

MU police did not issue Clery release for rape report

BY [JARED GRAFMAN](#) Dec 6, 2012 Updated Jun 12, 2015

COLUMBIA – MU police did not issue a Clery release in January 2010 after receiving a report accusing former Missouri basketball player Michael Dixon Jr. of forcible rape.

Should they have?

The MU Police Department based the decision on federal law: The [Jeanne Clery Act](#), passed in 1990, requires universities and colleges to publish timely warnings — locally known as Clery releases — to their communities about crimes that pose a serious or ongoing threat to the safety of their students and employees.

Security officials at U.S. universities and colleges must decide on a case-by-case basis whether a crime represents a continued threat to the campus after an incident has occurred.

The Department of Education published an updated [Handbook for Campus Safety and Security Reporting](#) in 2011 with step-by-step procedures and examples for complying with the Clery Act, including a section addressing criteria to determine whether a timely warning should be published.

Timely warnings must be issued when a Clery Act crime is reported to campus security authorities or local police agencies, and the institution determines the crime to be a serious or continuing threat to students and employees, according to the handbook. At MU, these warnings [are issued as Clery releases and can be found on the MU police website](#).

But the act doesn't define "timely," according to the handbook, "because the intent of a warning ... is to enable people to protect themselves."

The handbook specifies that "a warning should be issued as soon as the pertinent information is available."

Neither the Clery Act nor the handbook lists specific crimes that require a timely warning to be issued.

It does list campus crimes that must be included in an [annual security report](#), regardless of whether a Clery release was issued.

The report must include statistics about all Clery Act crimes, which include murder, manslaughter, sex offenses and other serious crimes committed on or near campus, according to the law. MU police most recently published this information in its [2011 Campus Crime & Fire Safety Report](#).

An institution must also publish its individual policy for considering timely warnings and other security procedure information in the annual report, according to the Clery Act.

The MU police policy includes an outline of its timely warning procedure: "The department shall provide timely warnings about reported crimes to the campus Community (Faculty, Staff, and Students), in a manner that will aid in the prevention of similar crimes if it is determined that a serious or continuing threat exists."

MU Police Capt. Scott Richardson said this normally involves situations where a suspect is a danger to the community or police believe the suspect will commit the crime again.

Richardson said MU police will send out Clery releases about sexual assault crimes if they believe the suspect will commit the same, or at least a similar crime, again.

Releases about sexual assault crimes are issued "when we have information that leads us to believe we know who the person is and that person may reoffend," Richardson said. "Decisions on whether to send a Clery release is done on a case-by-case basis."

Because there was no Clery release about the [January 2010 police report accusing Dixon of rape](#), the police report was discovered only after media began looking into [his suspension from the basketball team for violating team policy](#).

Dixon was [accused of sexual assault again in an Aug. 20 Columbia police report](#). Boone County Assistant Prosecuting Attorney Tracy Gonzalez closed the case Nov. 16 because of insufficient evidence to charge Dixon with a crime.

The timely warning policy seems straightforward and obvious but can become murky in certain situations, said Emily Austin, the director of policy and evaluation with [Peace Over Violence](#), a domestic violence and rape crisis center in Los Angeles.

[Sexual assault, rape](#) and other serious incidents [between people who know each other](#) can add an element of uncertainty in deciding whether to issue a warning.

"Most rape is not 'stranger danger' in a dark alley," Austin said. "Most sexual assaults are between people that know each other in some way, and those are the norm in the realm of sexual assaults. On sheer numbers and statistics, that's where you're most likely to find the bulk offenses and the repeat offenses."

How does MU compare?

There are similarities between MU police policies and those at other universities.

- [Kansas The University of Kansas](#)'s policy for issuing timely releases outlines: "The issuing of a timely warning is decided on a case-by-case basis by the Office of Public Safety in light of all the facts surrounding a crime, including factors of the nature of the crime, the continuing danger to the campus community and possible risk of compromising law enforcement efforts."
- [The University of Illinois at Urbana-Champaign](#)'s policy for issuing timely releases outlines: "The decision to issue a Crime Alert will be considered on a case-by-case basis depending on when and where the incident occurred, when it was reported, and the amount of information known by the university police."

The policy at the University of Illinois continues: "For example, if an assault occurs between two students who have a disagreement, there may be no on-going threat to University community members and a Crime Alert would not be distributed. In cases involving sexual assault, they are often reported long after the incident occurred, thus there is no opportunity to distribute a 'timely' warning notice to the community."

Should the Clery Act be re-evaluated?

The subject of interpreting the Clery Act, and warning communities of dangerous crimes on a campus, is an ongoing concern throughout the nation.

Adam Goldstein, an attorney advocate for the Student Press Law Center, recently published a blog post [accusing Ohio State University officials of misunderstanding the intention of the Clery Act](#) following a series of sexual assaults that occurred in the same residence hall.

In the post, Goldstein discussed the spirit of the Clery law and determining when incidents justify timely warnings, writing: "I don't know how many rapes it takes for you to start getting nervous, but for me, it's one. One rape is when I start worrying about the risks posed to the campus community."

The Department of Education [launched an investigation](#) into whether Penn State University violated the Clery Act after former assistant football coach Jerry Sandusky was accused of being involved in a sex abuse scandal.

[According to an Associated Press article published on the Missourian website](#), a report from an investigation into the incident indicated Penn State's "awareness and interest" in Clery Act compliance was "significantly lacking."

An October report from the [California State Auditor](#) found that [six institutions failed to comply with the Clery Act](#). It found none of the institutions disclosed all required policies in their annual reports and that they [inaccurately reported crime statistics to various degrees](#).

The Police Benevolent Association of New York State [sent a letter](#) in March to the Department of Education [accusing State University of New York, Brockport of several Clery Act violations](#), including failing to publish a timely warning to its campus community.

Clery releases are intended to keep college communities safe, Richardson said. If MU police feel the community is not in danger, then they won't send a Clery release.

"If the (MU Police) department issued a release every time a Clery-related crime was reported, the community would be overwhelmed and disregard them," Richardson said. "We want the community to understand it's an important message when we send them, and we want them to take appropriate action."