

# **Marshall University**

## **Annual Security and Fire Safety Report**

2016-2017

# Annual Security Report



**Marshall University Police Department**  
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[www.marshall.edu/mupd](http://www.marshall.edu/mupd)

At Marshall University, our concern for the safety and well-being of our students, faculty and staff is always a top priority. With the support of personnel from other departments, we have hundreds of people involved in our goal of maintaining a safe and secure campus. However, please remember that a truly safe campus can only be achieved through the efforts and cooperation of all students, faculty and staff who accept responsibility for their own security and the security of others. This publication is part of our on-going effort to ensure that this collective endeavor is effective. Please read it carefully and use the information to aid in fostering a safe environment for yourself and all others in the University community.

J. E. Terry  
Director of Public Safety

## **Public Safety Services**

The Marshall University Police Department provides a variety of public safety-related services to the University community consisting of approximately 16,000 students, faculty and staff.

### **The University Police**

Pursuant to W.Va. Code § 18B-4-5, et seq., University Police Officers have the same responsibilities and authority as that of any other law enforcement officers in the State, which includes having the authority to make arrests on property owned, leased, or controlled by Marshall University. Uniformed officers provide 24-hour-a-day patrol protection to the campus, adjacent University-owned facilities and parking lots.

University police officers must satisfactorily complete the thirteen (13) week mandatory basic police training course and be certified as law enforcement officers in the state of West Virginia. All officers receive training in numerous public safety and law enforcement-related subjects and additional in-service and specialized training in firearms, criminal investigation, legal matters, patrol procedures, etc.

Officers are responsible for a full range of public safety and law enforcement related services, including the investigation of all crime reports, and traffic accidents; responding to medical and fire emergencies; enforcement of state laws; and responding to all other incidents requiring police assistance that occur within our jurisdiction, which includes all University-owned or controlled properties, and/or all properties under the jurisdiction of the Marshall University Board of Governors.

The Marshall University Police Department (MUPD) maintains a close working relationship with the Huntington Police Department (HPD) and Cabell County Sheriff's Department (CCSD), West Virginia State Police (WVSP). Meetings are held between the leaders of these agencies on both a formal and informal basis. The officers of MUPD and or HPD and / or CCSD communicate regularly at the scene of incidents that occur in and around the campus area. MUPD prepares and submits a monthly report of incidents through a statewide system of crime reporting. These figures routinely become a part of the Federal Bureau of Investigation's Annual Uniform Crime Report. As a means of better coordinating law enforcement efforts in the immediate area, MUPD shares information on arrests and all serious crimes with the HPD and CCSD. Serial numbers of vehicles, office equipment and other items of value stolen in our jurisdiction are reported through the National Crime Information Center (NCIC).

### **Investigations**

Officer's assigned duties in this unit are responsible for the follow-up investigations of all reports involving criminal incidents and major violations of University regulations.

Members of the unit also interact with other area law enforcement agencies in matters of concern related to the safety and welfare of members of the University community and surrounding area. MUPD and the HPD maintain a written mutual aid agreement which gives University officers jurisdiction in much of the city area surrounding the University. However, the mutual aid agreement does not apply to the investigation of most criminal cases.

Members of the Marshall University community are encouraged to report all emergencies and criminal incidents to the MUPD immediately. Marshall University community members are also encouraged to accurately and promptly report crimes to the MUPD, when the victim of a crime elects to, or is unable to make such a report. In addition, general requests for service and public safety concerns can be reported directly to the MUPD by any person in the University community by dialing 64357 (6HELP) from any University phone. Incidents can also be reported by using one of the emergency/service phones located throughout the campus, which will provide direct contact with the police dispatcher 24 hours a day. Members of the Marshall University community should report criminal incidents to the MUPD for the purpose of issuing timely warning notices to the community and for disclosure in the annual crime statistics for the Institution.

MUPD does not have a process for allowing victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics. If a crime is reported to a campus security authority, such as a resident assistant or the dean of students. The statistic will be provided to the MUPD for inclusion, but not limited to, in the crime statistics. Pastoral and professional counselors are exempt from reporting crime statistics to MUPD when acting in their capacity as a counselor and information shared with them will not be included in the annual disclosure of crime statistics.

Dispatchers are available at MUPD 24 hours a day to answer your calls. In response to a call, MUPD will take the required action, either dispatching an officer or asking the victim to report to MUPD to file an incident report. All MUPD incident reports are forwarded to the Dean of Students office for review and referral to the Office of Student Judicial Affairs for potential action, as appropriate. MUPD Investigators will investigate a report when it is deemed appropriate.

Additional information obtained through the investigation will also be forwarded to the Office of Student Judicial Services. If assistance is required from the HPD, the CCSD or HFD, MUPD will contact the appropriate unit. If a sexual assault or rape should occur, staff on the scene, including Sexual Assault Education Awareness (SAEA) program staff, will offer the victim a wide variety of services.

### **Crime Prevention and Security Awareness Programs**

The MUPD presents crime prevention and security awareness programs to members of the University Community. Approximately 30 to 40 such programs are presented throughout the academic year. Some of the programs available through the department include: Sexual Assault Prevention, Burglary and Larceny Prevention, Alcohol and Drug Awareness, Operation I.D., Room Surveys, R.A.D. Rape Aggression Defense Classes, On-Line Property Registration/On-Line Silent Witness Program, On-Line Bicycle Registration, On-Line Crime Alert Page, and Office Security.

The MUPD publishes pamphlets on various topics of crime prevention which are available to all students, faculty and staff members. Topics include: Public Safety Services, General Crime Prevention, Sexual Assault, Office Security and Safety Tips for Parents and Students. Security awareness and crime prevention information on safety and security is periodically provided to the University community through crime alert notices, on-line criminal incident updates, the student newspaper, local media, and University media outlets,. The security awareness and crime prevention programs are designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

An escort service is provided by MUPD for the safety of anyone walking alone on campus. By calling 64357 (6HELP) from any University phone or using any one of the distinctively marked emergency/service phones, an escort can be summoned to your location and can accompany you to any parking lot, residence hall or to an off campus dwelling located adjacent to campus. The MUPD urges members of the University community to take advantage of this very significant crime prevention service.

### **Security of, Access to and Maintenance of Campus Facilities**

The Physical Plant Department maintains the University's academic/administrative buildings and the grounds with a concern for safety and security of the University community. Facilities and landscaping are maintained in a manner that minimizes hazardous conditions. Personnel inspect campus facilities regularly and promptly make repairs affecting safety and security, and respond quickly to reports of potential safety and security hazards, such as damaged doors, broken locks and windows. The Office of Public Safety assists them by reporting potential safety and security hazards. Any other member of the University community may also call Physical Plant (696-6680) to report any safety or security hazards.

A Security Task Force consisting of representatives from MUPD, Residence Services, Student Affairs, Student Government and Physical Plant meets periodically to review policies and procedures and address campus safety concerns. Students, administration, faculty and staff representatives also periodically conduct walks of the entire campus to review lighting and other safety-related environmental concerns.

There are sixteen outdoor, two-way voice communications, emergency/service telephones strategically located throughout the campus which are directly connected to the MUPD. Six of these units are blue in color and mounted on buildings. Ten are stand-alone units, green in color with a blue light attached, which activate when used. Seventeen blue, wall-mounted telephones are located throughout the 3rd Avenue Parking Garage. In addition, help phones are also available in each campus elevator. All units provide the police dispatcher with an exact location of the caller and can be activated by pressing a single button.

Except for Residence Halls, most University facilities are open to the public during the day and evening hours when classes are in session. Most facilities have individual hours, and the hours may vary at different times of the year. Access to some of these buildings is also controlled by card access after normal business hours, and all of these buildings have varied levels of access. Residential facilities are accessible only to authorized building residents and their authorized guests.

Most academic and administrative buildings do not have a MUPD officer assigned to them. However, MUPD officers patrol the academic, administrative buildings and campus residential facilities on a regular basis to assess and evaluate security related matters. Housing staff acts as an additional set of eyes and ears with regard to security in residential facilities. For information about the access protocol for a specific building, see the building manager, a department head, or contact MUPD at 304-696-4357 (6HELP). For information about access and security in the residence halls, see the On Campus Student Housing section below.

During the time that the University is officially closed, buildings are generally locked and only faculty, staff and students with proper authorization are admitted.

### **Emergency Response and Evacuation Procedures**

Marshall University maintains an extensive web page describing emergency procedures at [www.marshall.edu/emergency](http://www.marshall.edu/emergency).

#### **Emergency Response**

The University's Emergency Management Plan includes information about Incident Teams; University operating status parameters; incident priorities and performance expectations; shelter-in-place and evacuation guidelines; and local contingency and continuity planning requirements. University departments are responsible for developing contingency plans and continuity of operations plans for their staff and areas of responsibility. The University conducts a minimum of one test per calendar which includes a drill and emergency response exercises, such as tabletop or field exercises, and tests of the emergency notification systems on campus. These tests are designed to assess and evaluate the emergency plans and capabilities of the Institution. Tests may be announced or unannounced. MU will publish a summary of its emergency response and evacuation procedures in conjunction with at least one test each calendar year. Documentation maintained for each test includes a description of the exercise, the date, time and whether or not it was announced or unannounced.

MU police officers and supervisors have received training in Incident Command and Responding to Critical Incidents on Campus. When a serious incident occurs that causes an immediate threat to the campus, the first responders to the scene are usually MUPD, HPD, CCSD, WVSP, and the HFD, and Cabell County Emergency Medical Services (CEMS) Department, and they typically respond and work together to manage the incident. Depending on the nature of the incident, other MU departments and other local or federal agencies could also be involved in responding to the incident.

General information about the emergency response and evacuation procedures for MU are publicized each year as part of the Institution's Clery Act compliance efforts, and that information is available on the MUPD website. Detailed information and updates to the Emergency Management Plan, Contingency and Continuity Plans are available at [www.marshall.edu/emergency](http://www.marshall.edu/emergency).

### **Notification to the MU Community about an Immediate Threat**

Various offices on campus could be in a position to confirm an emergency situation or incident that poses a threat to the health and safety of members of the Marshall University community, including the MUPD, Student Health, the Health and Safety, and Office of Radiation Safety for example. If one of these departments confirms that there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of the MU community, (MUPD, Office of Health and Safety, and University Communications) will collaborate to determine the content of the message. MU will immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus. University Communications is responsible for activating the MU Alert System and will use some or all of the features described below to communicate the threat to the MU community or to the appropriate segment of the community, if the threat is limited to a particular building or segment of the population.) MUPD, Office of Health and Safety, and University Communications will, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the judgment of the first responders (including, but not limited to MUPD, HPD, CCSD, WVSP, HFD, and CCEMS), will compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

In the event of a serious incident that poses an immediate threat to members of the MU community, the University has various systems in place for communicating information quickly. Some or all of these methods of communication may be activated in the event of an immediate threat to the MU campus community. These methods of communication include the MU Alert Emergency Notification System utilizing telephone, text, and e-mail messages Information on MU Alert is available online at [www.marshall.edu/emergency/mualert](http://www.marshall.edu/emergency/mualert). In the event that these systems are not available during an emergency, face to face communication will be used in the event of a system failure. Responsibility for developing the notification and activating the system is done through Marshall University's Office of Communications.

The University will post updates during a critical incident on the University web page at "triangle" Emergency Information link. Members of the larger community who are interested in receiving information about emergencies on campus should use previously described link for obtaining updates in the event of an emergency on campus.

MU community members are encouraged to notify MUPD of any situation or incident on campus that involves a significant emergency or dangerous situation that may involve an immediate or ongoing threat to the health and safety of students and/or employees on campus. MUPD has the responsibility of responding to, and summoning the necessary resources, to mitigate, investigate, and document any situation that may cause a significant emergency or dangerous situation. In addition, MUPD has a responsibility to respond to such incidents to determine if the situation does in fact, pose a threat to the community. If so, Federal Law requires that the Institution notify the campus community or the appropriate segments of the community that may be affected by the situation.

### **Evacuation Procedures**

An evacuation drill is coordinated by MU Office of Health and Safety each semester for all residential facilities on campus. Students learn the locations of the emergency exits in the buildings and are provided guidance about the direction they should travel when exiting each facility for a short-term building evacuation. MU does not tell residents in advance about the designated locations for long-term evacuations because those decisions are affected by time of day, location of the building being evacuated, the availability of the various designated emergency gathering locations on campus, and other factors such as the location and nature of the threat. In both cases, MUPD and Residence Services staff on the scene will communicate information to students regarding the developing situation or any evacuation status changes.

The purpose of evacuation drills is to prepare building occupants for an organized evacuation in case of a fire or other emergency. At MU, evacuation drills are used as a way to educate and train occupants on fire safety issues specific to their building. During the drill, occupants 'practice' drill procedures and familiarize themselves with the location of exits and the sound of the fire alarm.

Evacuation drills are monitored by MU Office of Health and Safety to evaluate egress and behavioral patterns. Reports are prepared by participating departments that identify deficient equipment so that repairs can be made immediately. Recommendations for improvements are also submitted to the appropriate departments/offices for consideration.

Students receive information about evacuation and shelter-in-place procedures during their first floor meetings and during other educational sessions that they can participate in throughout the year. The Residence Services staff members are trained in these procedures as well and act as an on-going resource for the students living in residential facilities.

### **Timely Warnings**

Marshall University will make a timely warning to the campus community of crimes considered to be a threat to students and employees that are reported to campus security authorities or to local police agencies. See [http://www.marshall.edu/ucomm/files/CrisisCommunicationsPlan\\_03-01-15.pdf](http://www.marshall.edu/ucomm/files/CrisisCommunicationsPlan_03-01-15.pdf)

In an effort to provide timely notice to the MU community, and in the event of a serious crime which may pose a serious or on-going threat to members of the MU community, a Timely Warning Notice is sent through the MU Alert System to all students and employees on campus. Typically, the Institution will use the email and phone system features to distribute a timely warning notice. The notices are generally written by the Chief of Police or a designee, and they are approved and distributed to the community by University Communications. Updates to the MU community about any particular case resulting in a Timely Warning Notice may be distributed via blast email, may be posted on the MU web site or may be shared with *THE PARTHENON* for a follow-up story.

Timely Warning Notices are usually distributed for the following Uniform Crime Reporting Program (UCR)/National Incident Based Reporting System (NIBRS) classifications: major incidents of arson, murder/non-negligent manslaughter, and robbery. Cases of aggravated assault and sex offenses are considered on a case-by-case basis, depending on the facts of the case and the information known by MUPD. For example, if an assault occurs between two students who have a disagreement, there may be no on-going threat to other MU community members and a Timely Warning Notice would not be distributed. In cases involving sexual assault, they are often reported long after the incident occurred, thus there is no ability to distribute a “timely” warning notice to the community. Sex offenses 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 MU Police Department. Cases involving property crimes will be assessed on a case by case basis and alerts will typically be sent if there is a discernible pattern of crime. The MU Director of Public Safety or designee reviews all reports to determine if there is an on-going threat to the community and if the distribution of a Timely Warning Notice is warranted. Timely Warning Notices may also be posted for other crime classifications, as deemed necessary. Timely Warning Notices will be shall be provided to students and employees in a manner that is timely, that withholds the names of victims as confidential, and that will aid in the prevention of similar occurrences. Responsibility for developing the notification and activating the system is done through Marshall University’s Office of Communications.

Representatives from *THE PARTHENON*, a student newspaper, are invited to meet with the MUPD Director of Public Safety or a designee on a weekly basis to discuss crime on campus, and they decide what information they want to report to the University community.

A daily crime and fire log is available for review at the MUPD at 1801 5<sup>th</sup> Avenue from 8:00 a.m. – 4:30 p.m. Monday through Friday, excluding holidays. The information in the crime log typically includes the case number, classification, date reported, date occurred, time occurred, general location, and disposition of each crime. The information about fires in on campus residential facilities includes the nature of the fire, date, time and location.

### **Sex Offender Registry**

The State of West Virginia requires sex offenders to register with the State Police. The State makes this information available to law enforcement agencies. This information is available to the public at the following website: [www.wvstatepolice.com/sexoff](http://www.wvstatepolice.com/sexoff).

### **On Campus Student Housing**

There are ten residence halls on campus. The main desk/lobby area of each hall is monitored 24 hours a day by full-time Security Officers, Student Security Assistants or Desk Coordinators. Each hall is administered by a Resident Director with the assistance of Resident Advisors on each floor.

Marshall University Police Department and the Department of Residence Services are jointly responsible for the development of procedures and programs to promote the greatest possible safety and security of the Residence Halls.

To support the goals and objectives of residence life, and to promote a safe and secure atmosphere in which to live, the University employs full-time uniformed Security Officers who are assigned exclusively to the ten Residence Halls. Security Officers are in their assigned halls from 12:00 a.m. until 8:00 a.m., seven days a week.

Within each residence hall all doors except the main entrance and specific entrances to accommodate disabled students are kept locked and armed with alarms that alert the desk staff of any exit, attempted entry, or unlocked or open doors. All entrances are locked at 11:00 p.m. on weeknights and 12:00 a.m. on weekends. An ID and/or key must be shown to the desk personnel for entry after this hour.

Marshall University's visitation and guest policies are intended to provide security and protect the privacy of students living in the residence halls. Guests are required to be signed-in at the front desk and to be escorted within the building at all times by their host or hostess. Overnight guests must be registered at the front desk. Residents must obtain their roommate's agreement before allowing a guest to stay overnight. Guests may not stay in the building if their host/hostess leaves the building, room or floor.

Students are encouraged to lock doors and windows at all times. Screens are provided for all windows with ground floor access and all windows are equipped with locking devices. Room doors have conventional locks.

Educational programs emphasizing security and what residents can do to help protect themselves are provided by the Department of Residence Services, Marshall University Police Department and other campus services, as appropriate to meet the needs of the residents and the goals of this policy.

We make every effort to ensure that all residence halls are free from uninvited visitors, but it is imperative that residents themselves take an active role in making sure that strangers are reported and that doors are not propped open. Crime reduction in large part is due to the willingness of the residents to accept responsibility for safeguarding themselves and their Residence Halls:

- Residence Hall Staff are encouraged to challenge, and residents are encouraged to report the presence of strangers or uninvited guests in the Residence Halls.
- In compliance with University policy, all guests must be properly signed in and escorted by a resident at all times.
- Residents are held accountable for their guest's actions.

### **Missing Persons Notification Policy**

Any student residing in a residence hall who is determined to be "missing" for more than 24 hours may be reported to the Resident Director of the student's residence hall. Any student reported missing will be immediately reported by the Resident Director to the Marshall University Office of Public Safety. Missing Person



contact information is collected at the time resident's move into the residence halls – therefore students are provided the opportunity to register a confidential contact on an annual basis. The contact information will be kept confidential and will be disclosed only to authorized campus officials and law enforcement in furtherance of a missing person investigation or other appropriate purpose (e.g. injury, illness, etc.).

The confidential contact and the local police department will be notified within 24 hours if the student is determined to be missing by the MUPD or security department, unless the local law enforcement agency is the agency that determined the person to be missing. Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, MUPD will inform the local police department that the student is missing within 24 hours. In addition to any additional contact person designated by the student, if a student is under 18 years of age and not emancipated, the Institution is required to notify a custodial parent or guardian within 24 hours when the student is determined to be missing.

The Missing Person Procedure can be found at <http://www.marshall.edu/adminproc/files/STUDENT-2-Missing-Person-Procedure.pdf>.

### **Sexual Assault and Title IX**

Marshall University does not discriminate on the basis of sex in its educational programs and sexual harassment and sexual violence are types of sex discrimination. Other acts can also be forms of sex-based discrimination and are also prohibited whether sexually based or not and include dating violence, domestic violence, and stalking as defined by the Clery Act. As a result, Marshall University issues this statement of policy to inform the community of our comprehensive plan addressing sexual misconduct, educational programs, and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus and when it is reported to a University official. In this context, Marshall University prohibits the offenses of domestic violence, dating violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the university community.

For a complete copy of Marshall University's policies governing sexual misconduct, visit (<http://www.marshall.edu/board/files/policies/MUBOG%20GA-16%20Student%20Sexual%20Misconduct%20Policy.pdf>) and <http://www.marshall.edu/board/files/MUBOG-GA-1-Discrimination-Harassment-Sexual-Harassment-June-29-2016.pdf> <http://www.marshall.edu/student-affairs/files/15-16-Code-of-Conduct.pdf>

#### **A. Definitions**

There are numerous terms used by Marshall University in our policy and procedures.

**Lack of Consent**<sup>1</sup> is defined in West Virginia Code § 61-8B-2 (2013) as follows:

- (a) Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.
- (b) Lack of consent results from:
  - (1) Forcible compulsion;
  - (2) Incapacity to consent; or
  - (3) If the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- (c) A person is deemed incapable of consent when such person is:
  - (1) Less than sixteen years old;
  - (2) Mentally defective;
  - (3) Mentally incapacitated;

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<sup>1</sup> The State of West Virginia does not define "consent".

(4) Physically helpless; or

(5) Subject to confinement or supervision by a state or local government entity, when the actor is a person prohibited from having sexual intercourse, or causing sexual intrusion or sexual contact pursuant to subsections (a) and (b) of section ten of this article.

**Sexual Assault:** “Sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest is defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is defined a nonforcible sexual intercourse with a person who is under the statutory age of consent.

**Sexual Offenses are defined in West Virginia Code § 61-8B-1, et. seq. as follows:**

(a) A person is guilty of sexual assault in the first degree when: (1) The person engages in sexual intercourse or sexual intrusion with another person and, in so doing: (i) Inflicts serious bodily injury upon anyone; or (ii) Employs a deadly weapon in the commission of the act; or (2) The person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.

WV Code 61-8B-3 Sexual assault in the first degree. (West Virginia Code (2013 Edition))

(a) A person is guilty of sexual assault in the second degree when: (1) Such person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or (2) Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

WV Code 61-8B-4 Sexual assault in the second degree. (West Virginia Code (2013 Edition))

(a) A person is guilty of sexual assault in the third degree when: (1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or (2) The person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than sixteen years old and who is at least four years younger than the defendant and is not married to the defendant.

WV Code 61-8B-5 Sexual assault in the third degree. (West Virginia Code (2013 Edition))

(a) A person is guilty of sexual abuse in the first degree when: (1) Such person subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion; or (2) Such person subjects another person to sexual contact who is physically helpless; or (3) Such person, being fourteen years old or more, subjects another person to sexual contact who is younger than twelve years old.

WV Code 61-8B-7 Sexual abuse in the first degree. (West Virginia Code (2013 Edition))

(a) A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.

WV Code 61-8B-8 Sexual abuse in the second degree. (West Virginia Code (2013 Edition))

(a) A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent, when such lack of consent is due to the victim's incapacity to consent by reason of being less than sixteen years old.

WV Code 61-8B-9 Sexual abuse in the third degree. (West Virginia Code (2013 Edition))

**Domestic Violence:** The term “domestic violence” means 1) Felony or misdemeanor crimes of violence committed—

- (i) By a current or former spouse or intimate partner of the victim;
- (ii) By a person with whom the victim shares a child in common;
- (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (v) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

2) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Domestic Violence is defined in West Virginia Code §48-27-202 (2013) as follows:**

"Domestic violence" or "abuse" means the occurrence of one or more of the following acts between family or household members, as that term is defined in section two hundred four of this article:

- (1) Attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons;
- (2) Placing another in reasonable apprehension of physical harm;
- (3) Creating fear of physical harm by harassment, stalking, and psychological abuse or threatening acts;
- (4) Committing either sexual assault or sexual abuse as those terms are defined in articles eight-b and eight-d, chapter sixty-one of this code; and
- (5) Holding, confining, detaining or abducting another person against that person's will.

**Dating Violence:** The term “dating violence” means violence committed by a person

- 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim and
- 2) The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition-

- (i) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- (ii) Dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

There is not a separate statute in West Virginia for “dating violence”. Any crimes committed as part of a dating relationship would be prosecuted under the general criminal code based upon the specific allegations presented.

**Stalking:** The term “stalking” means 1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (i) Fear for the person’s safety or the safety of others; or
- (ii) Suffer substantial emotional distress.

2) For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
- (ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- (iii) Reasonable persons means a reasonable person under similar circumstances and with similar identities to the victim.

3) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**West Virginia Code §61-2-9a (2013) defines stalking as follows:**

- a) Any person who repeatedly follows another knowing or having reason to know that the conduct causes the person followed to reasonably fear for his or her safety or suffer significant emotional distress, . . . .
- (b) Any person who repeatedly harasses or repeatedly makes credible threats against another . . . .
- (f) For the purposes of this section:
  - (1) "Bodily injury" means substantial physical pain, illness or any impairment of physical condition;
  - (2) "Credible threat" means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out;
  - (3) "Harasses" means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress;
  - (4) "Immediate family" means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household; and
  - (5) "Repeatedly" means on two or more occasions

**B. Education and Prevention Programs**

The University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault and stalking that:

- o Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- o Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and employees that:

- a. Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- b. Defines using definitions provided both by the Department of Education as well as state law what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
- c. Defines what behavior and actions constitute consent to sexual activity in the State of West Virginia and/or using the definition of consent found in the Student Code of Conduct if state law does not define consent;
- d. Provides a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or

- individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- e. Information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander in action, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
  - f. Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.

The University has developed an annual educational campaign<sup>2</sup> consisting of presentations that include distribution of educational materials to new students; participating in and presenting information and materials during new employee orientation;

The University offered the following **primary prevention and awareness programs for all incoming students** in 2015:

<u>Name of Program</u>	<u>Date Held</u>	<u>Location Held</u>	<u>Which Prohibited Behavior Covered?</u>
Haven On-line Bystander Intervention (Women’s Center)	Beginning in August offered throughout the year	On-line	DoV, DaV, SA,S*
Sex Signals Interactive bystander intervention program (Women’s Center and University College)	Aug. 20-21, 2015 Week of Welcome	Edwards Playhouse and Uni 100 Classes	DoV, DaV, SA,S*

❖ DoV means Domestic Violence, DaV means Dating Violence, SA means Sexual Assault and S means Stalking

The University offered the following **primary prevention and awareness programs for all new employees** in 2015:

Sexual Harassment on-line training program	On-going; available to ALL faculty/staff for yearly completion	On-line	DoV, DaV, SA, S*
New Faculty Orientation Resource Fair (Women’s Center and Student Conduct)	April 24, 2015	Drinko Library	SA, DoV, DaV, S

<sup>2</sup> Under the 2013 Reauthorization of the Violence Against Women Act, institutions must implement “primary prevention and awareness programs for **all incoming students and new employees**” AND “ongoing prevention and awareness campaigns for **students and employees**” that include a-f above under section B. While “campaign” is yet to be defined, examples of “primary prevention programs” as they relate to incoming students may be found here: <http://www.ovw.usdoj.gov/docs/campus-minimum-standards-orientation.pdf>

Title IX (on-line training program)	Available to ALL faculty/staff and student employees	On-line	Dov, DaV, SA, S*
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The University offered the following **ongoing awareness and prevention programs** for students in 2015:

Consent Awareness Valentine's Day Cards (Women's Center and Student Health Education Program)	Feb. 1-14, 2015	MSC Lobby	DaV and SA*
New Student Conduct Justice Training	March 5, 2015	TTW Conference Room	SA, DoV, DaV, S
My Voice Matters – Bystander Intervention (Women's Center)	April 2, 2015	INTO Building International Students	DoV, DaV, SA, S*
Understanding Title IX and Clery Training for fraternity and sororities (Women's Center, Student Conduct, and Title IX Coordinator)	April 6, 2015	MSC – BE5	DoV, DaV, SA, S*
Invisible War Film and Panel Discussion (Women's Center)	April 7, 2015	MSC – BE5	SA
Red Flag Project Awareness (Women's Center)	April 21, 2015	Campus	SA, DoV, DaV, S
Walk A Mile in Her Shoes Awareness (Women's Center, MUPD, ROTC, Student Conduct, CONTACT)	April 22, 2015	Campus	SA, DoV, DaV, S
Title IX (What is the purpose?)	July 27, 2015	SOM/SOP	SA, DoV, DoA, S
Title IX Most Frequently Asked Questions)	Aug. 1, 2015	Project-Pre Med Students	SA, DoV, DoA, S
Responding to Interpersonal Violence RD and RA Training	Aug. 11, 2015	Corbly Hall	SA, DoV, DaV, S

(Women's Center and CONTACT)			
Responding to Sexual Assault Mock Situational New RA Training (Women's Center and CONTACT)	Aug. 12, 2015	TTE	SA
Webinar Safe Campus ACT & Fair Compliance ACT	Aug. 13, 2015	MSC	SA, DoV, DaV, S
Uni 100 Peer Mentor – Bystander Intervention Training (Women's Center)	Aug. 17, 2015	MSC – John Marshall Dining Room	SA, DoV, DaV, S
Title IX/Student Conduct	Aug. 21, 2015	Forensic Science (orientation)	SA, DoV, DaV, S
Resource Table Rec. Fest (Women's Center)	Aug. 22, 2015	MU Rec. Center	SA, DoV, DaV, S
Hunting Ground Film and Panel Discussion Awareness (Women's Center, Student Conduct, MUPD, Psychology Dept., and CONTACT)	Sept. 9, 2015	MSC BE5	SA
Take Back the Night & Resource Fair, March and Candle-light Vigil (Women's Center, Women's Studies, Student Conduct, MUPD)	10/29/15	MSC Plaza	SA, DoV, DaV, S
Sex and Dating International Student (Women's Center)	10/29/15	INTO Building	SA, DoV, DaV
Let's Make a Deal- Healthy vs Unhealthy Relationships (Women's Center)	11/17/15	Buskirk Hall	DoV and DaV

❖ DoV means Domestic Violence, DaV means Dating Violence, SA means Sexual Assault and S means Stalking

The University offered the following **ongoing awareness and prevention programs** for employees in 2015:

Title IX training for ALL faculty, staff and student employees	8/11/15	Corbly Hall	SA, Title IX, DoV, and SA
Title IX training (Residence Hall Staff)	8/12/15	Corbly Hall	SA, Title IX, DoV, DaV, SA
Title IX	8/12/15	SOM	SA, Title IX, DoV, DaV, SA

❖ DoV means Domestic Violence, DaV means Dating Violence, SA means Sexual Assault and S means Stalking

### **C. Procedures for Reporting a Complaint**

After an incident of sexual assault and domestic violence, the victim should consider seeking medical attention as soon as possible at Cabell Huntington Hospital, St. Mary’s Medical Center, Pleasant Valley Hospital, or a local hospital in their area. In West Virginia, evidence may be collected even if you chose not to make a report to law enforcement<sup>3</sup> West Virginia Non Report Procedures.

West Virginia Code § 61-8B-16(c)(2013) provides "nothing in this section shall be construed to require an alleged victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to provide a forensic medical examination pursuant to the provision of this section."

In cases where a victim chooses not to participate in the criminal process, it would be contrary to the West Virginia Code to require the victim's name on the sex crime evidence kit forms. In such cases, a tracking code is issued to the "non-report" sex crime evidence kit. These "non-report" sex crime evidence kits are collected by the examining physician, sexual assault nurse examiner (SANE) or other trained medical personnel who will be responsible for preparing the forensic evidence, while maintaining chain of custody. The sealed sex crime evidence kit will be shipped by FedEx to Marshall University Forensic Science Center (MUFSC) and stored for at least 18 months. Victims of these "non-reports" are given the tracking code and instructions on how to officially report to law enforcement and request the release of the "non-report" kit to the State Police Crime Lab for forensic analysis.

It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence may be preserved that may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to University hearing boards/investigators or police.

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<sup>3</sup> Under the Violence Against Women and Department of Justice Reauthorization Act of 2005, starting in 2009, states must certify that they do not “require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.”



Although the University strongly encourages all members of its community to report violations of this policy to law enforcement, (including on campus law enforcement and/or local police) it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police. The University's Office of Public Safety will assist any victim with notifying local police if they so desire. The Huntington Police Department may be reached directly by calling (304) 696-5510, in person at 675 10th St, Huntington, WV 25701. Additional information about the HPD may be found online at: <http://www.hpdwv.com/>.

If you have been the victim of domestic violence, dating violence, sexual assault, or stalking, you should report by calling, writing or coming into the office to report in person, the incident promptly to the Title IX Coordinator<sup>4</sup>, Debra Hart, Director of Equity Programs, Marshall University, Old Main Room 206, One John Marshall Drive, Huntington, WV 25755 PH. 304-696-2597 or email [hart70@marshall.edu](mailto:hart70@marshall.edu) (<http://www.marshall.edu/eoaa>) You can also use the compliant form that is online at <http://www.marshall.edu/student-conduct/general-complaint-form>. Further, if you so desire, you should report the incident to Public Safety, Marshall University, 1801 5<sup>th</sup> Avenue, Huntington, WV 25755, PH. 304-696-HELP (4357). The University will provide resources, on campus, off campus or both, to include medical, health, to persons who have been victims of sexual assault, domestic violence, dating violence, or stalking, and will apply appropriate disciplinary procedures to those who violate this policy. As outlined in the student handbook <http://www.marshall.edu/student-affairs/files/15-16-Code-of-Conduct.pdf>. The procedures set forth below are intended to afford a prompt response to charges of sexual assault, domestic or dating violence, and stalking, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with MUPD or other law enforcement to preserve evidence in the event that the victim changes her/his mind at a later date to assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order..

#### **D. Procedures for Reporting a Complaint**

The University has procedures in place that serve to be sensitive to those who report sexual assault, domestic violence, dating violence, and stalking, including informing individuals about their right to file criminal charges as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance and other services on and/or off campus as well as additional remedies to prevent contact between a complainant<sup>5</sup> and an accused party, such as housing, academic, transportation and working accommodations, if reasonably available. The University will make such accommodations, if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to Public Safety or local law enforcement. Students and employees should contact Debra Hart, Director of Equity Programs/Title IX Coordinator at (304) 696-2597 Old Main, Room 207-[Hart70@marshall.edu](mailto:Hart70@marshall.edu) or Lisa Martin, Director of Student Conduct, at (304) 696-2495 Memorial Student Center Room 2W38-[martil@marshall.edu](mailto:martil@marshall.edu). If a report of domestic violence, dating violence, sexual assault or stalking is reported to the University, the below are the procedures that the University will follow as well as a statement of the standard of evidence that will be used during any conduct hearing on campus arising from such a report:

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<sup>4</sup> The Title IX Coordinator is regarded as a "Responsible Employee" under Title IX and also a "Campus Security Authority" under the Clery Act. Statistical information less the victims identifying information will be provided to campus public safety or whomever at the institution compiles the annual crime statistics even if the victim chooses not to alert campus public safety personally.

<sup>5</sup> This document will use "victim" and "complainant" and "perpetrator" and "accused party" interchangeably.

Incident Being Reported:	Procedure Institution Will Follow:	Preponderance of the evidence
<b>Sexual Assault</b>	<ol style="list-style-type: none"> <li>1. Depending on when reported (immediate vs delayed report), institution will provide complainant with access to medical care</li> <li>2. Institution will assess immediate safety needs of complainant</li> <li>3. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>4. Institution will provide complainant with referrals to on and off campus mental health providers</li> <li>5. Institution will assess need to implement interim or long-term protective measures, such as housing changes, change in class schedule, "No Contact" directive between both parties</li> <li>6. Institution will provide a "No trespass" (PNG) directive to accused party if deemed appropriate</li> <li>7. Institution will provide written instructions on how to apply for Protective Order</li> <li>8. Institution will provide a copy of the Sexual Misconduct Policy to complainant and inform the complainant regarding timeframes for inquiry, investigation and resolution</li> <li>9. Institution will inform the complainant of the outcome of the investigation, whether or not the accused will be administratively charged and what the outcome of the hearing is</li> <li>10. Institution will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation</li> </ol>	
<b>Stalking</b>	<ol style="list-style-type: none"> <li>1. Institution will assess immediate safety needs of complainant</li> <li>2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>3. Institution will provide written instructions on how to apply for Protective Order</li> <li>4. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate</li> <li>5. Institution will provide a "No trespass" (PNG) directive to accused party if deemed appropriate</li> </ol>	Preponderance of the evidence
<b>Dating Violence</b>	<ol style="list-style-type: none"> <li>1. Institution will assess immediate safety needs of complainant</li> <li>2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>3. Institution will provide written instructions on how to apply for Protective Order</li> <li>4. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate</li> <li>5. Institution will provide a "No trespass" (PNG) directive to accused party if deemed appropriate</li> </ol>	Preponderance of the evidence.
<b>Domestic Violence</b>	<ol style="list-style-type: none"> <li>1. Institution will assess immediate safety needs of complainant</li> </ol>	Preponderance of the evidence.

	<ol style="list-style-type: none"> <li>2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department</li> <li>3. Institution will provide written instructions on how to apply for Protective Order</li> <li>4. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate</li> <li>5. Institution will provide a "No trespass" (PNG) directive to accused party if deemed appropriate</li> </ol>	
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**E. Assistance for Victims: Rights & Options**

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, the University will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options.

Such written information will include:

- the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred;
- information about how the institution will protect the confidentiality of victims and other necessary parties;
- a statement that the institution will provide written notification to students and employees about victim services within the institution and in the community;
- a statement regarding the institution’s provisions about options for, available assistance in, and how to request accommodations and protective measures; and
- an explanation of the procedures for institutional disciplinary action

Although West Virginia does not have a crime victims’ rights act, West Virginia has enacted the Victim Protection Act of 1984, which provides the following:

[§61-11A-2 Testimony of crime victim at sentencing hearing.](#)

(a) For the purposes of this section, "victim" means a person who is a victim of a felony, or, where a death occurs during the commission of a felony or a misdemeanor, the following persons shall be notified if known by the prosecutor: A member of the deceased victim's immediate family, the fiduciary of the deceased victim's estate or an adult household member residing with the victim.

(b) Prior to the imposition of sentence upon a defendant who has been found guilty of a felony, or of a misdemeanor if death occurs during the commission of a crime, or has pleaded guilty or nolo contendere to a felony, or to a misdemeanor if death occurs during the commission of a crime, the court shall permit the victim of the crime to appear before the court to make an oral statement for the record if the victim notifies the court of his or her desire to make such a statement after receiving notification provided in subsection (c) of this section. If the victim fails to notify the court, the failure is a waiver of the right to make an oral statement. In lieu of the appearance and oral statement, the victim may submit a written statement to the court or to the probation officer in charge of the case. The probation officer shall forthwith file the statement delivered to his or her office with the sentencing court and the statement must be made a part of the record at the sentencing hearing. The statement, whether oral or written, must relate solely to the facts of the case and the extent of injuries, financial losses and loss of earnings directly resulting from the crime for which the defendant is being sentenced.

(c) Within a reasonable time prior to the imposition of sentence upon the defendant, the prosecuting attorney or assistant prosecuting attorney in charge of the case shall make reasonable efforts, in writing, to advise the person who was the victim of the crime, the parent or guardian of a minor who was the victim of a crime, the fiduciary of the victim's estate if the victim is deceased and the immediate family members of the victim if the victim is deceased and if their whereabouts are known to the prosecutor or assistant

prosecutor. The writing will provide the date, time and place of the original sentencing hearing and of the victim's right to submit a written or oral statement to the sentencing court.

(d) The oral or written statement given or submitted by a victim in accordance with the provisions of this section is in addition to and not in lieu of the victim impact statement required by the provisions of section three of this article.

#### §61-11A-2a Notification of crime victim's compensation fund.

Whenever the prosecuting attorney's office presents a case to a grand jury or proceeds in the circuit court on information, the prosecutor or assistant prosecutor shall within thirty days following said presentment or information notify in writing each victim of the alleged offense of the existence and basic provisions of article two-a, chapter fourteen of this code. Nothing in this section shall be construed as precluding the prosecuting attorney's office from other notification to victims of crime, or as creating a cause of action for damages against any prosecuting attorney or their staff, or against the state of West Virginia or any of its political subdivisions.

#### §61-11A-3 Victim impact statement; when required; contents; use; right of defendant to review and present evidence.

a) In every case in which a pre-sentence report is ordered by the court, such pre-sentence report shall contain a victim impact statement unless the court orders otherwise, if the defendant, in committing a felony or misdemeanor, caused physical, psychological or economic injury or death of the victim.

(b) The victim impact statement shall be prepared by the probation officer and shall include the identity of the victim, an itemization of any economic loss suffered by the victim as a result of the offense, a description of the nature and extent of any physical or psychological injury suffered by the victim as a result of the offense, the details of any change in the victim's personal welfare, lifestyle or family relationships as a result of the offense, whether there has been any request for psychological or medical services initiated by the victim or the victim's family as a result of the offense and such other information related to the impact of the offense upon the victim as may be required by the court.

(c) If the court does not order a pre-sentence investigation and report, the prosecuting attorney may request that the probation officer prepare a victim impact statement. The victim impact statement shall be considered by the court as a factor in determining the appropriate sentence. Additionally, the statement may be utilized for the determination of claims by victims of crimes pursuant to the provisions of article two-a, chapter fourteen of this code.

(d) In cases that involve child victims of offenses defined in section twelve, article eight of this chapter or article eight-b or eight-d of this chapter, any victim impact statement in a pre-sentence report may include a statement from a therapist, psychologist or physician who is providing treatment to the child as to the recommendations regarding the effect that possible disposition may have on the child.

(e) A victim impact statement prepared in accordance with the provisions of this section, other than for claims by victims of crimes pursuant to the provisions of article two-a, chapter fourteen of this code, shall be made available to the defendant, and his counsel if he is so represented, at least ten days prior to the date set for pronouncement of his sentence. The court shall, upon motion by or on behalf of the defendant, grant the defendant a hearing, whereby he may introduce testimony or other information related to any alleged factual inaccuracies in the statement.

#### §61-11A-4 Restitution; when ordered.

a) The court, when sentencing a defendant convicted of a felony or misdemeanor causing physical, psychological or economic injury or loss to a victim, shall order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense, unless the court finds restitution to be wholly or partially impractical as set forth in this article. If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefore. (b) The order shall require that the defendant: (1) In the case of an offense resulting in damage to, loss of, or destruction of property of a victim of the offense: (A) Return the property to the owner of the property or someone designated by the owner; or (B) If return of the property under subparagraph (A) is impossible, impractical or inadequate, pay an amount equal to the greater of: (i) The

value of the property on the date of sentencing; or (ii) the value of the property on the date of the damage, loss or destruction less the value (as of the date the property is returned) of any part of the property that is returned; (2) In the case of an offense resulting in bodily injury to a victim: (A) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment; (B) Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and (C) Reimburse the victim for income lost by the victim as a result of the offense; (3) In the case of an offense resulting in bodily injury that also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and (4) In any case, if the victim (or if the victim is deceased, the victim's estate) consents, or if payment is impossible or impractical, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate. (c) If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate. (d) The court shall impose an order of restitution to the extent that the order is as fair as possible to the victim and the imposition of the order will not unduly complicate or prolong the sentencing process. (e) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for loss to the extent that the person paid the compensation. An order of restitution shall require that all restitution to victims under the order be made before any restitution to any other person under the order is made. (f) The court may require that such defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than: (i) The end of the period of probation, if probation is ordered; (ii) five years after the end of the term of imprisonment imposed, if the court does not order probation; and (iii) five years after the date of sentencing in any other case. If not otherwise provided by the court under this subsection, restitution shall be made immediately. (g) If the defendant is placed on probation or paroled under this article, any restitution ordered under this section shall be a condition of the probation or parole unless the court or Parole Board finds restitution to be wholly or partially impractical as set forth in this article. The court may revoke probation and the Parole Board may revoke parole if the defendant fails to comply with the order. In determining whether to revoke probation or parole, the court or Parole Board shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay. (h) An order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action. (i) Notwithstanding any provision of this section to the contrary, the court may order, in addition to or in lieu of, restitution, that a defendant be required to contribute monetarily, or through hours of service, to a local crime victim's assistance program or juvenile mediation program which meets the following requirements: (1) The program is approved by a circuit judge presiding in the judicial circuit; and (2) The program is a nonprofit organization certified as a corporation in this state, and is governed by a board of directors.

#### [§61-11A-8 Notification to victim of offender's release, placement, or escape from custody.](#)

(1) Releasing the convicted person from imprisonment in any correctional facility; (2) Releasing the convicted person from confinement in any county or regional jail; (3) Placing the convicted person in a halfway house or other non-secure facility to complete his or her sentence; or (4) Any escape by the convicted person from a state correctional facility or a county or regional jail. (d) The notice shall include instructions for the victim or the victim's family member on how to request the notification. (e) Offenses which are subject to the provisions of this section are as follows: (1) Murder; (2) Aggravated robbery; (3) Sexual assault in the first degree; (4) Kidnapping; (5) Arson; (6) Any sexual offense against a minor; or (7) Any violent crime against a person. (f) The commissioner of corrections, a regional jail supervisor, a sheriff or a prosecuting attorney who receives a written request for notification shall provide notice, in writing or by telephone, to the last known address or addresses or telephone number or numbers provided by the victim or a member of the victim's family, or in the case of a minor child, to the custodial parent of the child, in accordance with the provisions of this section. In case of escape, notification shall be by

telephone, if possible. (g) If one or more family members request notification and if the victim is an adult and is alive and competent, notification shall be sent to the victim, if possible, notwithstanding that the victim did not request the notification. (h) If notification by telephone to a victim is attempted, notification is not complete unless it is given directly to the person requesting notification and after that person's identity has been verified. An attempted notification made to a voice mail or another recording device or to another member of the household is insufficient. (i) For the purposes of this section, the following words or phrases defined in this subsection have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context. (1) "Filing of a complaint" means the filing of a complaint in accordance with the requirements of rules promulgated by the supreme court of appeals or the provisions of this code. (2) "Victim" means a victim of a crime listed in subsection (e) of this section who is alive and competent. (3) "Victim's family member" means a member of the family of a victim of a crime listed in subsection (e) of this section who is not alive and competent.

See also, Title 142, Series 4 (142-CSR-1, et. seq.) State Guidelines for Fair Treatment of Crime Victims and Witnesses in the Criminal Justice System.

<http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=2700&Format=PDF>

§61-11A-2 Testin	§61-11A-2 Testin	§61-11A-2 Testin	§61-11A-2 Testin	§61-11A-2 Testin	§61-11A-2 Testin
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Further, Marshall University complies with West Virginia law in recognizing Emergency Protective Orders and Final Protective Orders, Personal Safety Orders by any person who obtains an order of protection from West Virginia or any reciprocal state should provide a copy to Public Safety and the Office of the Title IX Coordinator. A complainant may then meet with Public Safety to develop a Safety Action Plan, which is a plan for Public Safety and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location or allowing a student to complete assignments from home, etc.)

The University cannot apply for a legal order of protection, a no contact order or a restraining order for a victim from the applicable jurisdiction(s). The victim is required to apply directly for these services. Protection from abuse orders may be available through Cabell County Magistrate Office in Huntington, West Virginia. In addition, the University may issue an institutional no contact order if deemed appropriate or at the request of the victim or accused. For more information on how to obtain a Domestic Violence Protective Order go to <http://www.courts.wv.gov/lower-courts/pdfs/DomViolence.pdf>. Additional information for all 50 states can be obtained at <http://www.womenslaw.org/index.php>.

To the extent of the victim's cooperation and consent, University offices will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal University investigation of the complaint. For example, if reasonably available, a complainant may be offered changes to academic, living, transportation or working situations in addition to counseling, health services, visa and immigration assistance, protective orders and assistance in notifying appropriate local law enforcement. Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant (for example, publicly available record-keeping for purposes of Clery Act reporting and disclosures will be made without inclusion of identifying information about the victim, as defined in 42 USC 1395 (a) (20).) Further, the University will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures.

The University does not publish the name of crime victims nor house identifiable information regarding victims in the campus police departments Daily Crime Log or online. Victims may request that directory information on file be removed from public sources by request

**Resources for victims of Domestic Violence, Dating Violence, Sexual Assault & Stalking (On-Campus)**

Counseling Center	304-696-3111	
Public Safety	304-696-4357	
Women's Center	304-696-3112	
Office of Student Conduct	304-696-2495	
Director of Equity Programs and Title IX Coordinator / Debra Hart	304-696-2597	
Dean of Student Affairs	304-696-6422	
Immigration Assistance	304-696-7250	
Student Financial Aid	304-696-3242	
Other Services for Victims	304-696-3112	
Victim Advocacy	304-696-3112	
Legal Assistance	304-696-3395	
Health	304-691-1100	
Mental Health	304-696-3111	
Visa	304-696-7250	

### **Off Campus Resources**

Sexual Assault Crisis Services		
	CONTACT- Huntington	304-399-1111
	CONTACT- Point Pleasant	866-399-7273
	REACH Family Counseling Connections – South Charleston	304-340-3676
Domestic Violence Shelters		
	BRANCHES-Huntington	304-529-2382
	BRANCHES-Point Pleasant	
	YWCA Resolve Family Abuse Program – South Charleston	304-340-3549
Police, Ambulance, Fire		911

Judicial System		
	Cabell County Prosecuting Attorney Victim Assistance – Huntington	304-523-6483
	Mason County Victim Assistance Program – Point Pleasant Area	304-675-5717
	Kanawha County Prosecutor's Office Violence Against Women Advocate – South Charleston	304-357-0300
Statewide Resource		
	WV Foundation for Rape Information and Services	304-366-9500
	WV Domestic Violence Coalition	304-965-3552
Immigration Assistance	Catholic Charities West Virginia	304-343-1036 or 304-267-3071
Student Financial Aid	College Foundation of West Virginia	1-800-GO-TO-XAP
Other Services for Victims	Goodwill Family Service	304-525-7034
Victim Advocacy	Victim Witness Assistance Program	304-526-9872
Legal Assistance	Legal Aid of West Virginia	304-343-3013
	Cabell County Prosecutor's Office	304-526-8653

Health	Cabell-Huntington Health Dept.	304-523-6483
Mental Health	Prestera Center for Mental Health	800-642-3434
Visa	Catholic Charities West Virginia	304-343-1036 or 304-267-3071

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

<http://www.rainn.org> – Rape, Abuse and Incest National Network

<http://www.ovv.usdoj.gov/sexassault.htm> - Department of Justice

<http://www2.ed.gov/about/offices/list/ocr/index.html> Department of Education, Office of Civil Rights

### **How to be an Active Bystander**

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.”<sup>6</sup> We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list<sup>7</sup> of some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, and try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

### **Risk Reduction**

With no intent to victim blame and recognizing that only rapists are responsible for rape, the following are some strategies to reduce one’s risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org))

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. Try to **avoid isolated areas**. It is more difficult to get help if no one is around.
3. **Walk with purpose**. Even if you don’t know where you are going, act like you do.
4. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
5. **Make sure your cell phone is with you** and charged and that you have cab money.
6. **Don't allow yourself to be isolated** with someone you don’t trust or someone you don’t know.
7. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
8. **When you go to a social gathering, go with a group of friends**. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
9. **Trust your instincts**. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
10. **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you’ve left your drink alone, just get a new one.

<sup>6</sup> Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles, 60*, 779-792.

<sup>7</sup> Bystander intervention strategies adapted from Stanford University’s Office of Sexual Assault & Relationship Abuse



11. **Don't accept drinks from people you don't know or trust.** If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
12. **Watch out for your friends, and vice versa.** If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
13. **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).** Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
14. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. **Remember that being in this situation is not your fault.** You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
  - b. **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
  - d. **Lie.** If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
15. **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
16. **If you and/or the other person have been drinking,** you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

## **F. Adjudication of Violations**

Whether or not criminal charges are filed, the University<sup>8</sup> or a person may file a complaint with the Office of Student Conduct under the Student Rights and Responsibilities Policy and/or the Code of Student Rights and Responsibilities, Marshall University Board of Governors Policy Nos. SA-1 & SA-2, alleging that a student has violated the standards of conduct outlined therein <http://www.marshall.edu/student-affairs/files/15-16-Code-of-Conduct.pdf> In addition, the University or person may file a complaint alleging that an employee has violated the Sexual Harassment Policy, Marshall University Board of Governors Policy No. GA-1 by filing a complaint with the Office of Equity Programs at <http://www.marshall.edu/eoaa/complaint-procedure>.

Further, to report sexual misconduct to the University, victims can report sexual misconduct to Public Safety, the University's Office of Equity Programs, and the University's Office of Student Conduct.

Marshall University's Policy on Student Sexual Misconduct describes each type of disciplinary proceeding used by the University to include (answer these specific questions for each type of proceeding that you list here):

- The steps
- Anticipated timelines
- Decision-making process

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<sup>8</sup> Title IX states that if an institution knows or reasonably should know of sexual harassment, to include sexual violence, the institution has a duty to investigate. Consequently, whether a complainant chooses to cooperate or not should not be the deciding factor for whether or not disciplinary charges are brought against an accused party. If an investigation determines that it is more likely than not that the institution's sexual misconduct policy was violated, then the "University" may assume the role of the complainant.

- How the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault or stalking

Reports of all domestic violence, dating violence, sexual assault and stalking made to Campus Public Safety will automatically be referred to the Title IX Coordinator for investigation regardless if the complainant chooses to pursue criminal charges. See generally, <http://www.marshall.edu/board/files/Policies/MUBOG%20GA-16%20Student%20Sexual%20Misconduct%20Policy.pdf>

The University disciplinary process is consistent with the institution's policy and will include a prompt, fair, and impartial investigation and resolution process transparent to the accuser and the accused. Usually, the resolution of complaints of sexual misconduct are completed within 60 days of the report, however the proceedings timeframe allows for extensions for good cause with notice to the accuser and the accused of the delay and the reason for the delay. Investigators and hearing board members are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking and taught how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability.

The Marshall University Board of Governors policy No. SA-3 provides that:  
Any student or organization may be referred by any complainant to the Office of Student Conduct concerning allegations that they have violated the University's policies, including those relate to Sexual Misconduct.

Disciplinary procedures that are used by the institution are as following:  
Informational/Charge Meetings, Formal Hearing, Formal Warning, Probation, Probationary Suspension, Deferred Suspension, Suspension, Expulsion and Appeals; See generally, <http://www.marshall.edu/board/files/Policies/MUBOG%20SA-%203%20Student%20Code%20of%20Rights%20and%20Responsibilities.pdf>  
<http://www.marshall.edu/student-affairs/files/15-16-Code-of-Conduct.pdf>

***Types of Disciplinary Proceedings Utilized in Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault and Stalking***

**MARSHALL UNIVERSITY BOARD OF GOVERNORS**

**Policy No. GA-16**

**Student Sexual Misconduct Policy**

<http://www.marshall.edu/board/files/Policies/MUBOG%20GA-16%20Student%20Sexual%20Misconduct%20Policy.pdf>

***1. How to File a Disciplinary Complaint Under this Policy***

To report sexual misconduct to the University, victims can report sexual misconduct to the University law enforcement, the University's Office of Equity Programs, and the University's Office of Student Conduct. A list of resources and contact information, including the Huntington Police Department, is included on the last page of this Policy.

***2. How the University Determines Whether This Policy will be Used***

The Director of Student Conduct reviews the incident report. The report is investigated and a decision is made to charge. The investigation will take between 3-5 business days. These proceeding are governed by the Student Code of Conduct, MUBOG Policy No. SA-3.

<http://www.marshall.edu/board/files/MUBOG-SA-3-Student-Code-of-Rights-and-Responsibilities-2015-01-final.pdf>

<http://www.marshall.edu/student-affairs/files/15-16-Code-of-Conduct.pdf>

***3. Steps in the Disciplinary Process***

#### Initial Charge:

- a. Student is sent a letter requesting they set up a meeting with the Office of Student Conduct. Once they receive that letter they will have 48 hours to make a scheduled appointment.
- b. Student meets with the Student Conduct Director to discuss allegations.
- c. Accused student based on the informational meeting and witness testimony could be sanctioned with a formal warning, probation, probationary suspension, deferred suspension, suspension or expulsion.
- d. Student chooses hearing or accepting charges and sanction.

#### Formal Hearing:

- a. Student meets with the Director of Student Conduct or designee.
- b. Hearing Panel is comprised of 5-7 panel members.
- c. Case presented from University/accused student.
- d. Witnesses may be called.
- e. Decision is made regarding case.
- f. Proof is based on a preponderance of the evidence standard.
- g. Hearing decision can be given on the day of scheduled hearing or it can take 24-48 hours to render a decision.

#### Appeals:

Dean of Students: Hears all appeals for cases originating from:  
Formal Warning, Probation, Probationary Suspension and Deferred Suspension

All appeals from a recommendation of the Hearing Panel, Dean of Student Affairs must be submitted in writing on an Intent to Appeal Form to the Office of Student Conduct within 2 business days from the date of the decision letter. Failure to file the appeal within 2 business days of the decision letter will forfeit a student's right to appeal. A written explanation of the grounds for appeal should be presented by the appellant within five (5) business days from the date the appeal is filed. The criteria for filing an appeal is limited to the following:

1. Procedural errors.
2. Evidence not available at the time of the hearing.
3. Insufficient evidence to support the findings of the Hearing Panel.
4. Misinterpretation of University policies and regulations by the Hearing Panel
5. A sanction or sanctions disproportionate to the offense.
6. Lack of jurisdiction.

Dean of Students will have three (3) days to render a decision in the cases mentioned before his decision is final.

The President of University or his designee will hear recommend sanctions of deferred suspension, suspension or expulsion the appeal shall be directed to the President who will render a decision within 10 days. If the President imposes a sanction of expulsion, the student may file an appeal with the Board of Governors. The student will have three (3) days from the date of the President's decision to submit an intent to appeal form to the Board of Governors. A written petition of appeal must be filed with the Chairman of the Board of Governors within fifteen (15) days of the President's decision. If the Board of Governor's determines that the petition will not be heard, the decision of the President of Marshall University is affirmed and sanctions imposed therein shall be effective upon the President's receipt of the statement of denial.

#### ***4. Anticipated Timelines***

This anticipated timeline for the whole process is 60 days if more time is required the University will complete the process in a timely manner.

#### **5. *Standard of Evidence***

Evidence is reviewed on a preponderance of the evidence standard.

#### **6. *Possible Sanctions and Protective Measures***

In all cases, investigations that result in a finding of more likely than not that a violation of the Student Sexual Misconduct Policy occurred will lead to the initiation of disciplinary procedures against the accused individual. The following sanctions may be imposed by the University for violations of this code: Expulsion, Suspension, or Probation. The University may implement protective measures following the report of domestic violence, dating violence, sexual assault and/or stalking which may include some or all of the following actions: changes to academic, living, or working situations in addition to counseling, health services, visa and immigration assistance and assistance in notifying appropriate local law enforcement, and such other actions as may be deemed necessary and appropriate as the situation requires. For students, sexual assault, domestic violence, dating violence, and stalking are violations of the Student Conduct Code.

The Title IX Coordinator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to: a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by Marshall University.

The University will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as the result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

#### **The above procedures are used for allegations of dating violence, domestic violence, and sexual assault and stalking.**

1. The accuser and the accused student each have the opportunity to attend a hearing before a properly trained hearing board that protects the safety of victims and promotes accountability;
2. The accuser and the accused will have timely notice for meetings at which the accuser or accused, or both, may be present;
3. The institution will allow for timely access to the accuser, the accused and appropriate officials to any information that will be used after the fact-finding investigation but during formal and informal disciplinary meeting and hearings;
4. The institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the accuser or the accused;
5. The institution provides the accuser and accused the same opportunities to have others present during an institutional disciplinary proceeding. The accuser and the accused student each have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or proceeding. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing; The University will not limit the choice of advisor or their presence for

either the accuser or the accused in any meeting or institutional disciplinary proceeding. However, in most cases, a student advocate will represent the University's case, and the accused will have the right to student representation as well. Members of the Student Judiciary, including all student advocates, have studied and received extensive training regarding the procedures for University conduct hearings and the University Code.

6. A student conduct decision is based on the preponderance of evidence standard, i.e. "more likely than not to have occurred" standard. In other words, the conduct process asks: "is it more likely than not that the accused student violated the university's Student Conduct Code?"
7. The accuser and the accused will be notified simultaneously in writing of the result of any disciplinary proceeding, as well as any changes to those result or disciplinary actions prior to the time that such results become final; and
8. Where an appeal is permitted under the applicable policy, the accuser and the accused will be notified simultaneously in writing, of the procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding. The accuser and the accused each have the right to appeal the outcome of the hearing by filing a written appeal with the University's Title IX Coordinator within 10 calendar days from the date of the decision and will be notified simultaneously in writing, of any change to the result prior to the time that it becomes final and of the final result after the appeal is resolved.

A person alleging sexual assault, domestic violence, dating violence, or stalking may also utilize the complaint and investigatory procedures set forth in the University's policy against Sexual Harassment located at <http://www.marshall.edu/board/files/Policies/MUBOG%20GA-%201%20Sexual%20Harassment.pdf> in order to remedy any hostile environment.<sup>9</sup> All conduct proceedings against students, however, will be resolved through the Student Sexual Misconduct Policy located at <http://www.marshall.edu/board/files/Policies/MUBOG%20GA-16%20Student%20Sexual%20Misconduct%20Policy.pdf>

When a complainant does not consent to the disclosure of his or her name or other identifiable information to the alleged perpetrator, the university's ability to respond to the complaint may be limited.

### Confidentiality

The university will protect the identity of persons who report having been victims of sexual assault, domestic violence, dating violence, or stalking to the fullest extent of the law and as previously mentioned in this document.

Victims may request that directory information on file with the University be withheld by contacting the Marshall University Registrar's Office at 304-696-2252.

Regardless of whether a victim has opted-out of allowing the University to share "directory information," personally identifiable information about the victim and other necessary parties will be treated as confidential and only shared with persons who have a specific need-to-know, i.e., those who are investigating/adjudicating the report or those involved in providing support services to the victim, including accommodations and protective measures. By only sharing personally identifiable information with individuals on a need-to-know basis, the institution will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

The University does not publish the name of crime victims or other identifiable information regarding victims in the Daily Crime Log or in the annual crime statistics that are disclosed in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*. Furthermore, if a Timely Warning Notice

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<sup>9</sup> "Hostile Environment" is the term used by Title VII in employment law as it relates to action taken against a person in retaliation of a complaint of sexual harassment or for cooperating with a sexual harassment investigation. Under Title IX, the term used is "retaliation." Institutions may choose to provide both terms for clarification although it is not required.

is issued on the basis of a report of domestic violence, dating violence, sexual assault or stalking, the name of the victim and other personally identifiable information about the victim will be withheld.

See pg. 6, IV Confidentiality, [MUBOG Policy No. GA-16](#), Student Sexual Misconduct Policy

## **NAME OF POLICY APPLICABLE TO EMPLOYEES ACCUSED OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING**

There are various policies at the University that might be impacted by an allegation of domestic violence, dating violence, sexual assault and stalking, including:

### **MARSHALL UNIVERSITY BOARD OF GOVERNORS**

#### **Policy No. Ga-1**

#### **Discrimination, Harassment, Sexual Harassment, Sexual & Domestic Misconduct, Stalking and Retaliation**

<http://www.marshall.edu/board/files/MUBOG-GA-1-Discrimination-Harassment-Sexual-Harassment-June-29-2016.pdf>

### **MARSHALL UNIVERSITY BOARD OF GOVERNORS**

#### **Policy No. HR-10**

#### **Employee Infractions**

<http://www.marshall.edu/board/files/policies/MUBOG%20HR-10%20Employee%20Infractions.pdf>

#### **1. *How to File a Disciplinary Complaint Under this Policy***

To report sexual misconduct to the University, victims can report sexual misconduct to the University law enforcement, to the University's Office of Equity Programs, and the University's Human Resources Office.

#### **2. *How the University Determines Whether This Policy will be Used***

The report will be investigated by the University's law enforcement office, if it contains allegations of a crime. If it does not contain allegations of criminal activity it will be investigated the University's Office of Equity Programs.

#### **3. *Steps in the Disciplinary Process***

In addition to the possibility of criminal charges being filed, an employee may be subject to internal disciplinary process. The University generally, uses a four-part progressive discipline system which begins with an oral warning up to and including termination. However, there are certain offenses which can lead to immediate termination including, but not limited to, physical abuse of an individual on University property, sexual harassment, assault or rape.

#### **4. *Anticipated Timelines***

Generally the decision to take disciplinary action occurs within one week of receiving the complaint.

#### **5. *Decision-Making Process***

Once it has been determined that disciplinary action to be taken against an employee, the employee has the right to avail themselves of the review and appeal process provided to all state employees at Marshall University through the West Virginia Public Employees Grievance Board (Grievance Board).

<http://www.pegb.wv.gov/Pages/default.aspx>.

The West Virginia Grievance process has three levels of review:

**Level One:** Level One is a conference or hearing at the election of the grievant. It is held on campus before the President or the President's designee, who provides the President with a recommended decision.

**Level Two:** Level Two is mandatory mediation, where the parties attempt to resolve the grievance amicably.

**Level Three:** Level Three is an evidentiary hearing before an Administrative Law Judge, employed by the Grievance Board. The Administrative Law Judge hears evidence from both parties and renders a decision on the merits of the case.

**Appeals:** The Administrative Law Judge's decision can be appealed to the Kanawha County, West Virginia, Circuit Court. Thereafter, the Circuit Court Judge's decision can be appealed to the Supreme Court of Appeals of West Virginia.

**6. *Standard of Evidence***

The Grievance Board utilized the preponderance of evidence standard in deciding its cases.

**7. *Possible Sanctions***

Employees who violate this policy will be subject to discipline including:

Oral Warning

Written Warning

Written Warning with improvement plan

Suspension

Termination

Sexual assault, domestic violence, dating violence, and stalking are criminal acts which also may subject the perpetrator to criminal and civil penalties under federal and state law.

**8. *Range of Protective Measures Available to a Victim Alleging Misconduct***

The Title IX Coordinator or their designee will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to: a University order of no contact, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by Marshall University.

If it is determined by the Title IX Coordinator in consultation with the MUPD that additional security measures are needed, the MUPD will take the necessary measures to insure the safety and wellbeing of any individual involved including, but not limited to, the victim and any witnesses.

**Sex Offender Registration**

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services or is a student.

In West Virginia, convicted sex offenders must register with the West Virginia State Police. You can link to this information, which appears on Marshall University's website, by accessing website at <http://www.marshall.edu/mupd/>.

### **Alcoholic Beverages**

Marshall University has established a policy and guidelines governing the sale, possession and consumption of alcoholic beverages on the University campus that are consistent with West Virginia state law. State law prohibits the sale and consumption of all alcoholic beverages to persons under the age of 21. Accordingly, Marshall University enforces West Virginia state law underage drinking laws and does not permit the unlawful possession, use, sale and/or consumption of alcoholic beverages by underage persons is not permitted on property owned or controlled by the University. The sale, possession and consumption of alcoholic beverages is limited to non-intoxicating beer and/or wine coolers and only at designated locations.

### **Illegal Drugs**

The University is in compliance with the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989. The possession, use, sale, manufacture or distribution of any illegal drug is prohibited on property owned or controlled by the University. MU Police officers enforce Federal and State drug laws on campus. Members of the University community are responsible for knowing and complying with provisions of West Virginia and Federal law that prohibits the unlawful possession, sale, delivery, manufacture or use of those drugs known as "controlled substances."

### **Drug and Alcohol Abuse Educational Programs**

Descriptions of University drug and alcohol abuse education programs may be found at the link on the University's disclosures web page at [www.marshall.edu/disclosures/drugfree](http://www.marshall.edu/disclosures/drugfree).

Consistent with its educational mission, the University assists members of the community by providing counseling and substance abuse education programs. These services and programs are made available on the campus through:

- **The Substance Abuse Education Program** - Phone: 304-696-3111, 145 Prichard Hall
- **Counseling Services** - Phone: 304-696-3111, Prichard Hall, South Lobby
- **Vocational Rehabilitation** - Phone: 304-696-2394, 153 Prichard Hall

### **Off-Campus Student Residences**

Marshall University has noncampus locations of student organizations officially recognized by the institution; including those student organizations with noncampus housing facilities. Marshall University monitors and records criminal activity at such locations close to campus through a cooperative effort with the HPD. These noncampus locations are located in Huntington, West Virginia and MUPD works closely with the City of Huntington Policy Department in monitoring and recording any criminal activity by students at these locations. In addition, this information would also be provided with the information obtained for the annual report provided in compliance with the Clery Act.

Crime prevention programs emphasizing security measures and precautions are available to students who reside off campus from the Marshall University Police Department. The Marshall University Police Department, Huntington Police Department, Cabell County Sheriff's Department and the Huntington detachment of the West Virginia State Police have a mutual working relationship, providing each other with assistance when necessary.

### **Crime Statistics**

The procedures for preparing the annual disclosure of crime statistics include reporting statistics to the University community obtained from the following sources: the MU Police Department (MUPD), Huntington Police Department (HPD) and Cabell County Sheriff's Department (CCSD) and non-police officials (as defined



below). For statistical purposes, crime statistics reported to any of these sources are recorded in the calendar year the crime was reported.

Crime statistics are gathered for the core campus and other buildings owned, controlled and used for educational purposes from local police agencies, Office of Student Conduct, and from campus security authorities, as defined by Federal law. Statistical information is requested and provided to MUPD on an annual basis.

All of the statistics are gathered, compiled, and reported to the University community via the Campus Security Report which is published by MUPD. MUPD submits the annual crime statistics published in this brochure to the Department of Education (ED). The statistical information gathered by the Department of Education is available to the public through the ED website.

MU distributes a blast email notice to all enrolled students and current employees on an annual basis. The notice includes a brief summary of the contents of the Campus Security Report. The email also includes the address where the Campus Security Report can be found on-line at [www.marshall.edu/disclosures/securityreport](http://www.marshall.edu/disclosures/securityreport) and information about how to request a hard copy of the brochure.

MU reports the crimes required by the Clery Act that occurred on or within an institution's Clery Geography that were reported to a Campus Security Authority.

**Number of Occurrences of Selected Crimes**

Criminal Offenses Reporting Table						
OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	UNFOUNDED
MURDER / NON-NEGLIGENT MANSLAUGHTER	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
MANSLAUGHTER BY NEGLIGENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
RAPE	2013	2	2	0	1	0
	2014	1	1	1	0	0
	2015	0	0	0	0	0
FONDLING	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	1	0	0	0	0
INCEST	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
STATUTORY RAPE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
ROBBERY	2013	1	0	0	1	0
	2014	1	0	0	0	0

	2015	0	0	2	0	0
AGGRAVATED ASSAULT	2013	0	0	0	0	0
	2014	0	0	1	1	0
	2015	0	0	0	0	0
	2013	5	3	0	0	0
BURGLARY	2014	13	7	4	0	0
	2015	5	3	0	0	0
	2013	0	0	0	0	0
MOTOR VEHICLE THEFT	2014	1	0	1	1	0
	2015	0	0	0	0	0
	2013	0	0	0	0	0
ARSON	2014	1	1	0	0	0
	2015	0	0	0	0	0
	2013	89	15	0	0	0
LARCENIES	2014	107	8	0	2	0
	2015	85	17	2	1	0

**Arrests and Disciplinary Referrals Reporting Table**

Arrests and Disciplinary Referrals Reporting Table						
OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	
ARRESTS: WEAPONS: CARRYING, POSSESSING	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	1	1	0	0	
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESSING	2013	2	0	0	0	
	2014	3	0	0	0	
	2015	0	0	0	0	
ARRESTS: DRUG ABUSE VIOLATIONS	2013	22	19	1	1	
	2014	22	10	0	14	
	2015	15	5	1	0	
DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS	2013	12	12	2	0	
	2014	0	0	1	4	
	2015	12	12	0	0	
ARRESTS: LIQUOR LAW VIOLATION	2013	46	25	0	11	
	2014	31	10	0	13	
	2015	42	31	5	1	
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS	2013	20	20	0	2	
	2014	31	30	1	0	
	2015	40	40	0	0	

**VAWA Offenses Reporting Table**

VAWA Offenses Reporting Table						
OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	UNFOUNDED
DOMESTIC VIOLENCE	2013	2	0	0	0	0
	2014	2	2	0	0	0
	2015	3	2	0	0	0
DATING VIOLENCE	2013	0	0	0	0	0
	2014	1	1	0	0	0
	2015	0	0	0	0	0
STALKING	2013	4	0	0	0	0
	2014	6	5	0	0	0
	2015	5	0	0	0	0

- There were no reported hate crimes for the years 2013, 2014, 2015.

**Branch Campuses and Non-campus locations**

Marshall University offers classes at two locations considered “branch campuses” and one location considered a “non-campus location.”

***Marshall University – South Charleston***

The South Charleston campus of Marshall University is located at 100 Angus E. Peyton Drive, South Charleston, WV just off the Kanawha Turnpike.

There is normally a Marshall University police officer or a security officer on duty at this campus. The police officer regularly meets with the maintenance staff of the campus to ensure safety and security issues are addressed. If students at the South Charleston campus need to report a crime, they should contact the officer on campus at 304-746-8969 or 304-546-8788 during business hours or dial 911 outside of business hours or in the case of an emergency situation. Normal business hours are posted at the campus. Students taking South Charleston classes will receive “timely warnings” of serious incidents via the normal timely warning process (see Timely Warnings section above).

**Number of Occurrences of Selected Crimes-South Charleston Campus**

Criminal Offenses Reporting Table		GEOGRAPHIC LOCATION

OFFENSE	YEAR	ON-CAMPUS PROPERTY	ON- CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	UNFOUNDED
MURDER / NON-NEGLIGENT MANSLAUGHTER	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
MANSLAUGHTER BY NEGLIGENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
RAPE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
FONDLING	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
INCEST	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
STATUTORY RAPE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
ROBBERY	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
AGGRAVATED ASSAULT	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
BURGLARY	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
MOTOR VEHICLE THEFT	2013	1	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
ARSON	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
LARCENIES	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0

**Arrests and Disciplinary Referrals Reporting Table**

OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	
ARRESTS: WEAPONS: CARRYING, POSSESSING	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESSNG	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
ARRESTS: DRUG ABUSE VIOLATIONS	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
ARRESTS: LIQUOR LAW VIOLATION	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	

**VAWA Offenses Reporting Table**

VAWA Offenses Reporting						
OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	UNFOUNDED
DOMESTIC VIOLENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
DATING VIOLENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0

STALKING	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0

- There were no reported hate crimes for the years 2013, 2014, 2015.

***Marshall University – Mid Ohio Valley Center***

The Mid-Ohio Valley Center of Marshall University is located at 1 John Marshall Way in Point Pleasant, WV near the Pleasant Valley Hospital.

There is NOT normally a Marshall University police officer or a security officer on duty at this campus. If students at the Mid-Ohio Valley Center need to report a crime, they should contact a campus administrator during business hours, (304/ 674-7201) or dial 911 outside of business hours or in the case of an emergency situation. Normal business hours are posted at the campus. Students taking MOVC classes will receive “timely warnings” of serious incidents via the normal timely warning process (see Timely Warnings section above).

**Number of Occurrences of Selected Crimes-Mid-Ohio Valley Center**

Criminal						
Offenses Reporting Table						
OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	UNFOUNDED
MURDER / NON-NEGLIGENT MANSLAUGHTER	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
MANSLAUGHTER BY NEGLIGENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
RAPE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
FONDLING	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
INCEST	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
STATUTORY RAPE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
ROBBERY	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	2	0	0

AGGRAVATED ASSAULT	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
BURGLARY	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
MOTOR VEHICLE THEFT	2013	1	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
ARSON	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
LARCENIES	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0

**Arrests and Disciplinary Referrals Reporting Table**

Arrests and Disciplinary Referrals Reporting Table						
OFFENSE	YEAR	GEOGRAPHIC LOCATION				
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	
ARRESTS: WEAPONS: CARRYING, POSSESSING, ETC.	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESSING, ETC.	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
ARRESTS: DRUG ABUSE VIOLATIONS	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
ARRESTS: LIQUOR LAW VIOLATION	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS	2013	0	0	0	0	
	2014	0	0	0	0	
	2015	0	0	0	0	

**VAWA Offenses Reporting Table**

VAWA Offenses Reporting						
Table		GEOGRAPHIC LOCATION				
OFFENSE	YEAR	ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	UNFOUNDED
DOMESTIC VIOLENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
DATING VIOLENCE	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0
STALKING	2013	0	0	0	0	0
	2014	0	0	0	0	0
	2015	0	0	0	0	0

- There were no reported hate crimes for the years 2013, 2014, 2015.

## Crime Statistics Appendix

### Specific Information about Classifying Crime Statistics

The statistics in this brochure are published in accordance with the standards and guidelines used by the FBI Uniform Crime Reporting Handbook and the relevant federal law (the Clery Act).

The number of victims involved in a particular incident is indicated in the statistics column for the following crime classifications: Murder/Non-Negligent Manslaughter, Negligent Manslaughter, Forcible and Non-Forcible Sex Offenses, and Aggravated Assault. For example, if an aggravated assault occurs and there are three victims, this would be counted as three aggravated assaults in the crime statistics chart.

The number reflected in the statistics for the following crime categories includes one offense per distinct operation: Robbery, Burglary, Larceny, and Arson. For example, if five students are walking across campus together and they are robbed, this would count as one instance of robbery in the crime statistics chart.

In cases of Motor Vehicle Theft, each vehicle stolen is counted as a statistic.

In cases involving Liquor Law, Drug Law, and Illegal Weapons violations, each person who was arrested is indicated in the arrest statistics. The statistics captured under the “Referred for Disciplinary Action” section for Liquor Law, Drug Law, and Illegal Weapons violations indicates the number of people referred to the Office of Judicial Affairs for disciplinary action for violations of those specific laws.

Hate Crime statistics are reported by the crime, geographic area, and category of prejudice. Hate crimes are captured for all of the above related crime categories, if the perpetrator selected the victim based on his/her race, gender, religion, sexual



orientation, ethnicity/national origin, and/or disability, In addition, the institution is required to report any hate crime involving Intimidation, Vandalism, Larceny, Simple Assault or other bodily injury, even though there is no requirement to report the crime classification in any other area of the compliance document. Note: A hate or bias related crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender's bias. For example, a subject assaults a victim, which is a crime. If the facts of the case indicate that the offender was motivated to commit the offense because of his/her bias against the victim's race, sexual orientation, etc., the assault is then also classified as a hate crime.

#### **Specific Information about the Crime Statistics Reported by MU**

Statistics for "Residential Facilities" are also counted in the "On-Campus" crime category. The law requires institutions to break out the number of "On-Campus" crimes that occur in residential facilities.

Crime statistics for the category of larceny are not required by law, but are still provided in the interest of informing the community about the most frequent crimes that occur at MU.

## **Sex Offenses Definitions**

(As per the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program)

### **SEX OFFENSES—FORCIBLE**

Any sexual act directed against another person, without consent of the victim including instances where the victim is incapable of giving consent.

#### **Violence Against Women Act (VAWA)/UCR Rape**

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim

#### **Forcible Rape**

The carnal knowledge of a person, forcibly and/or against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

#### **Forcible Sodomy**

Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

#### **Sexual Assault with an Object**

The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

#### **Forcible Fondling**

The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

### **SEX OFFENSES—NON-FORCIBLE**

Unlawful, non-forcible sexual intercourse.

#### **Incest**

Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

#### **Statutory Rape**

Non-forcible sexual intercourse with a person who is under the statutory age of consent.

## **Other Crime Definitions**

(As Per the Uniform Crime Reporting Handbook)

**Aggravated Assault:** 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. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed.

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling, house, public building, motor vehicle or aircraft, personal property, etc.

**Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or a felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned-including joy riding).

**Murder and Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.

**Manslaughter by Negligence:** The killing of another person through gross negligence.

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force, violence, and/or causing the victim fear.

**Larceny:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

**Weapon Law Violations:** The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.

**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (demerol, methadone's); and dangerous non-narcotic drugs (barbiturates, benzedrine).

**Liquor Law Violations:** The violation of laws or ordinance prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

## **Offense Definitions relating to Hate/Bias Related Crime Statistics**

(As per the UCR Hate Crime Reporting Guidelines)

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Vandalism:** To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

## Geography definitions from the Clery Act

**On-Campus-Defined as:** (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of or in a manner related to the institution's educational purposes, including residence halls; and (2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1), that is owned by the institution but controlled by another person, is frequently used by students and supports institutional purposes (such as a food or retail vendor).

**Non-Campus Building Or Property-Defined as:** (1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or (2) 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.

**Public Property-Defined as:** All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus or immediately adjacent to and accessible from the campus.

The MU crime statistics do not include crimes that occur in privately owned homes, businesses or other private property within or adjacent to the campus boundaries.

# Campus Fire Safety Annual Compliance Report

## Overview

The Higher Education Opportunity Act (Public Law 110-315) became law in August, 2008. Recent changes to this law now require all United States academic institutions to produce an annual fire safety report outlining fire safety practices, standards, and all fire-related on-campus statistics related to student housing. The following public disclosure report details all information required by this law as it relates to Marshall University.

## On-Campus Housing Fire Safety Equipment

At Marshall University, all ten residence halls are protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department. The buildings are also equipped with either emergency generators or lighting fixtures that incorporate backup batteries; upon loss of power, these systems automatically activate to assure adequate egress lighting in hallways and emergency exit stairwells. All residence halls are fully sprinklered. Carbon monoxide detectors have been installed in all residence halls where products of combustion could occur. All fire safety systems and equipment are strictly maintained and tested in accordance with applicable NFPA standards. Fire detection systems are required to be tested at least annually. All fire detection systems at Marshall University are inspected and tested twice per year (once per semester) by a licensed and qualified contractor. Fire suppression systems are also inspected and tested on a quarterly basis by a licensed and qualified contractor in accordance with applicable NFPA standards.

## Construction Overview

ISO defines six construction classes for public buildings.

- Construction Class 1 — frame
- Construction Class 2 — joisted masonry
- Construction Class 3 — noncombustible
- Construction Class 4 — masonry noncombustible
- Construction Class 5 — modified fire resistive
- Construction Class 6 — fire resistive

## Buskirk Hall

This facility is a six-story, 69,396 square feet, ISO Construction Class 6 building constructed in 1963. The building is fully sprinkler protected and equipped with a Class I standpipe. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

### **First Year Residence Halls North & South**

This complex consists of two (North & South) four-story buildings, ISO Construction Class 1 constructed in 2007. Each building is fully sprinkler protected and is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

#### **Gibson Hall**

Located at the Marshall Commons Residence Hall Complex: this facility is a four story, 38,257 square feet, ISO Construction Class 4 building constructed in 2002. The building is fully sprinkler protected. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

#### **Haymaker Hall**

Located at the Marshall Commons Residence Hall Complex: this facility is a four-story, 38,257 square feet, ISO Construction Class 4 building constructed in 2002. The building is fully sprinkler protected. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

#### **Holderby Hall**

This facility is a nine-story with basement, 103,378 square feet, ISO Construction Class 4 building constructed in 1963 with an addition in 1969. The building is fully sprinkler protected and equipped with a Class I standpipe. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

#### **Twin Towers**

This complex consists of two (East and West) fifteen-story buildings connected by a single story dining hall, 254,167 square feet, ISO Construction Class 5 building constructed in 1968. The building is fully sprinkler protected. This building is also provided with a Class II standpipe. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

#### **Wellman Hall**

Located at the Marshall Commons Residence Hall Complex: this facility is a four-story, 38,257 square feet, ISO Construction Class 4 building constructed in 2002. The building is fully sprinkler protected. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

#### **Willis Hall**

Located at the Marshall Commons Residence Hall Complex: this facility is a four-story, 38,257 square feet, ISO Construction Class 4 building constructed in 2002. The building is fully sprinkler protected. The building is also protected by fire detection and alarm systems which are centrally monitored 24 hours/day, seven days/week by the Marshall University Police Department.

### **Fire Safety Education, Training and Fire Drills**

All on-campus residents (including those with special needs) receive intensive and comprehensive fire safety training at the beginning of each semester. Training on fire and life safety is also provided to all Resident Directors, Resident Advisors, and all Housing and Residence Life employees. In addition, a quality control program that covers emergency and evacuation procedures is reviewed regularly with the occupants and staff of each respective residence hall. Each resident is required to review and comply with the requirements outlined on the Housing and Residence Life web site (available at: <http://muwww-new.marshall.edu/housing> ) which includes information on fire safety and what appropriate action to take during a fire alarm or fire emergency. There is an emergency evacuation map posted on each floor to direct occupants to primary and secondary exits. Fire drills are conducted in residence halls at a minimum of four times per year in coordination with Marshall University's

office of Environmental Health and Safety and Housing & Residence Life. There are no fraternity and sorority houses that are located on university property at this time. The City of Huntington Fire Department visits each residence hall once per semester to ensure that responding personnel are familiar with the building design and layout.

If there is an actual fire emergency students are instructed to:

1. Sound the Alarm: If you discover or suspect a fire, sound the fire alarm. If there is no alarm in the complex, warn the other occupants by knocking on doors and shouting as you exit the building.
2. Exit the Building: Try to aid others, but only if you can do so safely. After leaving the building remain at least 100 feet away from it. Do not return to the building until university personnel has given an “all clear” signal.

### **Fire Reporting**

Overall direction and authority for the Emergency Management Team (EMT) of the University lies with the Director of Public Safety. The Director of Public Safety will act as Incident Commander and will direct response actions to save lives and protect. The Emergency Management Coordinator will be the Director of Environmental Health and Safety. All emergencies including fires must be reported to Director of Public Safety (MUPD) and the Director of Environmental Health and Safety. If a member of the MU community finds evidence that a fire occurred and has been extinguished, they are required to report the incident to Public Safety for investigation and inclusion in the annual fire statistics.

- James E. Terry, Director of Public Safety (MUPD)  
**(304) 696-4357 (6HELP)**
- Tracy B. Smith, Director of Environmental Health and Safety  
**(304) 696-2993**

### **Evacuation Procedures**

The fire alarms alert community members of potential hazards, and community members are required to heed their warning and evacuate buildings immediately upon hearing a fire alarm in a facility. Use the nearest stairwell and/or exit to leave the building immediately. Community members should familiarize themselves with the exits in each building. The Fire Marshall can levy fines and penalties to individuals who fail to evacuate a building promptly – but a more important reason for evacuating is for safety reasons!

When a fire alarm is activated, the elevators in most buildings will stop automatically. Occupants should use the stairs to evacuate the building. If you are caught in the elevator, push the emergency phone button. The emergency phones in elevators on campus typically ring to the MUPD dispatcher or to a security desk.

MUPD publishes this fire safety report as part of its annual Clery Act Compliance document, via this brochure, which contains information with respect to the fire safety practices and standards for MU This

report includes statistics concerning the number of fires, the cause of each fire, the number of injuries and deaths related to a fire, and the value of the property damage caused by a fire (see Fire Statistics charts below for more information). The compliance document is available for review 24 hours a day on the MUPD website at <http://www.marshall.edu/disclosures/securityreport>.

### Specific Fire Prevention Related Policies and Programs

All faculty, staff and students must comply with university health and safety policies and programs, attend required training, report any identified safety or health hazard, and know their roles in an emergency. See <http://www.marshall.edu/safety/fire/fire-safety/>.

All campus buildings and facilities are inspected at least annually by the State Fire Marshal’s Office and the West Virginia Board of Risk and Insurance Management.

Smoking is prohibited in all university properties owned and operated by Marshall University, including residence halls.

An application must be submitted for certain types of events on campus, and these events are subject to a review and approval process. The use of open flames and pyrotechnics, layout of assembly areas/events, and use of decorations are all evaluated during this review.

All tents, stages and other temporary facilities must comply the West Virginia’s Fire Code, including the prohibition on the use of open flames near or under any tent.

All students must evacuate the building upon fire alarm activation and building ambassadors have been assigned and trained in proper evacuation procedures and reentry into the building when authorized.

Resident Directors & Advisors are trained to perform safety audits of residence rooms, coordinate emergency evacuations and warning procedures, and facilitate the performance of fire and other drills.

The Marshall University Environmental Health & Safety Department limits the types of electrical appliances allowed in residence halls, establishes expectations for compliance with drills and training, provides for periodic health and safety inspections of residence rooms, affirms limitations on materials that may be stored in resident rooms, prohibits open flames without a permit, limits the use of combustible decorations/furnishings, and notifies the Department of Student Affairs if students violate university policies and programs. Specifically: The possession of extension cords, hot plates, toaster ovens, halogen lamps, microwave ovens (microwaves 700 or less watts are permitted in Freshman Halls and Commons), barbeque grills, or other heat-producing cooking utensils is NOT permitted. NO appliances with open or exposed heating coils are permitted. Refrigerators rated at more than 2.5 amps are not permitted in student rooms.

Coffee pots and popcorn poppers encased with heating units are the only cooking appliances permitted in the residence halls.

All electrical appliances in operation cannot exceed 20 amps of power at one time. Appliance amperage is usually specified in the instrument manual, or on the equipment itself.

Electrical extension cords are NOT permitted, nor are multi-outlet electrical plugs that are plugged into or attached to wall outlets.

The use of power strips/surge protectors is permitted for computers, TV’s, cell phone chargers and radios. All electrical appliances (such as refrigerators, coffee makers, space heaters, etc.) must be plugged directly into a wall outlet.

### Statistical Report for Fire Response to Residence Halls

2013-2014-2015 Marshall University Fire Statistics On-campus Student Housing						
Facility	Number of Fires	Cause of Fire	Deaths Related to Fire	Injuries Related to Fire	Value of Property Damage	Number of Fire Drills
Buskirk Hall						
2013	0	-	0	0	0	4
2014						

2015						
First Year North						
2013	0	-	0	0	0	4
2014						
2015						
First Year South						
2013	0	-	0	0	0	4
2014						
2015						
Gibson Hall						
2013	0	-	0	0	0	4
2014						
2015						
Haymaker Hall						
2013	0	-	0	0	0	4
2014						
2015						
Holderby Hall						
2013	0	-	0	0	0	4
2014						
2015						
Twin Towers East						
2013	0	-	0	0	0	4
2014						
2015						
Twin Towers West						
2013	0	-	0	0	0	4
2014						
2015						
Wellman Hall						
2013	0	-	0	0	0	4
2014						
2015						
Willis Hall						
2013	0	-	0	0	0	4
2014						
2015						

### Plans for Future Improvement

Marshall University maintains a prioritized list of projects to upgrade older fire systems, enhance the capabilities of existing systems, or install new fire safety systems in existing buildings. During FY16, Towers East and Towers West was upgraded with a new emergency generator, fire alarm and sprinkler system.