

IV:30:05 ROBERT “ROBBIE” NOTTINGHAM CAMPUS CRIME SCENE INVESTIGATION ACT OF 2004

I. PURPOSE OF POLICY

This policy ensures compliance with the Nottingham Act by clarifying and establishing a policy and procedure regarding the act which imposes a separate affirmative reporting duty on officials in addition to that delineated in the Tennessee College & University Security Information Act codified at Tenn. Code Annotated 49-7-2207.

II. BACKGROUND

The Tennessee General Assembly in 2004 passed a bill that requires officials of institutions of higher education (“institution”) to report certain deaths or injuries that occur on the institution’s property. The law became effective on April 15, 2004 and amends Title 49, Chapter 7 of the Tennessee Code Annotated to include a new section that requires the chief security officer/chief law enforcement officer (“chief”) of any public or private educational institution to immediately notify the local law enforcement agency with territorial jurisdiction over the institution of the medically unattended death of a person that occurs on the property of such institution, unless otherwise prohibited by federal law. Additionally, the chief and/or any official of the institution must notify the local law enforcement agency if that individual receives a report alleging that any degree of rape (i.e., rape, aggravated rape, statutory rape, etc.) has occurred at the institution, unless prohibited by federal law. Institutions are only responsible for reporting instances of the aforementioned incidents that occur on property that is owned and controlled by the institution.

III. POLICY IMPLEMENTATION

The reporting duty is absolute, regardless of whether an institution has entered into a mutual assistance agreement with a law enforcement agency pursuant to Tennessee law. Therefore, upon notification or receipt of information that a medically unattended death or rape has occurred on Volunteer State Community College properties, it shall be the responsibility of the Chief Of Campus Police or in his/her absence, the responsibility of the Assistant Chief, or in his/her absence the responsibility of the Senior Officer or officer on duty receiving the information, to take the following actions:

1. Notify the Gallatin Police Dept.
2. Notify the President of the College, Vice President of Student Affairs, and Director of Public Relations.

3. Participate in a joint investigation of the medically unattended death or alleged rape.
4. Ensure that all college employees fully cooperate with the law enforcement agencies.
5. Under this act the Gallatin Police Dept. will be the lead investigative unit regarding a medically unattended death.
6. Under this act Volunteer State Community College Campus Police will be the lead investigative unit regarding the alleged occurrence of any degree of rape.

IV. REPORTING

The federal regulations to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) expressly exclude members of the clergy and professional counselors from the definition of “campus security authorities”. Therefore, pursuant to federal law officials employed by the institution who have a professional duty to maintain the confidentiality of their discussions with students are not required to disclose receipt of a report of rape under the Nottingham Act, provided that they acquire that information while performing their official duties as an employee of the institution. Such officials include but are not limited to the following; all categories of licensed counselors (psychiatrists, psychotherapists, etc.); official members of the clergy; and licensed medical professionals (physicians, nurses, etc.).

V. RECORDS

If any records are created during the course of the investigation of the alleged rape, the institution will not inadvertently violate the Family Educational Rights & Privacy Act (“FERPA”) with regard to possible disclosures of the records. Documents maintained by an institution’s law enforcement unit and created by that unit for the purpose of law enforcement are not defined as confidential education records under that FERPA.

VI. VIOLATION

The knowing violation of the Nottingham Act by the Chief or an official of the institution constitutes a Class C misdemeanor. The maximum penalty for the commission of a Class C misdemeanor is the sentence of a period of not more than thirty (30) days in jail and / or the imposition of a monetary fine not to exceed fifty dollars (\$50.00). The general immunity of state employees under Tennessee law from liability for acts or omissions that occur while they are acting within the scope of their employment would not apply to employee who knowingly violates this law.

VII. DEFINITIONS

“Chief security office or chief law enforcement officer” as referenced in this policy shall mean the Chief of Police.

“Medically unattended death” as referenced in this Act includes incidents in which the death of a person occurs in the absence of medical professionals (i.e., affiliated and non-affiliated persons) including, but not limited to, the following: students, employees, official visitors / guests of the institution, unofficial visitors, etc. The institution must report of the occurrence of a person’s medically unattended death or the alleged commission of any degree of rape against a person on the property of the institution.

“On the property of such institution” includes only property that is *owned and controlled by the institution* (including, but not limited to: main campus buildings & grounds; off-campus facilities / sites; alumni centers; fraternity / sorority houses; etc., provided that the property is owned and controlled by the institution).

“Official of the institution” as referenced in this Act shall mean *any individual employed by the institution in any capacity* (i.e., administrators, faculty, clerical staff, maintenance staff, etc.) on either a part-time, full-time, permanent, or temporary basis. However, *individuals employed by the institution who have a professional duty to maintain the confidentiality of their interaction with students are not required to disclose receipt of a report of rape under the Nottingham Act, provided that they require that information while performing their official duties as an employee of the institution.* Such officials include, but are not limited to, the following: all categories of *licensed* medical professionals (physicians, nurses, etc.)

“Report” as referenced in this Act includes, but is not limited to, *any of the following type of report*, in either written or verbal form, through which the chief law enforcement officer and / or any other official (i.e., employee) of the institution receives knowledge of the occurrence of an alleged rape on the property of the institution:

- (1) **report by the alleged victim** (e.g., “first-hand“ report in which the alleged victim voluntarily discloses the details of the alleged rape and requests the commencement of an official investigation, *or* cases in which the alleged victim voluntarily discloses the details of the alleged rape, but refuses to cooperate with an investigation and / or requests anonymity);
- (2) **“third-party” report** (e.g., instances that include, but not limited to, the following: (i) a report by a third-party (i.e., friend, roommate, colleague, etc.) that the alleged victim directly informed them of the occurrence of the alleged rape, *and / or* (ii) a report from a third-party that s/he has knowledge that a person has allegedly been raped on the institution’s property); *and / or*

- (3) **“personal knowledge” report** (e.g., circumstances in which the chief law enforcement officer and / or official has direct knowledge of the occurrence of an alleged rape on the institution’s property because s/he witnessed the incident, or any part thereof.

VSCC Source: Public Acts 2004, Chapter number 533, PASSED: April 5, 2004, EFFECTIVE / APPROVED: April 15, 2004; President's Cabinet; January 23, 2009, President's Cabinet