Education in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act).

The CID is an easy and convenient way to track what happens to students while off campus (types of incidents, locations, etc.). It sits on a web based platform and is accessible from anywhere using laptops, tablets, or smart phones. It is a reliable method to identify which incidents should be reported in an Annual Security Report to the Department of Education to comply with the Clery Act. Use of the CID provides a way to track critical incidents so that risk management decisions about education abroad programs can be made using appropriate data. To use the Critical Incident Database, one must have been assigned access and be logged in.

<http://www.forumea.org/resources/member-resources/critical-incident-database>

### **IV. Who is using the Critical Incident Database?**

In the calendar year 2014 (Jan 1 – Dec 31) there were 44 organizations using the Critical Incident Database to track what was happening with their students while off-campus. The organizations represented a wide variety of different types of institutions: liberal arts colleges; large public universities; small, medium and large private universities; community colleges; state-wide systems; and, program providers.

### **V. What have we learned from the CID?**

In order to analyze the data collected, baseline information was requested from each CID user. Those organizations that were unable to provide that baseline information (city, country, duration [in days], number of students and type of program), were removed from the analysis. Data from 38 different organizations, representing nearly 900,000 student program days in over 100 different countries was analyzed. The data analyzed represents roughly 10% of the data reported by IIE in 2013's Open Doors Report. The data sets that were comparable indicate consistency in the length of students' experiences abroad and to which continents they are going.

#### **A. What is the data telling us?**

The data collected in the CID provides an indication of the types of challenges they are encountering. More than 300 incidents were reported using the CID including the deaths of 2 students. Incidents occurred in 49 different countries on every day of the week. Not surprisingly, the most incidents were reported as occurring in Europe – 53% of US students still travel to Europe for their education abroad experience. However, the frequency with which incidents occurred in South America and Africa was worth investigating further as 1 in 2 students was likely to have been affected by a critical incident while on either of those continents. With

further drilling, it was determined that the incidents that were afflicting students in those two locations were gastro-intestinal illnesses.

Incidents were reported on every type of program (definitions provided by The Forum on Education Abroad's *Education Abroad Glossary* 2<sup>nd</sup> edition, 2011) although "study abroad centers" tended to have more incidents reported. The types of incidents included behavioral issues (for example: eating disorders, suicide ideation, psychosis, extreme intoxication), injury, larceny, hospitalization, civil unrest, simple assault, motor vehicular accidents, missing persons and natural disasters. Analysis was also done for Clery crimes and Title IX reportable incidents.

The CID also provides an opportunity for reports to indicate what the contributing factors might be for an incident (more than one can be selected). When analyzed, these responses indicate that "poor judgement" is the leading contributing factor, followed by the misuse of alcohol. Students were mostly being afflicted by incidents while on "free-time" as opposed to being on a program sponsored excursion or field research. And finally, most (47%) incidents occurred on programs that were between 31 and 90 days in length.

### **B. What have we learned about the use of the CID**

The Forum sent electronic surveys to the users of the CID asking for feedback regarding different aspects of the instrument. A response rate of 55% gave The Forum some very solid insights. Overwhelmingly respondents found the CID easy to use and that it encompasses the issues they wanted to track. However, we did find that the "field staff" function was not perceived as being useful. Of these respondents, 33% are using the CID as the only way to track what happens to their students when off campus. The majority of respondents are using it so that they can contribute to a national data set of critical incidents.

We also learned that many organizations have other means to collect, track and respond to incidents overseas. Expecting these education abroad offices to duplicate their efforts by also using the CID is unreasonable. We found that there were instances where institutions who were using the CID just didn't have the human resources to provide us with the baseline data that we needed for our analysis. And we also discovered that there were systems using the CID to track *all* international travel by *all* personnel (undergraduate and graduate students, faculty and staff) for any purpose (study abroad, research, conference attendance). While we had to eliminate that system's data from our analysis, we do not want to discourage CID use of this kind.

### **VI. Where do we go from here?**

It is very important to continue to make the CID available at no cost to members who have no other means to collect and track incident data. Gathering data of this kind is very valuable in a variety of best practices: training faculty leaders; comparing institution specific incidents to the national norm; and, information based decision making. The CID will also be available to those who want to track more than just their students on education abroad experiences.

Because The Forum now understands that the Critical Incident Database will not

become the repository for national critical incident data, we have begun to explore and embark upon a new data project. The Forum is now working with insurance companies to provide a comprehensive report regarding critical incidents that occur in education abroad. Based on claims data, this has the potential to be a highly representative sample that can help to paint a picture of the range, types and number of incidents that occur during education abroad. This effort will provide for the first time data upon which deliberations can be based rather than assumptions about incidents involving students during education abroad. In addition, data from the Critical Incident Database will help us further to understand these incidents.

# Reporting on Student Safety and Security Abroad: Legal Requirements and Best Practices

Prepared by Joseph Storch.

Associate Counsel, Office of General Counsel  
State University of New York

## Overseas Study Hits Close to Home

While camping 35 miles from the closest town, Professor Jones, the lead on a faculty led trip to the Gaza Strip sponsored by your college, Rochester State U, has an RSU student come into his tent at about 5:00 a.m. The student, a male named Reporting Individual 1, reports that he was drinking with several other students and is pretty sure he was sexually assaulted by at least two male students, A and B. A is a student at your college while B is a student at Syracuse Polytech on a program run by the College of Watertown. Things are still a little blurry. The Reporting Individual has bruising and is experiencing discomfort, but not pain.

The professor, wanting to keep the trip intact, gathered the three men in a room to “talk through” what happened and see if they could come to an agreement so (in his words) “we can avoid having to cancel a great trip just because of some messing around while drunk.” The session ended in shouting and accusations of all types. Student B said his mother is a lawyer and will sue all the colleges if she had to spend all that money and he doesn’t get to go on the dig tomorrow. Student A claims loudly (and has been telling every other student as loudly as he can) that R.I. 1 is a “pathological liar who is always either going to counseling or coming home from counseling.”

While you are welcome as guests of the Gazan Government for your educational exchange, there is no formal agreement in place. Homosexual sex is (at least on the books) a violation of the law in the Gaza Strip and the penalty can include death.

### Things to Ponder with Clients Back Home:

- What is your college policy or practice?
- Who on campus would be notified? By whom? When? In writing? Phone? Email?
- What other offices would be brought in? When? What about medical assistance and S.T.I. screening? Ramifications of seeking treatment on trips such as this?
- How do we respond to R.I. 1 and what resources can we provide overseas? Have we planned this in advance?
- What if R.I. 1 is so angry after this mediation session gone bad that he insists on going to law enforcement? How do we balance the VAWA requirement?
- How do we respond to A and B? How do we investigate? Bring charges? Interim suspend? Who heads up such a process for overseas trips?
- What on earth was Professor Jones *thinking* running a mediation session in a sexual assault? Are you sure this could *never* happen with your faculty?
- What agreements are in place between your institution and other institutions in programs similar to the above? Are there FERPA waivers in place? MOU’s?
- How do we balance academic freedom and inquisitiveness with student safety?
- What changes does this exercise cause you to consider about your policies, both domestic and international? Do your Clery, Title IX, and International Study policies tie together?

 NACUA

JUNE 28TH - JULY 1ST

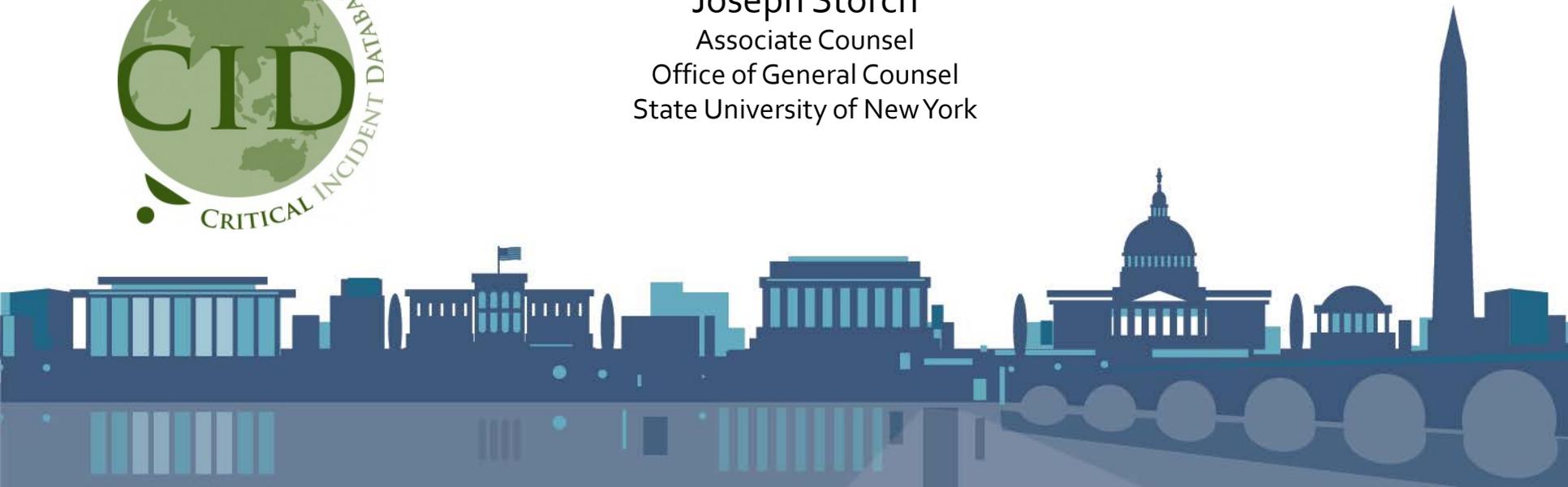
2015

ANNUAL CONFERENCE  
WASHINGTON, D.C.

# *Reporting on Student Safety and Security Abroad: Legal Requirements and Best Practices*



Joseph Storch  
Associate Counsel  
Office of General Counsel  
State University of New York



## Overseas Study Hits Close to Home

While camping 35 miles from the closest town, Professor Jones, the lead on a faculty led Archaeology trip to the Gaza Strip sponsored by your college, SUNY Rochester, has a SUNYRoc student come into his tent at about 5:00 a.m. The student, a male named Reporting Individual 1, reports that he was drinking with several other students and is pretty sure he was sexually assaulted by at least two male students, A and B. A is a student at your college while B is a student at SUNY Bethlehem on a program run by SUNY Watertown. Things are still a little blurry. The Reporting Individual has bruising and is experiencing discomfort, but not pain.

The professor, wanting to keep the trip intact, gathered the three men in a room to talk through what happened and see if they could come to an agreement so (in his words) “we can avoid having to cancel a great trip just because of some messing around while drunk.” The session ended in shouting and accusations of all types. Student B said his mother is a lawyer and will sue all the colleges if she had to spend all that money and he doesn’t get to go on the dig tomorrow. Student A claims loudly (and has been telling every other student as loudly as he can) that RI 1 is a “pathological liar who is always either going to counseling or coming home from counseling.”

While you are welcome as guests of the Gazan Government for your educational exchange, there is no formal agreement in place. Homosexual sex is (at least on the books) a violation of the law in the Gaza Strip and the penalty can include death.

- College/university opens and operates a campus overseas
- College sends students abroad but students or a third party makes the arrangements;
- Hybrid model: A US based college/university contracts with an overseas entity to provide services and/or space



## Clery Overseas: Three Models

- The Clery Act
  - Part of the Higher Education Act (plus VAWA)
  - ED Regulations (Oct. 2014 regs effective July 1, 2015)
  - Sub-regulatory guidance (almost everything I will talk about comes from here).
  
- 2005 Handbook: 199 pages
- 2011 Handbook: 299 pages
- 2015 Handbook: ???????

- Just as with Stateside reporting, Clery does not require you to report crimes based on **WHO**
- Clery requires you to report crimes based on **WHERE**
  
- **Title IX is the opposite (we'll get there).**

- On Campus
  - On Campus, residential
  - Non-Campus
  - Public property adjacent to and accessible from the campus
- Most of what we are talking about**
- 

Handbook pages 11-32

- Buildings or property *owned or controlled* by the campus; or
- Buildings or property within or reasonably contiguous to the campus, owned by the institution, frequently used by students, supports institutional purposes, but controlled by a third party (food or retail vendor).
  - “control” requires a written agreement to rent or lease (does not matter if the agreement requires payment or not).
  - This also applies to residence halls controlled by third parties, located on or adjacent to campus, for which there is a written agreement.

If you have a campus overseas:

- Own ASR
- Own Reporting
- Possibly more (crime log; if you have residence halls, missing persons and fire reporting; etc.).

# Location, Location, Location

- Four Geographic Locations
  - **On Campus**
- On Campus (branch & separate):
  - Branch Campus (mostly useless definition): separate location that is geographically apart and independent of the main campus (permanent in nature, offers courses leading to a degree, has own faculty/administration, and own budget and hiring authority)
  - Separate Campus (2 factors):
    - Has an organized program of study
    - Administrative personnel on site

# Location, Location, Location

- Four Geographic Locations
  - On Campus
- On Campus (branch & separate) (Handbook 15):
  - Separate Campus (2 factors):
    - Has an organized program of study
    - Administrative personnel on site
  - Essentially any branch campus is a separate campus
  - If not branch/separate, then likely Non Campus
  - Organized program of study (oral guidance) means you can take an entire program of study at that location
  - Administrative personnel means an individual with responsibility for activities that take place at that location

Public property adjacent to **AND** accessible from the institution. **This is only applicable if your college has an actual campus overseas which has “on campus” property.**

- Includes public roads or bike paths running through campus.
- Sidewalk, street sidewalk.
  - If no second sidewalk, ends at the street.
- If bordering a waterway, count crimes occurring one mile out to the water

# Non Campus: Two Types

“Any building or property owned or controlled by a student organization that is officially recognized by the institution” (e.g. Greek Housing)

or

Probably Not  
Applicable Overseas



“Any building or property *owned or controlled* by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is *not* within the same reasonably contiguous area of the campus.”  
(emphasis added)

Handbook Page 25

Fairly Common



# Non Campus: Overseas

Examples of non-campus buildings include:

- Research facilities.
- An off-campus student housing facility owned by a third party (e.g. hotel or apartment complex) that has a written contract with your campus to provide student housing (year after year) or one owned by the institution but not within the same “reasonable contiguous geographic area” as the institution.
- Classes for students in an owned, rented, or leased location.
- Institutionally owned research vessels carrying students participating in institutional programs.

## ED issued guidance (replaced written guidance of 2011):

A location is considered “frequently used by students” in the following types of situations:

\*\*\*

- **The institution makes repeated use of a location.** An example is, if every year students in the debate club take a trip to Washington, DC and stay at the same hotel, you must include any Clery crimes reported as occurring in certain portions of the hotel in your crime statistics. As discussed on page 27 in the Handbook, you must report any crimes reported as occurring in the rooms rented to your students and any common areas used to access the rooms (lobby, elevators, etc.) for the times and dates specified in the rental agreement. Note that what matters here is repeated use of an owned or controlled location, not the number of days it is used or whether it is used by the same students or different students.
- **The institution sponsors short-stay “away” trips for its students.** Generally a trip of short duration to a one-time-only location, such as an overnight trip to see a traveling art exhibit or an athletic event, would not meet this qualification, but some trips of longer duration would. An example is a three week art study trip to another city for a series of art lectures and demonstrations at a museum. In the latter type of situation, any classroom or housing space specified in any written agreement entered into by the institution would be noncampus property for Clery Act reporting purposes. However, if your institution doesn’t enter into an agreement for the use of a particular space or area, you are not required to include crimes in that area in your campus crime statistics. For example, an institution’s art students may visit museums that are open to the public without a special agreement for the use of the space in the museum. There are other situations, such as sports tournaments, for which the host institution makes all of the housing arrangements for visiting students. In these situations, the visitor institutions do not have a written agreement for the use of space and are not required to disclose crime statistics for the housing in which their students are located.

Let me translate:

Clery Act crimes are reportable as non campus incidents if they occur:

- In space that the institution owns or controls (control requiring only a formal agreement for use, such as a lease or rental agreement) overseas that are used to support the institution's mission and are frequently used by students (i.e. not just administrative offices);
- If an overseas study trip includes overnight trips and either:
  1. The same hotel/hostel is used on a regular basis (multi year or semester); **or**
  2. It is a “trip of longer duration.”

What do these mean?

- My experience with ED
- What we did at SUNY

Let me translate (continued):

- Crimes that occur in that hotel/hostel are reportable as non campus crimes:
  - Student's rooms, hallway of student's rooms;
  - Entrance and egress, lobby, elevator, escalator, stairwell
  - Public areas (breakfast, pool, gym)
- Not reportable:
  - Crimes that occur in non student private rooms
  - Crimes that occur on floors not inhabited by students
  - Crimes that occur in places not accessible to students (VIP lounge)

## Not Reportable:

- Crimes that occur on student-organized or private trips.
- Crimes that occur on college sponsored field trips.
- Crimes that occur on overnight stays or short stays on college sponsored field trips (assumes no long term relationship with vendor).

Staying with a Host Family:

From the Handbook Page 30:

*Host family situations do not normally qualify as noncampus locations unless your written agreement with the family gives your school some **significant control** over space in the family home.*

This is a slightly different standard.

From the Handbook Page 30:

*Host family situations do not normally qualify as noncampus locations unless your written agreement with the family gives your school some significant control over space in the family home.*

**Significant control = separate entrance  
(oral guidance)**

# Location, Location, Location

For Non Campus, **ask three questions:**

- 1. Do we own/control?** Is this an agreement to provide a program or control of specific space? Do we have a written agreement?
- 2. Is it frequently used by students?** Is it solely back office or research? If housing students, do we use the same vendor multiple times or have a stay of long duration?
- 3. If we control, did the crime occur when we had control?**  
(if we own, crimes at any time are countable)

# Report

- Crimes (one standard everywhere)
  - Federal (UCR/NIBRS, sort of) definitions
  - Hierarchy rule applies (with exceptions)
- Arrests/Referrals for drugs/weapons/alcohol
  - Local jurisdiction definitions
  - Arrests are easier to count
  - Even for Referrals, has to be a crime (not just a violation of institutional policy)
    - 19 year old alcohol violation in London
    - Marijuana violation in Amsterdam (or Colorado)
    - Possession of a handgun in a country that allows handguns

We learn of Clery reportable crimes in two ways:

- Campus Security Authorities
- Statistics provided by local law enforcement

# Defining and Notifying Security Authorities

- Police/Campus Security
  - Department members and others affiliated
- Faculty/staff with significant responsibility for students and campus activities (includes housing, discipline)
- Individuals specified as those to whom students and employees should report crimes

(Handbook pages 73-81)

# Defining and Notifying Campus Security Authorities (CSAs)

For those who are covered

- Must report to the appropriate law enforcement personnel any allegations of Clery Act crimes that are “made in good faith” (I read this out of the definition)
- Report the **statistic** regardless of whether the victim wants to speak to the police

Overseas, normal Campus Security Authority rules apply:

- Responsible for students? Then a Campus Security Authority.
- I **very strongly** recommend that, as a policy matter, your college deems **all** faculty and staff travelling with students or meeting students overseas as C.S.A.'s even if they do not have direct student responsibility.

*The Department of Education likes this a lot.*

# CSA Training

Storch Method of Single Sentence CSA Training (not endorsed by ED)

“You have been defined or designated as a Campus Security Authority; this means that if you witness, learn of, or hear about a Clery Act crime, you must, as soon as possible, contact [ ] and tell them what happened, when it happened, and where it happened”

Possible add on: “You may identify the victim or keep the victim’s identity confidential.”

As long as we are getting information from other sources

- Send requests for crime statistics to local law enforcement
  - Specify what constitutes public and college property (if applicable) for *Clery Act* reporting purposes
  - State that the information is required by the *Clery Act* for disclosure in the ASR and to the DoE.
  - Keep a copy of the request for required *Clery Act* statistics
  - Document any response or non-response from local law enforcement

Handbook pages 82-87

## **Two Thoughts:**

This can lead to problems in some countries.

This will almost never lead to useful statistics.

# Clery Act

- What about Title IX?

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

- Title IX of the Education Amendments of 1972

# Clery Act

- What about Title IX?

*No person in the United States shall...*

Most likely applicable across the globe (case law and opinions are split)

# Intersection of Clery & Title IX

- Title IX, Clery and VAWA require certain actions in cases of sexual assault;
- These occur with regularity domestically and overseas;
- We have requirements to help the victim and take action against the assailant;
- **Sex discrimination includes all forms of sexual harassment, including verbal sexual harassment and sexual violence by employees, students, or third parties against employees, students, or third parties.**
- **Sexual violence (extreme form of harassment): physical sexual acts perpetrated without consent.**
- **Consent is clear, unambiguous, and voluntary** agreement between the participants to engage in specific sexual activity.

# Intersection of Clery & Title IX

- Clery does not require you to report crimes based on **WHO**
- Clery requires you to report crimes based on **WHERE**
- Title IX does not require you to report unequal treatment based on **WHERE**
- Title IX requires you to report unequal treatment based on **WHO**

# Intersection of Clery & Title IX

- **Title IX in one sentence:**
  - The college has a duty to respond to complaints of sexual harassment and sexual violence in a way that limits its effects and prevents its recurrence

# Intersection of Clery & Title IX

- Every institution must have a Title IX Coordinator
- What do we report to them?
- Any observed, experienced, or known sex discrimination, including sexual harassment and sexual violence (notice overlap with CSA requirements).
- **Who**, not **where**: Doesn't matter if it occurred on-campus, off-campus, at a nearby private college campus, on spring break in Mexico, last week, 2 years ago.

# Intersection of Clery & Title IX

## Major Point:

Clery, VAWA and Title IX Read Together: One thing we know: we **cannot** ever handle crimes, including sexual assaults, “in house.”

*This is as true in academics or athletics as it is overseas.*

# Putting It All Together

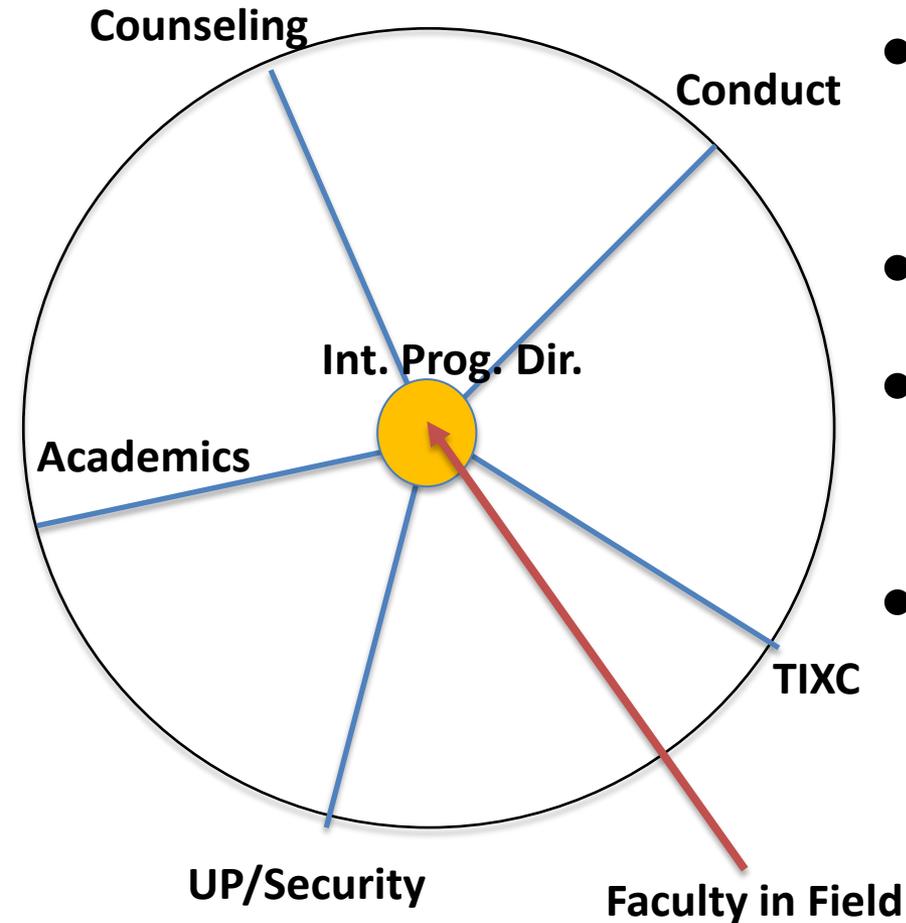
## **Some Thoughts:**

- The danger of reporting (VAWA's three choices are not good choices everywhere).
- Academic freedom to go to dangerous areas versus safety and harassment prevention.
- Echo red zone and risk reduction.

## **Future Changes:**

- State Department will be forming an office on study abroad.
- Potential future legislation.

# Hub & Spoke & the Need for Good Data



- Who is collecting such data overseas?
- What training do they have?
- What reporting mechanisms are we using?
- Are all involved in the process speaking the Clery Act lingua franca?

 NACUA

JUNE 28TH - JULY 1ST

2015

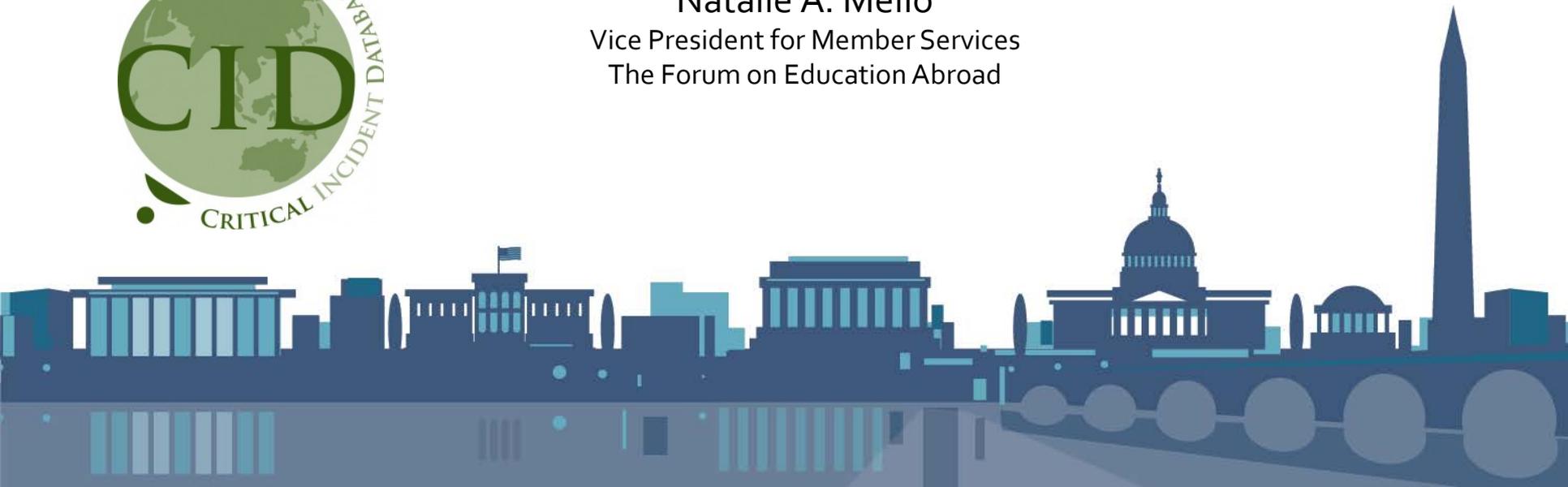
ANNUAL CONFERENCE  
WASHINGTON, D.C.

# *The Forum's Critical Incident Database*



Natalie A. Mello

Vice President for Member Services  
The Forum on Education Abroad



# Session Agenda

- What is the Critical Incident Database?
- Who is using it?
- What is it telling us?
- What have we learned?
- Where do we go from here?

# Forum Fireside, Portland OR, February 2009

1. A risk management conference
2. More rigorous standards
3. A *central* critical incident database for *all* incidents

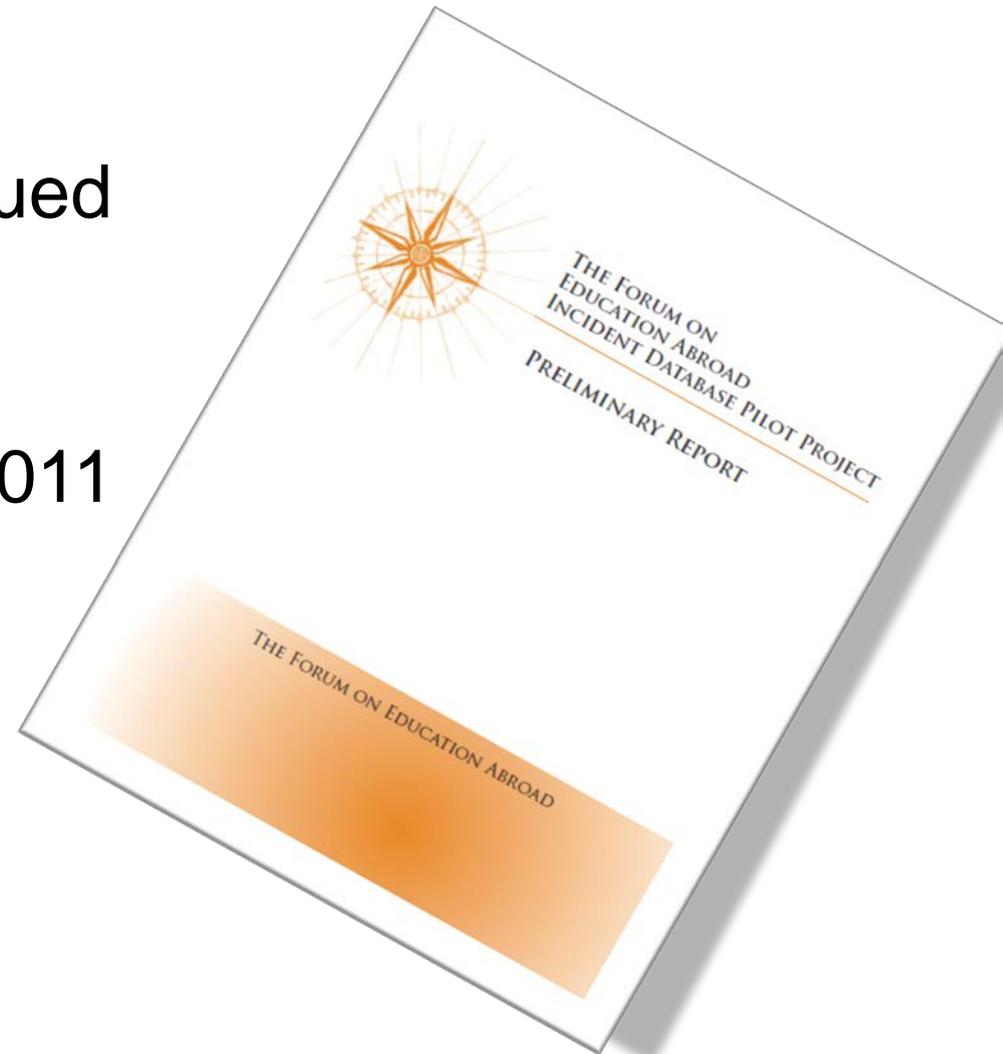


# Forum Incident Database Committee

- Brian Brubaker (Dickinson College)
- Bill Frederick, Chair (The School for Field Studies)
- Regine Lambrech (Columbia University)
- Natalie Mello (Worcester Polytechnic Institute)
- Christopher Powers (IIE)
- Adam Rubin (CIEE)
- Gary Rhodes (SAFETI)
- Arlene Snyder (Arcadia University College of Global Studies)
- John Tansey (Dartmouth College)

# Critical Incident Database

- Piloted in 2009-2010
- Preliminary Report issued 2010
- Revamped based on feedback from users 2011
- Re-released 2012
- First full calendar year of data 2014





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[resources](#)

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[YOUR ACCOUNT](#)

Welcome, mellona@dickinson.edu!

## resources

[Standards of Good Practice](#)

[Advocacy](#)

[Outcomes](#)

[Data Collection](#)

[Glossary](#)

[Member Resources](#)

- [Standards Toolbox](#)

- [Outcomes Toolbox](#)

- [Curriculum Cooperative](#)

- [Critical Incident Database](#)

[AIFS/AIFS Foundation Education Abroad Special Collection](#)

[Publications](#)

[ForumJobs](#)

Menu Home > Resources > Member Resources > Critical Incident Database

### Critical Incident Database

The Critical Incident Database (CID) is a free tool for use by Forum member institutions in tracking critical incidents that occur while students are abroad. In addition, the CID serves as a method for tracking required information on incidents that should be reported in a member's Annual Security Report as required by the Department of Education in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act).

The CID provides:

- An easy and convenient way to track what happens to your students while off campus (types of incidents, locations, etc.);
  - On-line and accessible from anywhere
  - Tablet, smart phone friendly
  - Easy access to your own data; downloadable and printable reports
- A reliable method to identify which incidents should be reported in your Annual Security Report to the Department of Education to comply with the Clery Act;
  - Incidents to be included in Clery report are clearly tagged
  - Mouse-over definitions provided based on the Clery Act
- A way to track critical incidents so that risk management decisions about education abroad programs can be made using appropriate data.
  - Institution/organization and program identity is protected
  - Annual reports are generated in the aggregate



To use the Critical Incident Database, you must have been assigned access and be logged in.

**[Access the Critical Incident Database](#)**

### Application to Use the CID

To use the CID you must be a Forum member and you must also submit a CID application

# Demonstration of the CID

[The Forum's Critical Incident Database](#)

# Screen shots

FORUM ON EDUCATION ABROAD

Search

Member Services Resources Standards Events About the Forum Logout

Logged on: mellona@dickinson.edu (Admin tools) Incident Database

## Incident Database

Report New Incident Manage Field Staff View Incident Statistics Search Incidents

### Incidents

Incident Date Report Date	Location	Individuals Involved	Disciplinary Referral?	Add Note	View/Print
19-Aug-2013 (UTC 0) 19-Aug-2013	lkjlo, Bolivia	More than one student	<input type="radio"/>		
19-Aug-2013 (UTC 0) 19-Aug-2013	Boston, United States	More than one student (2)	<input type="radio"/>		
17-Aug-2013 (UTC -2) 19-Aug-2013	Alajuela, Costa Rica	Individual student	<input type="radio"/>		

Possible Clery, Title IX incidents

## Incident Database

(Note: Items defined by Clery are followed by the **clery** tag.)

Your Name:

Date of incident (MM/DD/YYYY):

Time (actual local time of incident, or time incident began):

Hour:  Minute:

Timezone:

Country:

City:

Program Length:

- Program Type
- Nature of Incident
- Individuals Involved (required)
- Contributing Factors
- Activities at Time of Incident



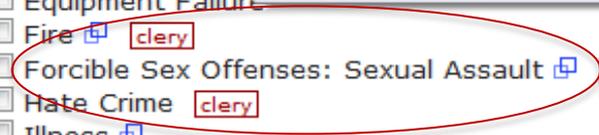
Clery, Title IX, VAWA

▼ Nature of Incident

(check all that apply)

- Arrest - Drug Law clery
- Arrest - Liquor Law clery
- Arrest - Weapons Possession clery
- Assault (Aggravated) clery
- Assault (Simple) clery
- Behavioral Event clery
- Civil Unrest
- Death (murder, r clery
- Disease Outbrea
- Equipment Failur
- Fire clery
- Forcible Sex Offenses: Sexual Assault clery
- Hate Crime clery
- Illness clery
- Injury clery
- Missing/Separated Person
- Motor Vehicle Accident (pedestrian, motorbike, car, truck, etc)
- Motor Vehicle Theft clery
- Natural Disaster
- Non-assault Injury
- Non-Forcible Sex Offenses clery
- Other (specify)
- Sexual Harassment
- Terrorist Event
- Theft - Burglary clery
- Theft - Larceny
- Theft - Robbery clery

Aggravated Assault – 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 usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.



Terminology is being updated

Notes:

# Incident Database

## Off-Program Property

(Property that is in NO way managed/rented/leased or owned by the program or institution.)

- At Pub or Bar
- Field Research
- Internship
- Privately managed housing
- Other (please explain)

Notes:

## On Campus Property

(A separate campus where at least one administrator is employed AND a student can complete a terminal degree or diploma solely on that campus.)

- Public Property - adjacent to and accessible from that CAMPUS property clery
- Within the borders of the Campus clery

## Program Managed Housing

(Any property that is not owned by the institution but is organized/arranged by the institution [rented or leased].)

- Apartment Building clery
- Dormitory clery
- Academic Space clery
- Research Boat clery
- Other clery

# Incident Report

[Print](#)[Export to PDF](#)

Incident Date and Time: 20-Aug-2013 0:00 (UTC 0)

Incident Reported: 20-Aug-2013

Reported By: Natalie

Location	Program Length	Program Type	World Bank Category
Glasgow, United Kingdom	91+ days	Facilitated Direct Enroll	High Income

Activities at Time of Incident:	Free Time
Program Managed Property Type:	Academic Space

Individuals Involved:	Individual student
Contributing Factors:	Alcohol Failure to Follow Program Policies Poor Judgment

Nature of Incident: (* see details below)	Assault (Aggravated)
--	----------------------

## Nature of Incident Details:

Notes:	
20-Aug-2013 08:36:04	Student was completing lab work after hours in the building used by the program. Student violated policy that clearly establishes hours when the lab is available for use. While in the lab the student consumed alcohol. After locking up the lab, the student was jumped by two assailants who were lurking in the building.

Fever	1
Extreme Intoxication - Alcohol	1
Contact with Another Person	1
Burn	1
Arrest - Liquor Law	1
Arrest - Drug Law	1
Acute Anxiety	1
Accidental - Property Fire	1
Abdominal Pain	1

Note: Items marked with an asterisk (\*) are the sum of the detailed items in that category (ie. 'Death', 'Fire', etc.)

[Generate Chart](#)

### Individuals Involved

Individual student	8
More than one student	4
On-Site/Program Staff	1
Individual NOT associated with program	1
Faculty	1

[Generate Chart](#)

### Contributing Factors

Alcohol	6
Failure to Follow Program Policies	4
Fatigue	3
Cultural Difference	3
Medications	2
Weather	1
Pre-existing Condition (undisclosed)	1
Pre-existing Condition (disclosed)	1
Language (misunderstanding)	1
Poor Judgment	11

[Generate Chart](#)

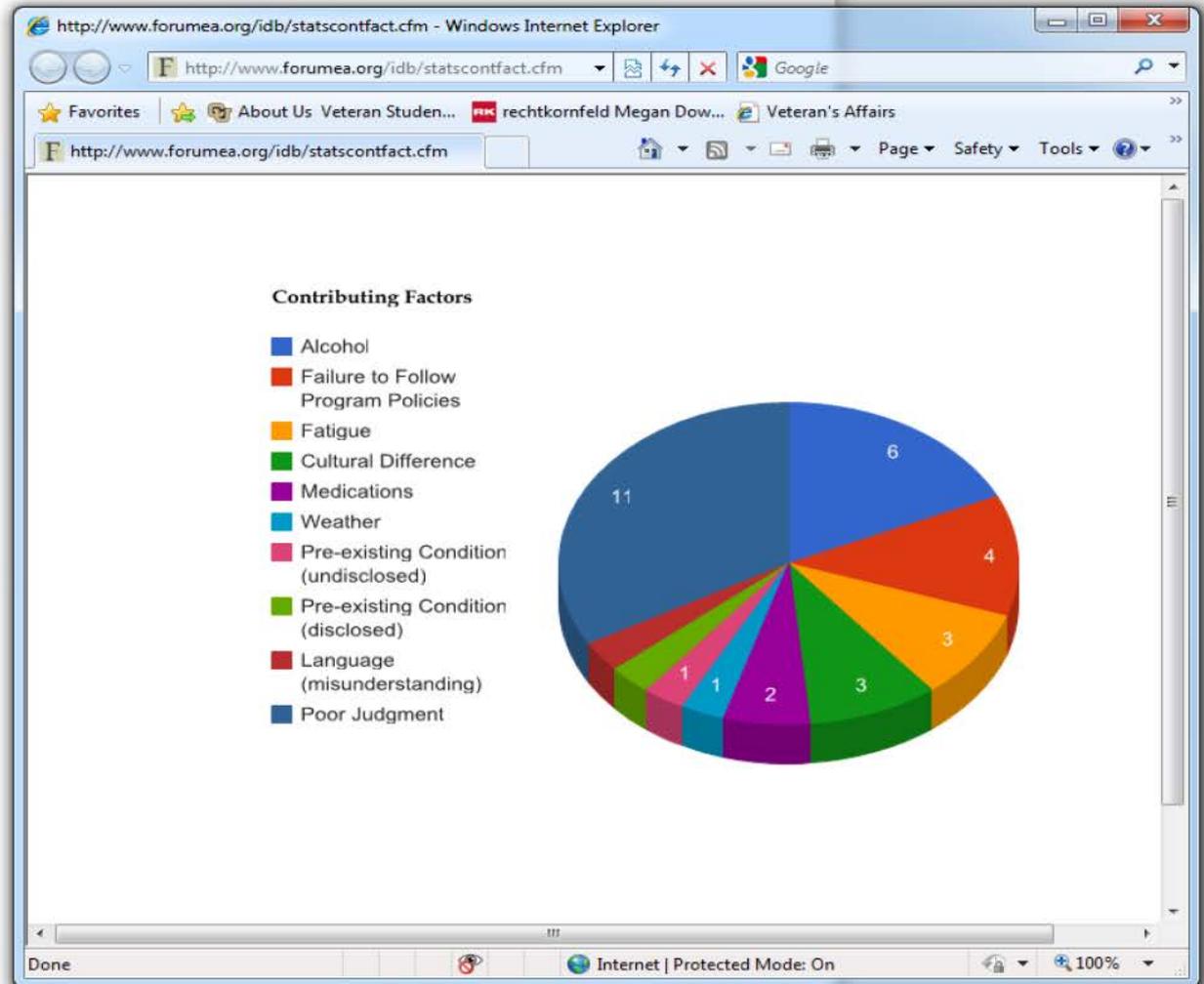
### Activities at Time of Incident

Free Time	7
N/A	4
Independent Travel	1
Field Research	1
Camping	1

[Generate Chart](#)

### On Campus Property Type

Within the borders of the Campus	2
Public Property - adjacent to and accessible from that CAMPUS property	1



# Example search by category – “faculty-led”

Report New Incident

Manage Field Staff

View Incident Statistics

Search Incidents

## Incidents

Incident Date Report Date	Location	Individuals Involved	Disciplinary Referral?	Add Note	View/Print
17-Aug-2013 (UTC -2) 19-Aug-2013	Alajuela, Costa Rica	Individual student			
17-Aug-2013 (UTC 0) 19-Aug-2013	Vienna, Austria	Faculty, More than one student (3)			
12-Aug-2013 (UTC 0) 12-Aug-2013	Lisbon, Portugal	More than one student (2)			
08-Aug-2013 (UTC -5) 17-Aug-2013	New York, United States	Individual student			
07-Aug-2013 (UTC 0) 17-Aug-2013	Lisbon, Portugal	On-Site/Program Staff			
07-Aug-2013 (UTC -5) 17-Aug-2013	New York, United States	Individual student			
07-Aug-2013 (UTC -6) 13-Aug-2013	Belmopan, Belize	Individual student			

What are we learning from the CID?

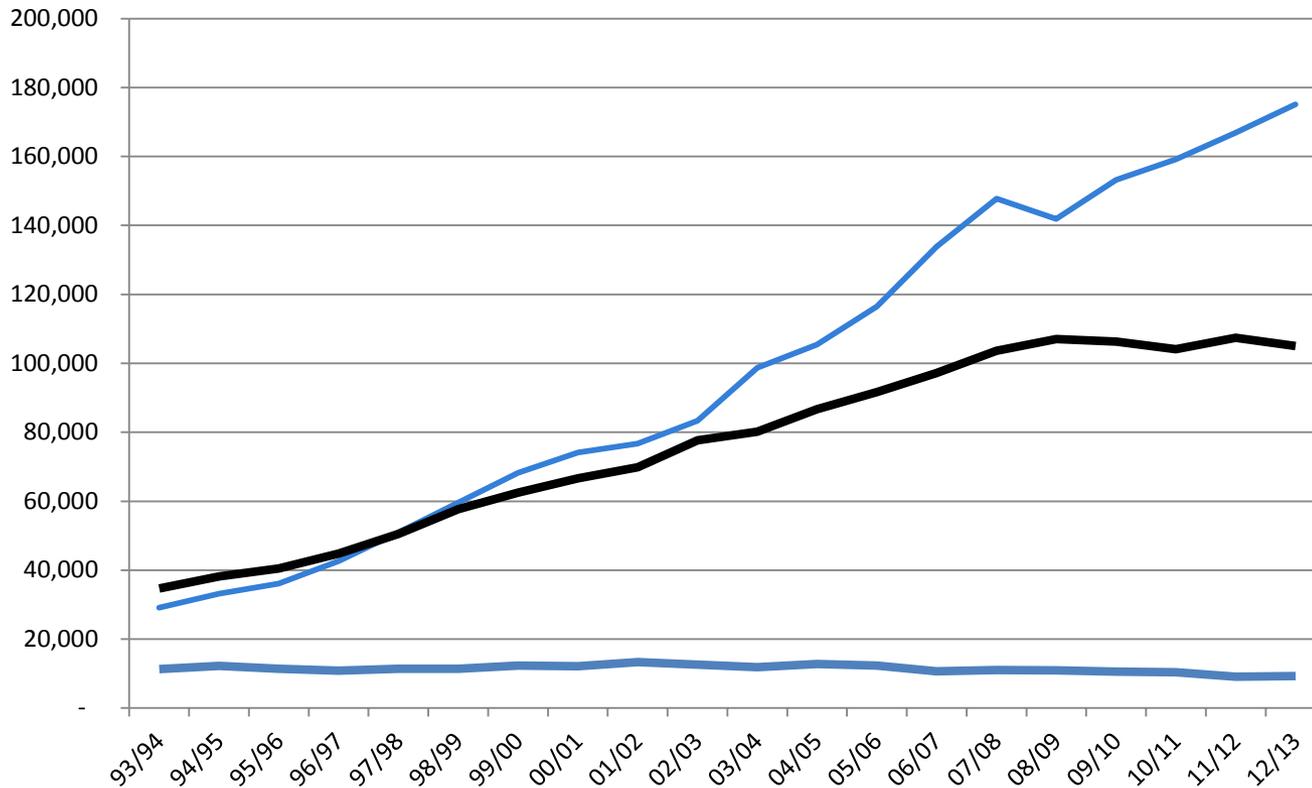
# Critical Incident Database Users

- **>350** different programs in **101** different countries
- **881,718** student program days
- Data collected January 1, 2014 – December 31, 2014

38 participating organizations

- 11 liberal arts colleges
- 9 large public universities
- 3 small private universities
- 7 medium private universities
- 2 large private universities
- 2 community colleges
- 3 program providers
- 1 state system

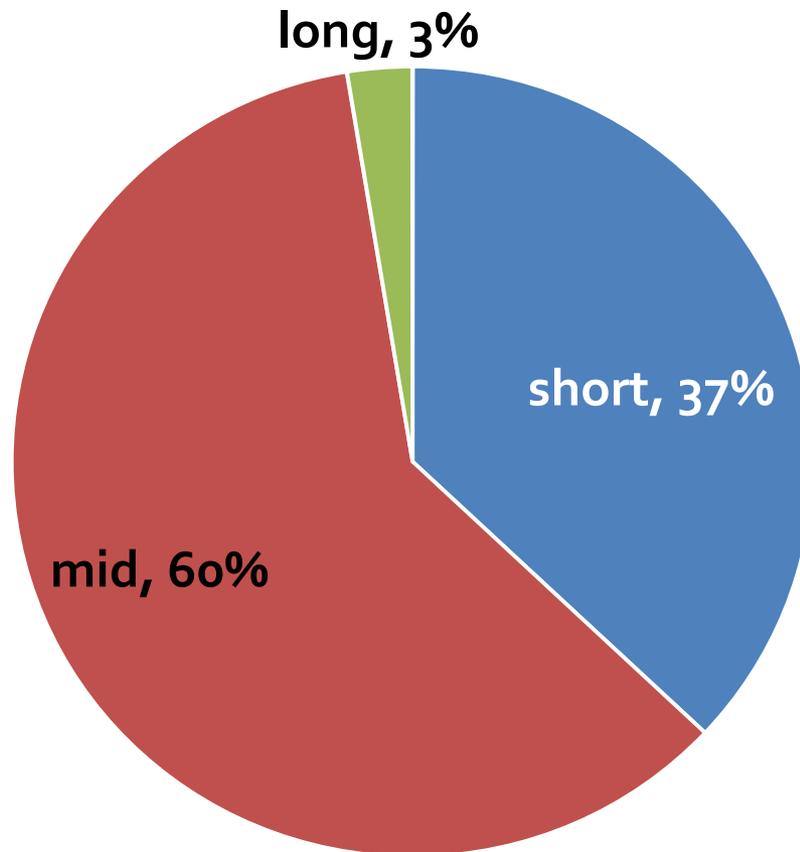
# U.S. Study Abroad, 2012/13



289,408 U.S. students received academic credit for study abroad in 2012/13, up slightly (2%) over the prior year.

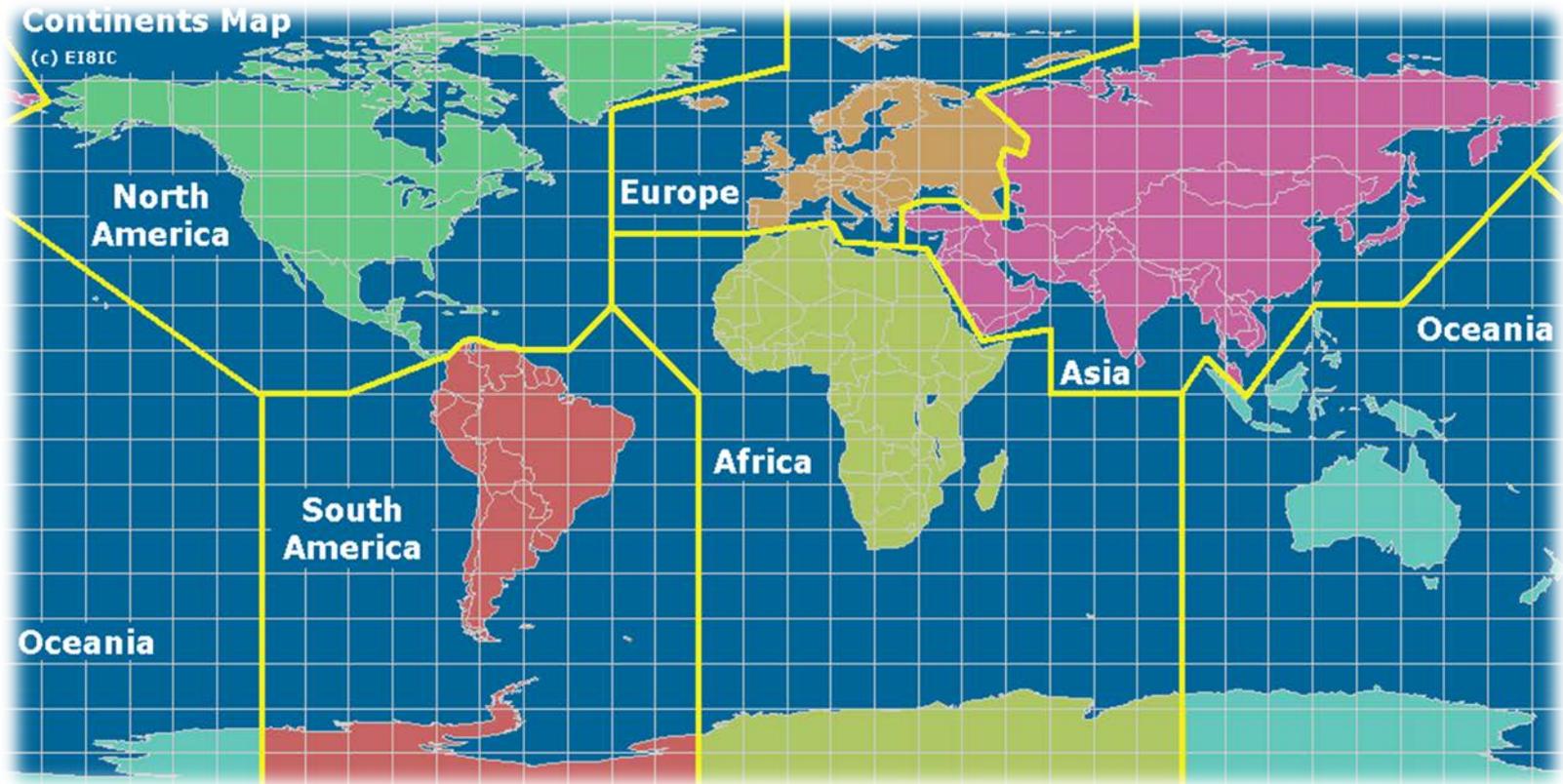
Institute of International Education. (2014). *Open Doors Report on International Educational Exchange*. Retrieved from <http://www.iie.org/opendoors>

# Length of Programs Represented in the CID



Short = < 56 days  
Mid = 57 – 264 days  
Long = > 265 days

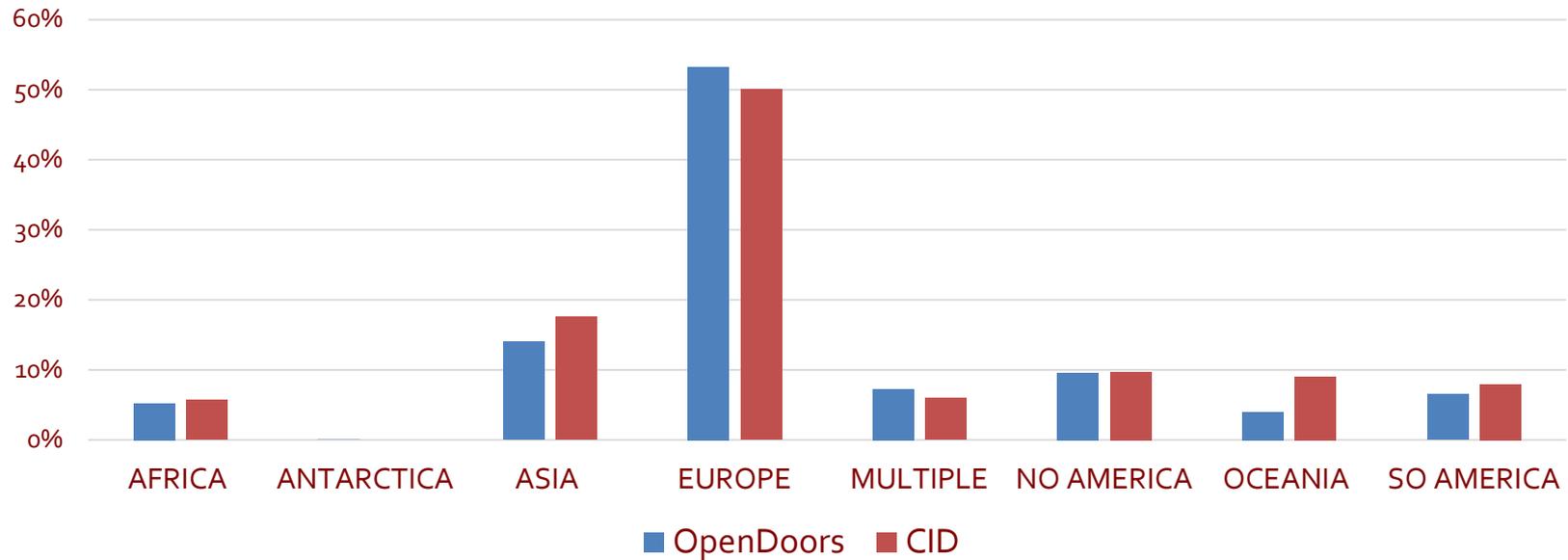
# Continental Breakdown



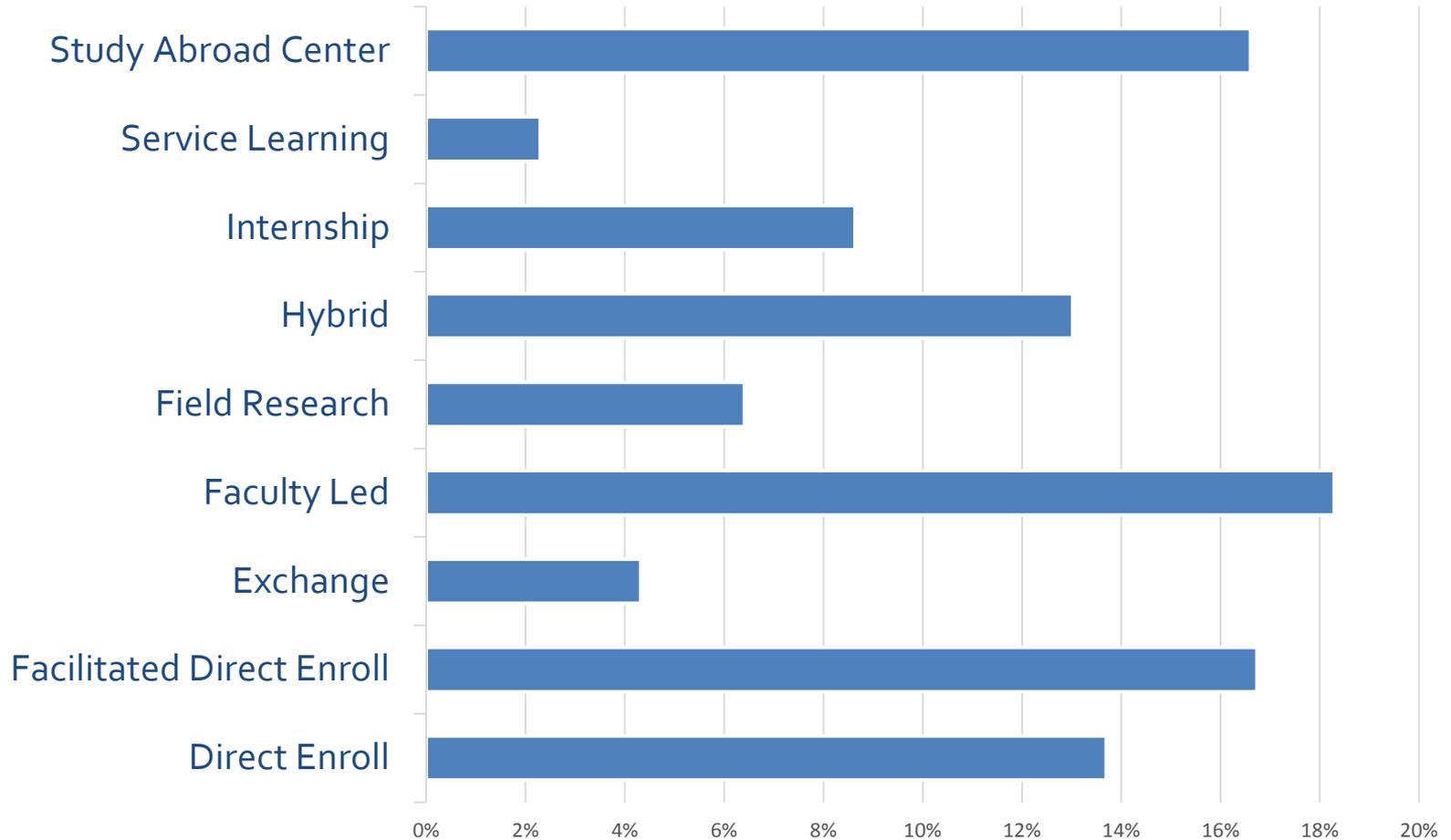
<http://www.mapability.com/ei8ic/maps/continent.php>

# Destinations of Programs Represented

*~10 % of Open  
Doors data*

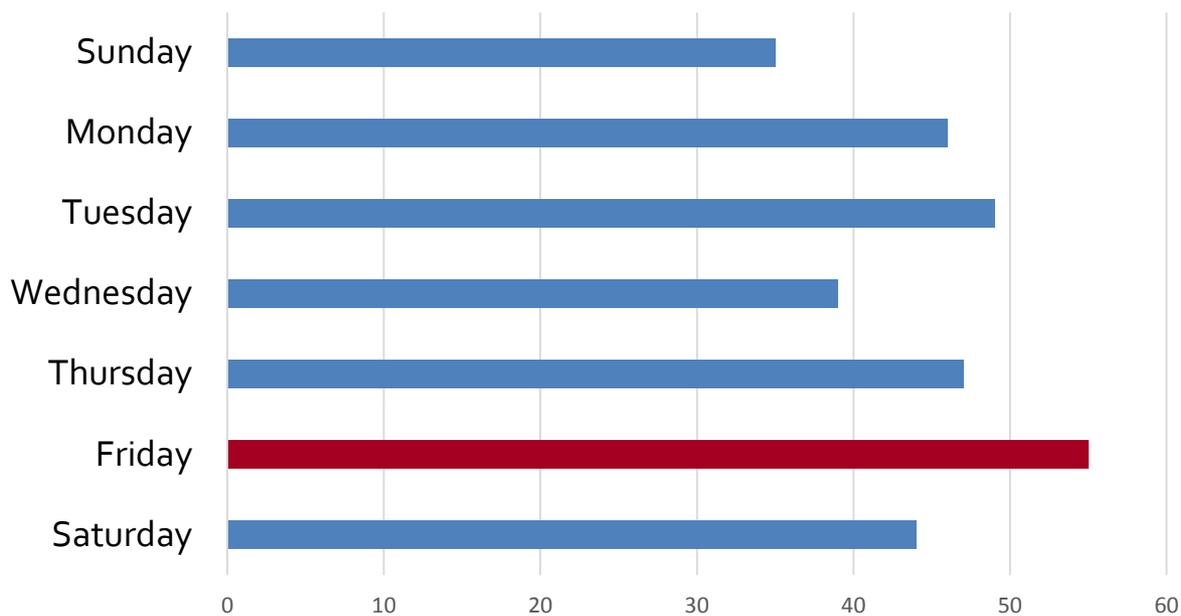


# Types of Programs Represented in the CID

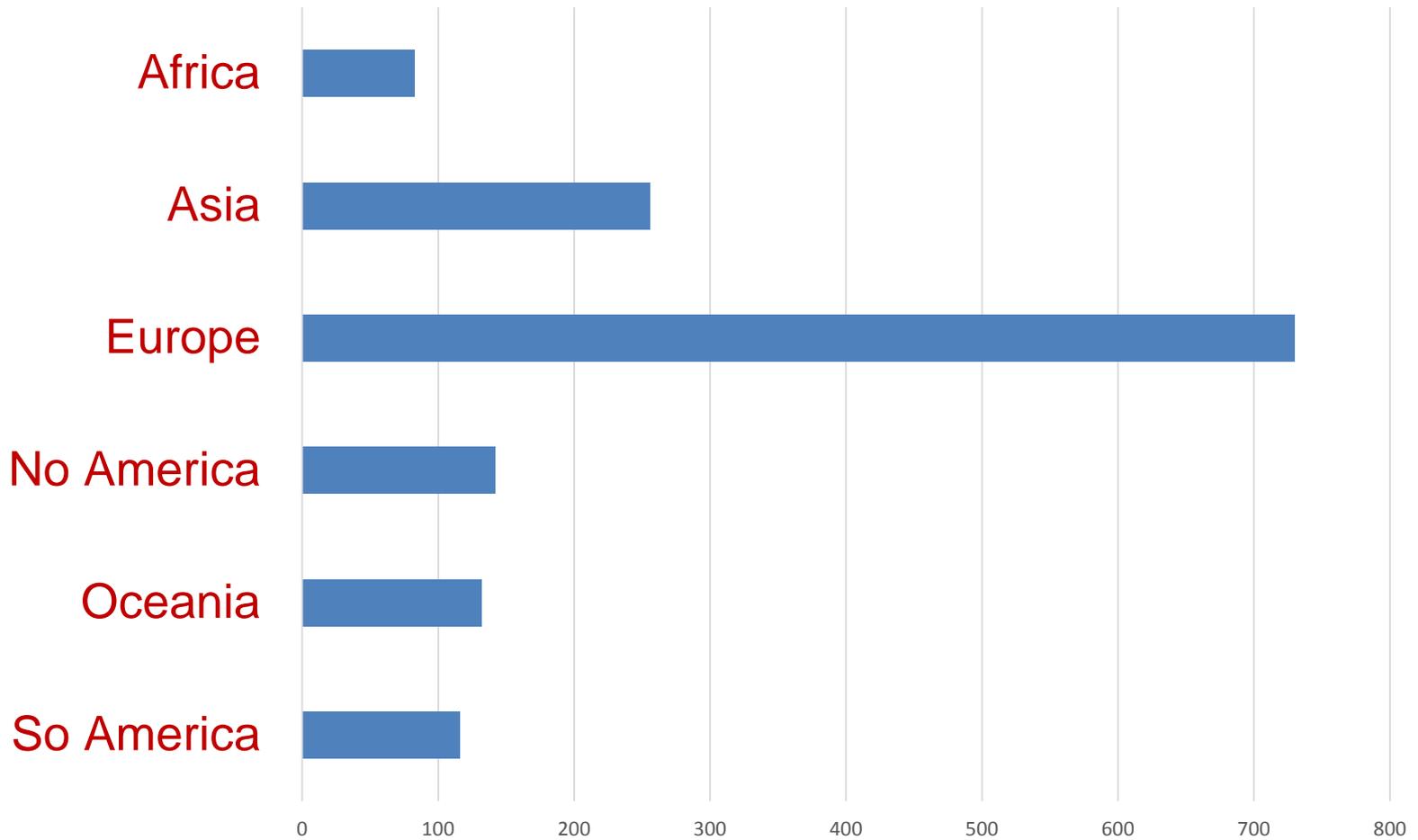


# CID incident data

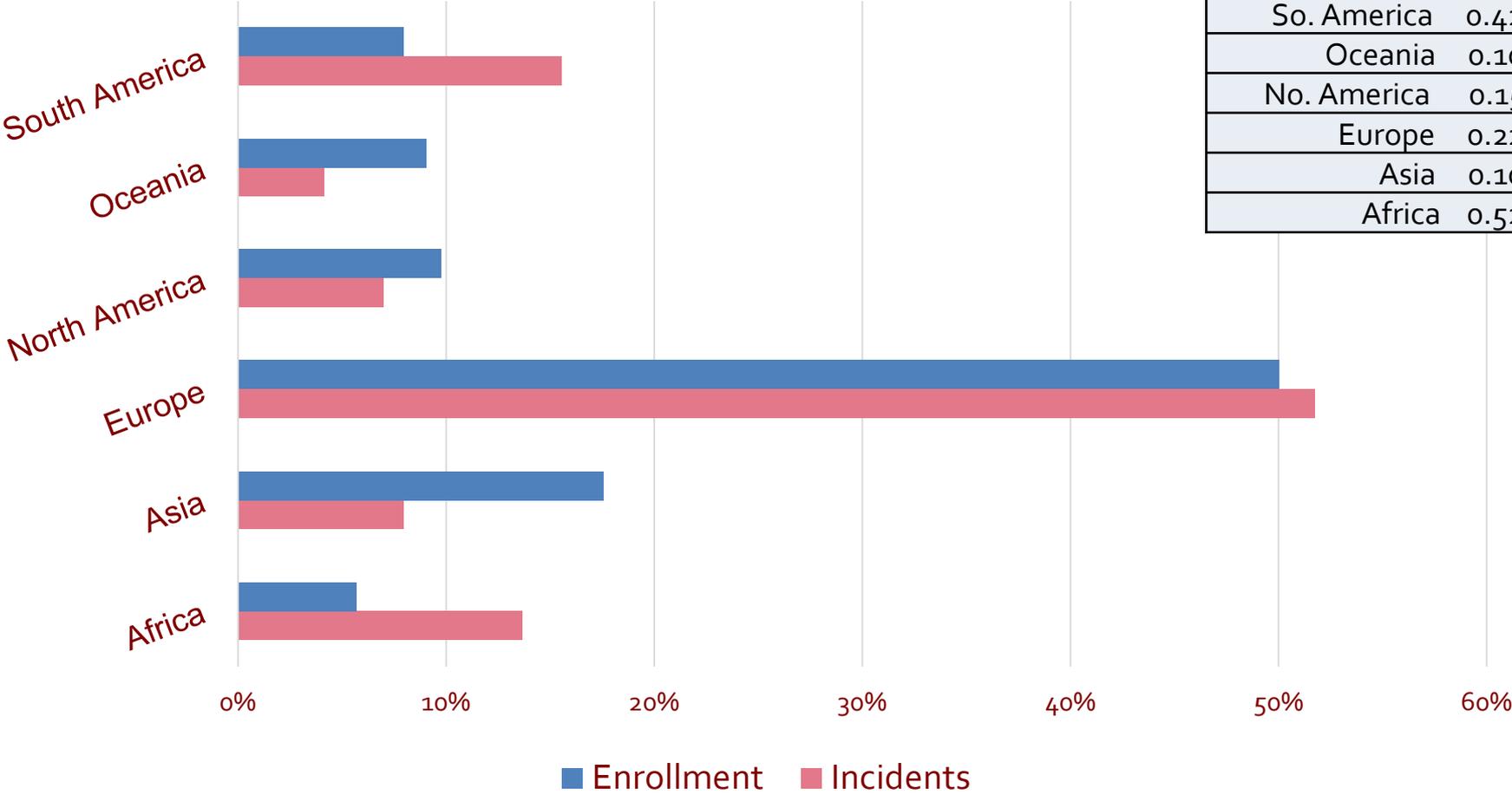
- 313 incidents
- 49 different countries
- Every day of the week



# Where Incidents Happened

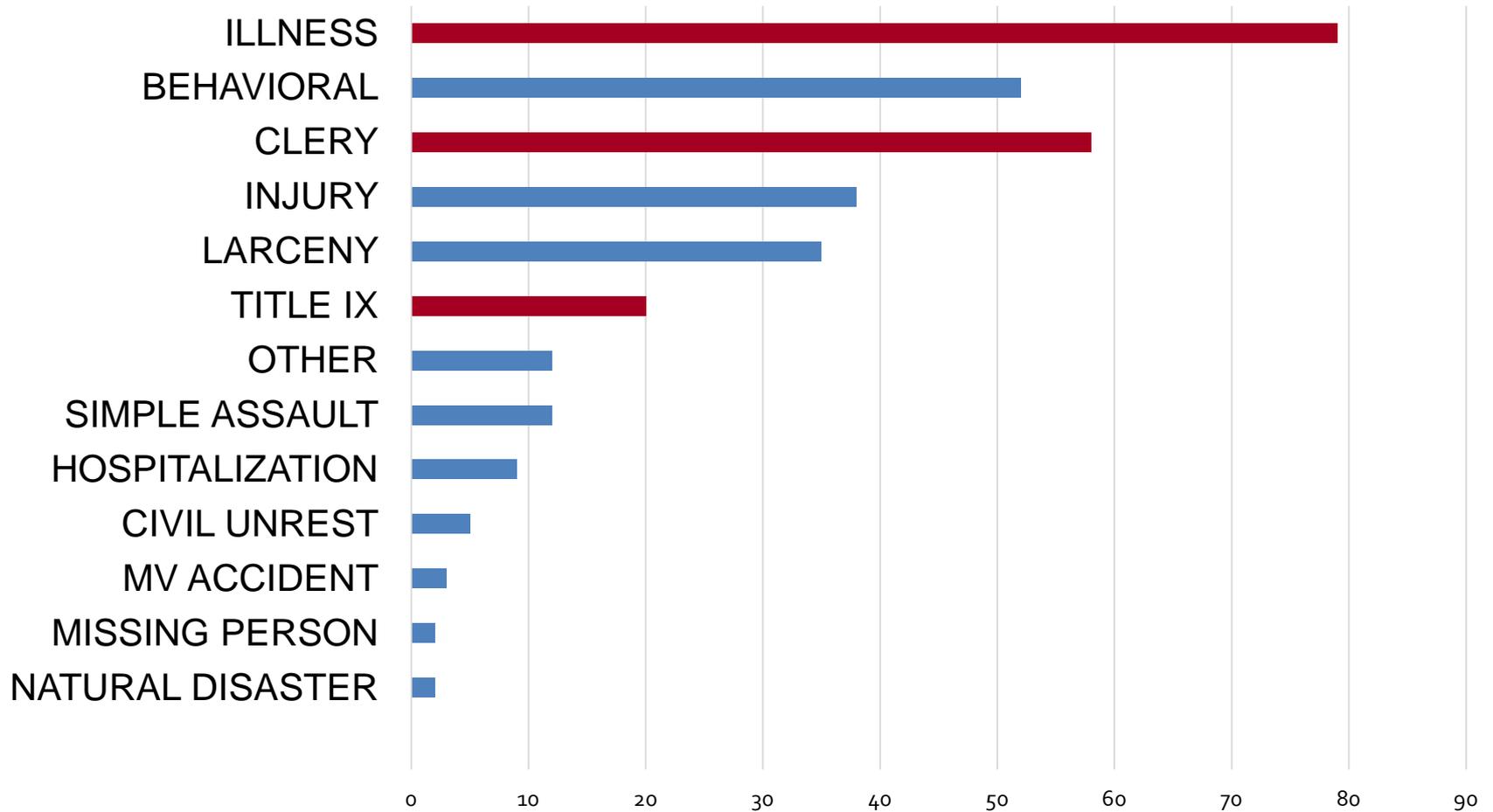


# Compare...

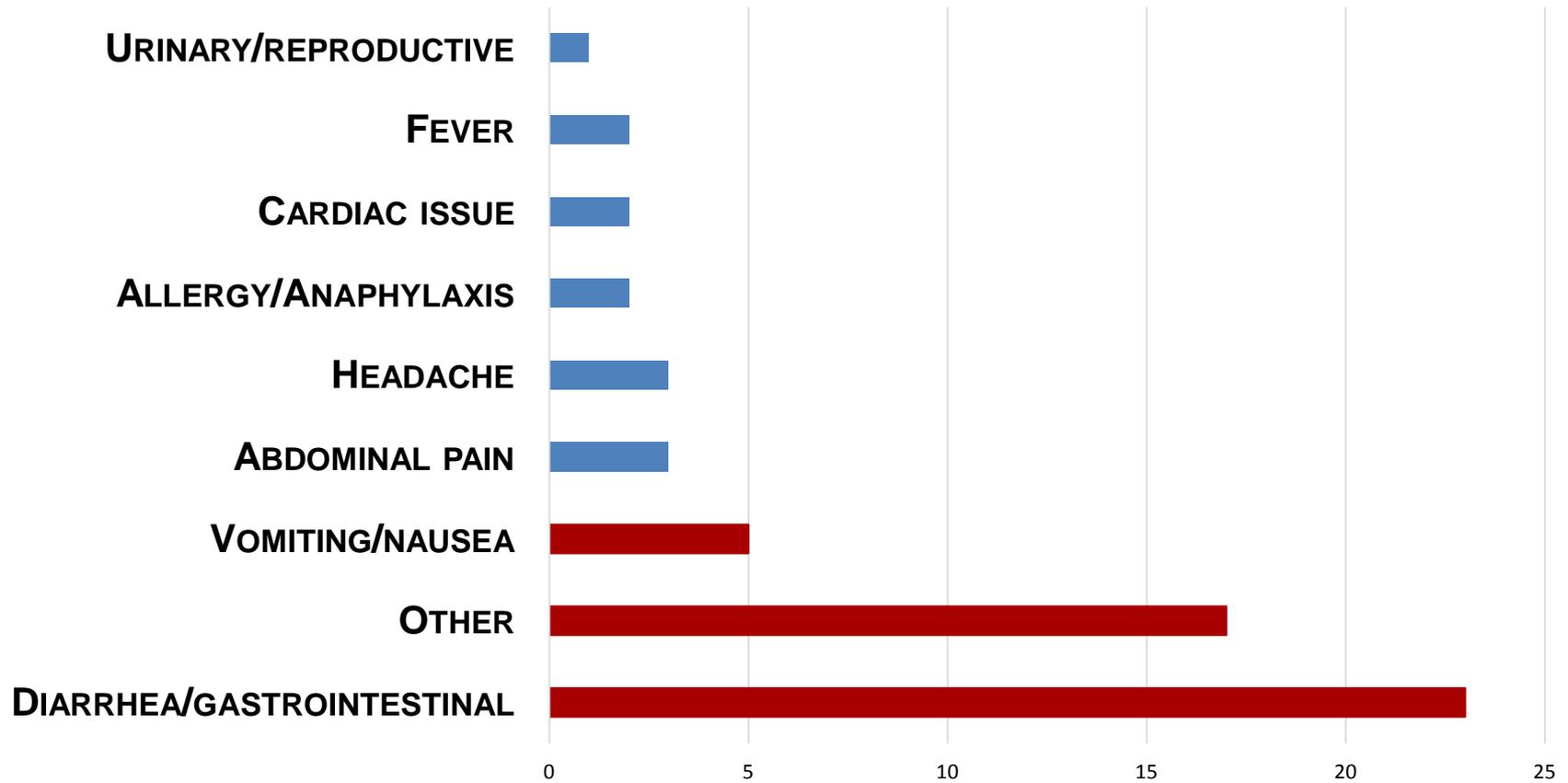


Frequency of incidents	
So. America	0.42
Oceania	0.10
No. America	0.15
Europe	0.22
Asia	0.10
Africa	0.52

# Types of Incidents

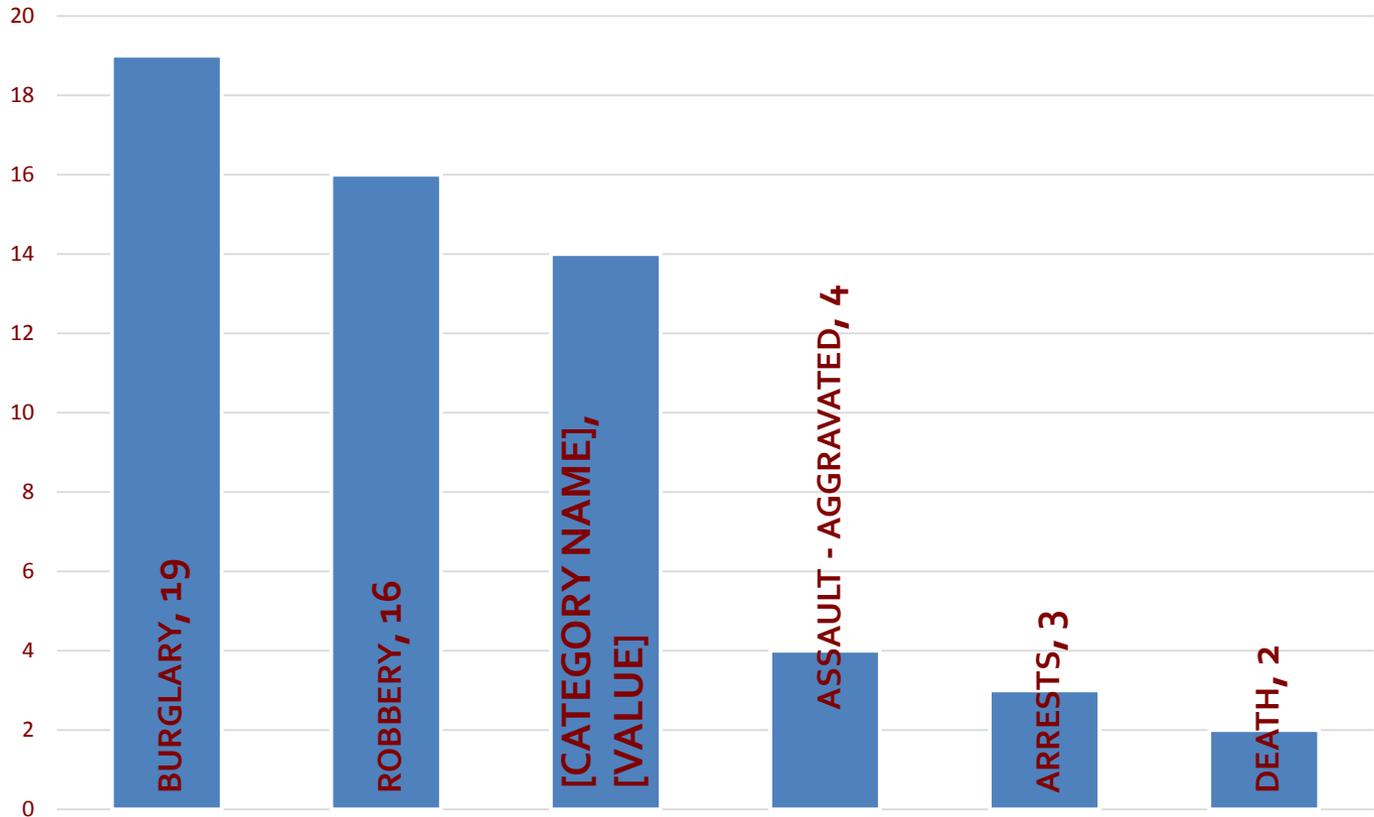


# Types of illnesses



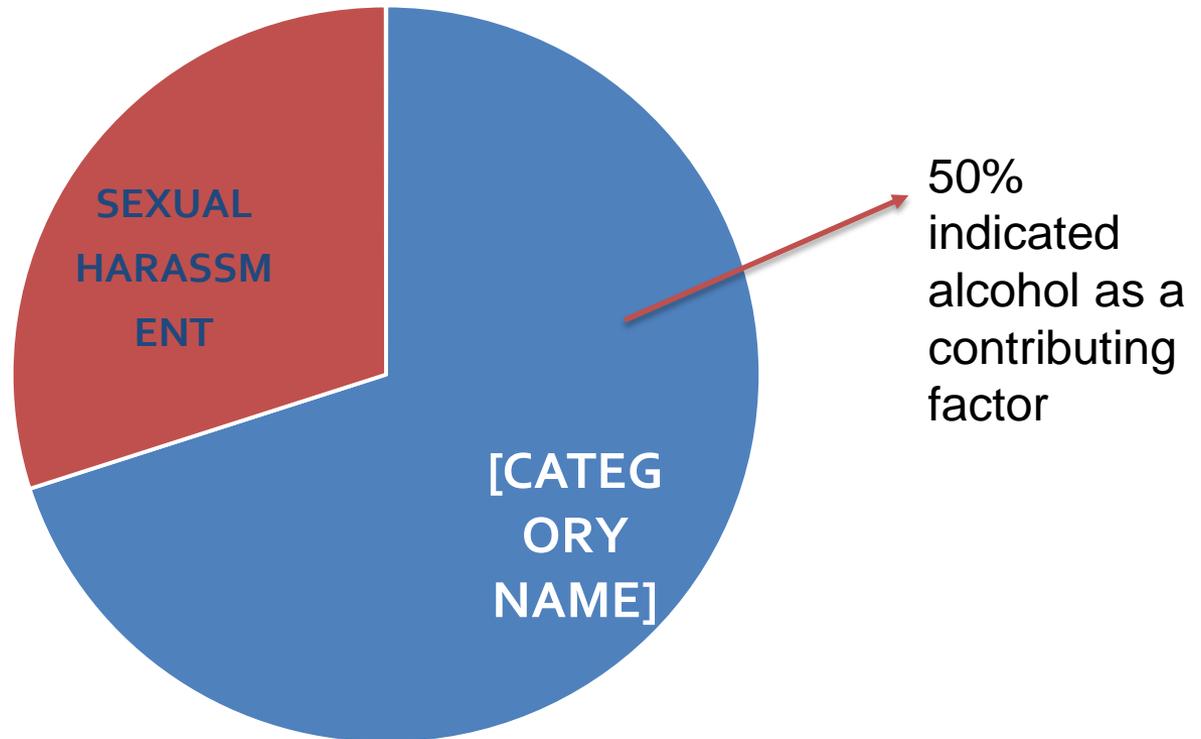
# Possible Clery reportable incidents

58 total reportable incidents *IF* the incident occurred on Clery defined program property

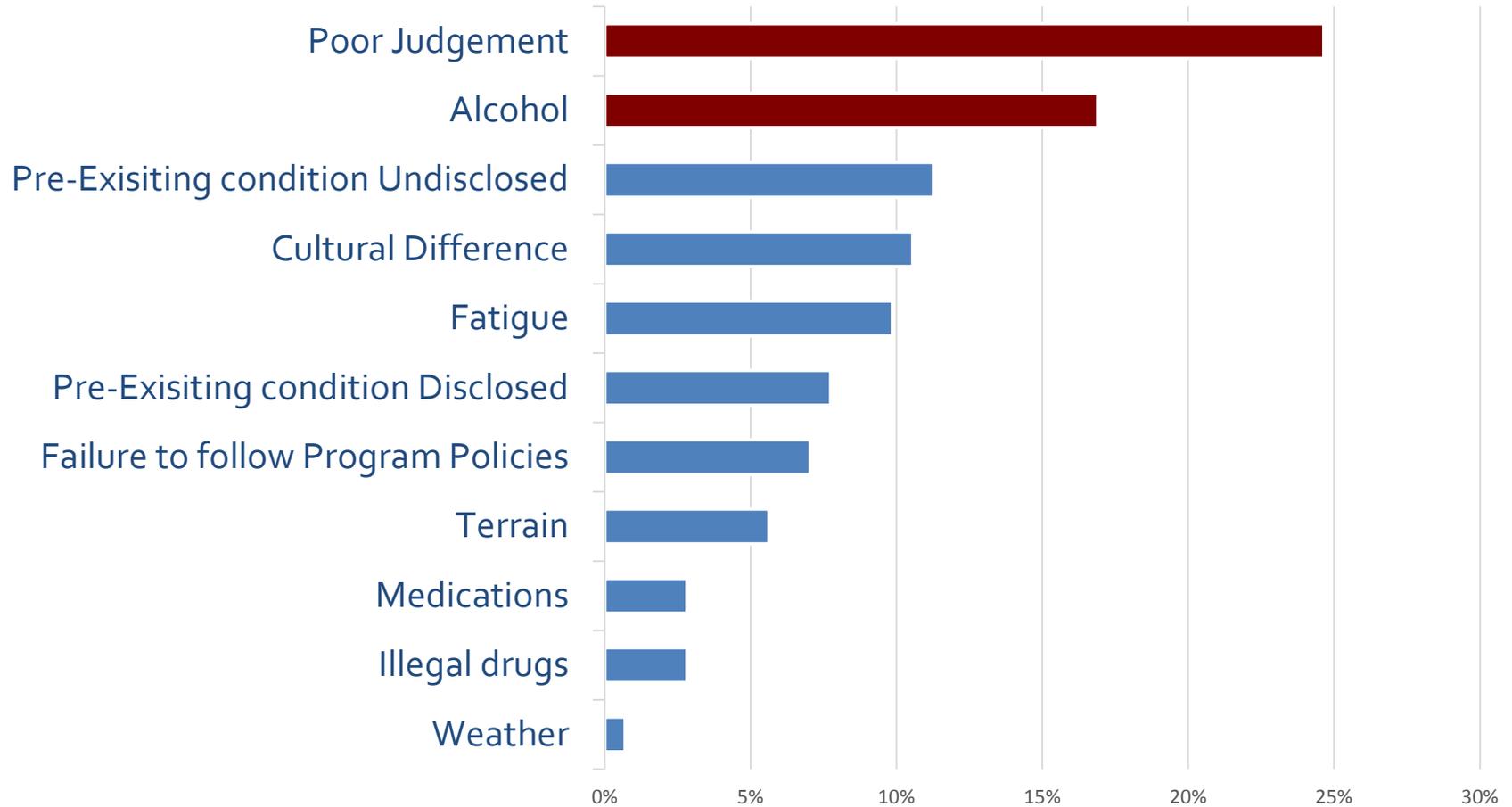


# Title IX Reportable

20 total reportable incidents



# Contributing factors to all incidents



# What were they doing?



# What have we learned about the CID from users?

- Electronic survey sent to all current users of the CID
- 2 weeks to complete
- 21 respondents (55% response rate)

# Did you find the CID easy to use?

Answer	Response
Yes	16
No	5
Total	21

# Did the categories encompass the issues you wanted?

Answer	Response
Yes	18
No	3
Total	21

Do you use the reports from the CID to notify your internal safety/Clery compliance authority of incidents?

Answer	Response
Yes	5
No	16
Total	21

Do you use other software or systems that track this information (Studio Abroad, institutional, etc.)?

Answer	Response
Yes	7
No	14
Total	21

# Do you plan to continue to participate in the Critical Incident Database?

Answer	Response
Yes	20
No	1
Total	21

# What is your primary use for the CID?

Answer	Response
Track my institution/organization's critical incidents	7
Contribute to a national data set of critical incidents in education abroad	13
Other (Please specify)	1
<b>Total</b>	<b>21</b>

# Why?

CONTRIBUTE TO NATIONAL DATA FOR SAFETY ADVISING.

WE BELIEVE IT'S IMPORTANT TO

CONTRIBUTE TO A GREATER OVERALL

UNDERSTANDING AND AWARENESS OF

ISSUES FACING OUR INDUSTRY. THIS WILL

HELP US TO THEN HAVE BETTER STUDENT

PREPARATION AND INVESTIGATION STRATEGIES.

FACULTY/STAFF CAN CONTINUE TO IMPROVE

BETTER AND SAFER TRAINING, AND OVERALL

BEING USER FRIENDLY REPORTS

CONTRIBUTE TO THE FIELD

IT'S A GOOD WAY FOR US TO TRACK INSTITUTIONAL TRENDS AND TRENDS WITH STUDENTS AND ADMINISTRATORS. WE ALWAYS FIND VALUE IN THE COMPLETE SET OF DATA IN THE FIELD

HOPE

ABLE TO MAKE WHILE STUDENTS ARE VERY HELPFUL

WE LIKE HAVING A CENTRALIZED KNOWLEDGE BASE AND IN ANTICIPATION OF THIS IN THE FUTURE

ESSENTIAL INFO IN ONE PLACE

ARE VERY HELPFUL

CONTRIBUTE TO DATA FOR THE FIELD OF EA

TO KEEP CONTRIBUTING TO NATIONAL DATA

THAT HAPPEN

HELPS US WITH REPORTING, IS USEFUL TO THE FIELD

# Where do we go from here?

- ✓ Continue to make the CID a member benefit
  - ✓ Ability to track organization's incidents
  - ✓ Tracking needn't be specific to education abroad
  - ✓ No longer need to supply background data to The Forum
- ✓ We will consult feedback for next iteration of the CID
  - ✓ make it more useful
- ✓ Insurance Data Collection Project
  - ✓ A comprehensive report to encompass:  
Student deaths, student hospitalizations, crimes, medical evacuations, security-related evacuations
  - ✓ Data from the CID will provide more insight

## Contact Information



For more information and to download an application for the CID, please visit:

<http://www.forumea.org/resources/member-resources/critical-incident-database>

Questions...