
MEMO OF UNDERSTANDING
Between Utica College Safety &
Utica City Police Dept.

Number: M-01
2017

Date: July ___

This Information Sharing Agreement is entered into this 12th day of July, 2017 between Utica College Campus Safety (UCCS) and the City of Utica Police Department (UPD). The purpose of this Agreement is to implement a Memorandum of Understanding between the Campus Safety Department and Utica Police Department to enhance the parties' ability to effectively address alleged crimes of violence. This includes sharing information about Utica College's students and employees who are the victim of, a witness to, or an alleged perpetrator of an offense of violence or sex offense. This MOU also establishes a standard procedure for handling incidents and reports of Sexual Assaults and issuing Timely Warnings and Emergency or Immediate Notifications. Federal Laws provide specific requirements relative to these processes as outlined by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and Title IX of the Higher Education Amendments of 1972.

GOALS

Compliance with the terms of this Memorandum of Understanding should achieve the following goals:

- A. To ensure felonies committed on institution property are promptly and effectively reported, investigated and prosecuted.
- B. To enhance communication and cooperation between Utica law enforcement and Campus Safety in providing services and assistance to students and employees of Utica College who are victims of, or witnesses to a crime.
- C. To enhance the institution's ability to alert the campus community about crimes of a serious nature that pose a serious or on-going threat to public safety.

GENERAL POLICIES

- 1. The information and records shared under this MOU may, when appropriate, include any information or records permitted to be released under any exception to the privacy protections of the Family Educational Rights and Privacy Act (FERPA), including the Health and Safety Emergency exception and/or records/information otherwise protected by Enough is Enough. It should be noted that FERPA applies only to records created by the Institution and to information derived from tangible records. FERPA does not protect the confidentiality of information in general and, therefore, does not apply to the disclosure of information derived from a source other than an education record, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation and not from an education record is not protected from disclosure under FERPA. Thus, a verbal report of an offense of violence or sexual assault can and must be reported to the appropriate agency. The parties agree to keep all information confidential unless the release is authorized by the party disclosing the information or is otherwise required by law.



2. UPD and UCCS will exchange, in as timely a manner as is practicable, police investigatory information and copies of police/incident reports reporting any alleged offense of violence or sex offense - including non- public information (e.g., the name of uncharged suspects).
3. Utica College Campus Safety will include and Utica Police Department will provide a representative for the Institution's monthly meetings of those persons with primary responsibility for addressing student sexual assault under Title IX.
4. In those instances when a student is an alleged perpetrator of a crime of violence or sex offense, the Institution will provide to UPD the name of the student found responsible for violating the Institution's Code of Student Conduct; the Code of Student Conduct violation, and the final results of the disciplinary proceedings.
5. In the event there is a concern that some information/record regarding sexual assault may not be shared under the terms of this MOU because of FERPA constraints, the Office of General Counsel will be consulted.
6. Participating parties agree, within the statutory authority of each agency/institution, that every effort will be made to share information, so as to provide a safe educational setting at Utica College.
7. It is understood that Campus Safety officers are not agents of the Utica Police Department and that the Utica police agency is not an agent of the Institution. College officials retain the sole prerogative to impose disciplinary sanctions for infractions of institution rules and policies in addition to any police involvement or investigation that may be warranted.

Campus Safety personnel will immediately report the following alleged offense of violence or sex offenses to the Utica Police Department. These report(s) are mandatory based upon the nature of the incident. Campus Safety personnel shall not refrain from notifying the UPD a reportable incident based solely upon the named victim's intent or desire not to proceed with further investigation or prosecution. It is understood that the Institution cannot force the victim to report the crime to the UPD, but the Institution will report the incident to the Utica Police Department. The Institution will notify the victim of his/her right to report the incident to the UPD and will document that notification in the Campus Safety Incident Report.

Reportable Alleged Offense of Violence or Sex Offenses:

1. Criminal Homicide
2. Forcible Sex Offenses
3. Robbery
4. Crimes Against Minors
5. Crimes Against Elderly/Disabled Persons
6. Medically Unattended Death



**RESPONDING TO AND INVESTIGATING INCIDENTS OF SEXUAL VIOLENCE AND DISTRIBUTING
UTICA COLLEGE TIMELY WARNING NOTICES AND EMERGENCY NOTIFICATIONS**

Responding to and Investigating Incidents of Sexual Assault:

Procedure:

The dual mission of Utica College Campus Safety with regard to incidents of sexual assaults will be the safety and emotional well-being of the victim and the employment of proper investigatory techniques in order to preserve evidence and obtain information that may lead to the apprehension of a suspect should the victim decide to cooperate with prosecution.

Types of Reports

Utica College Campus Safety may receive reports in several different ways (the common scenarios are listed below) and the manner in which the report is received will affect the response procedures for UCCS.

1. A complainant may call UCCS Dispatcher to report a sexual assault.
2. A complainant may report a sexual assault directly to a member of Campus Safety.
3. A complainant may report a sexual assault to a "Campus Security Authority" (as defined by the Clery Act) or to a "Responsible Employee" (as defined by Title IX) and the campus security authority/responsible employee may subsequently report the incident to Campus Safety. Campus security authorities and responsible employees on campus are governed by Institution Policy and they are asked to immediately report any crimes reported to them to the UCCS for the purpose of assessing the crime for the potential distribution of a timely warning notice.
4. A complainant may call the Utica Police Department directly to report a sexual assault. For purposes of this MOU, we are focused on reports involving a member of the Utica College Community or a reported incident that occurred on college owned, leased or controlled property.

A. Report of a Recent Incident versus a Delayed Report

- a. If a complainant calls the dispatcher or reports a sexual assault directly to a member of the Campus Safety or a Campus Security Authority/Responsible Employee calls the dispatcher to report a sexual assault that was reported to him/her:
 - i. The UCCS staff member should immediately attempt to determine if the assault occurred in the past 96 hours or if the report is a Delayed Report (for purposes of this MOU, a delayed report is defined as an incident that occurred more than 96 hours from the time of the report).
 - ii. The UCCS staff member should attempt to determine the location where the assault occurred and if the complainant is calling from the location where the assault occurred.
 - iii. If the report is being made by a Campus Security Authority/Responsible Employee, the UCCS staff member should determine if the complainant is willing to report the incident to a UCCS officer.



B. General: Report of a Recent Incident

1. When Campus Safety receives a report of an alleged sexual assault or an attempted sexual assault, the Director of Campus Safety (or his/her designee in his/her absence) will be notified immediately.
2. Upon receiving a complaint that a rape or sexual assault has been attempted or has occurred, the dispatcher shall send a supervisor and/or officer to the location of the complainant to take an initial incident report and to secure the crime scene, if the complainant is calling from the scene of the crime.
3. If the complainant is not at the scene of the crime, the dispatcher will provide several options to the complainant in order to protect her/his privacy, to the extent possible and the dispatcher should explain that if a Campus Safety Officer responds to her/his current location, her/his friends and bystanders will be curious about why the officers are there—which may reduce her/his privacy in the matter. The dispatcher should then inform the complainant of the following options: (1) Dispatcher can send an officer to her/his location to take a report; (2) the complainant can respond to the Campus Safety office to file a report; (3) Campus Safety can pick the complainant up at an agreed upon location to provide an escort to the Campus Safety office to file a report.
4. In all cases listed above, radio communications concerning the incident should be kept to a minimum, and if practical, communications should be made either in person or via phone.
5. **As soon as the responding officer receives confirmation of a sexual assault (defined for this MOU as: rape, sodomy, sexual assault with an object or forcible fondling (as defined by the FBI NIBRS Manual) and determines the report to be a good faith report, the Utica Police Department will be immediately notified without further delay. Once UPD has been notified, the Campus Safety Supervisor or Officer must cease their preliminary investigation and questioning and await the arrival of the UPD officers/investigators.**

C. General: Delayed Report

1. Whenever Campus Safety receives a report (even if it is a delayed report) of an alleged sexual assault or an attempted sexual assault, the Director (or his/her designee in his/her absence) will be notified immediately.
2. The dispatcher will provide several options to the complainant in order to protect her/his privacy, to the extent possible and the dispatcher should explain that if a Campus Safety Officer responds to her/his current location, her/his friends and bystanders will be curious about why the officers are there—which may reduce her/his privacy in the matter. The dispatcher should then inform the complainant of the following options: (1) Dispatcher can send an officer to her/his location to take a report; (2) the complainant can

respond to the Campus Safety office to file a report; (3) Campus Safety officer can pick the complainant up at an agreed upon location to provide an escort to the Campus Safety Office to file a report.

- 3 Radio communications concerning the incident should be kept to a minimum, and if practical, communications should be made either in person or via phone.
- 4 The Director of Campus Safety will determine if the Utica Police Department should be notified to take a report in cases involving a delayed report. When in doubt, the Director of Campus Safety will confer with the Chief of the Utica Police Department.
- 5 When in doubt, the Director of Campus Safety will confer with the Chief of Police.

D. Notification

1. The Supervisor or Senior Officer On-Duty will ensure the following Institution Officials are notified:
 - a. The Campus Safety Director.
 - b. The on-call Residence Life Staff Member.
 - c. The on-call Counselor; if necessary and deemed appropriate.

Officer Response: Report of a Recent Incident

1. The primary concern of the UCCS officer(s) on the scene shall be the medical needs of the victim and the preservation of evidence. If the victim is seriously injured, hysterical, or in a state of shock, the victim shall immediately be transported to the nearest local hospital. Any special requests made by the victim at this time, such as having a friend present, should be honored whenever practical. The Utica PD would then be notified while en route to the hospital with the victim.
2. Depending on the condition of the victim and the probability of affecting the apprehension of the alleged suspect(s) if still in the vicinity, but with full recognition that the mental and emotional well-being of the victim is paramount, the officer on the scene may secure some preliminary information from the victim regarding the physical description of the alleged suspect(s), time of occurrence, location of occurrence, wounds, type of weapon used or mentioned, if any, vehicle description, if any, suspect's direction of flight, etc. Additionally, UPD is to be immediately notified and all preliminary information is to be shared with the responding UPD officers.
3. If the complainant contacted Campus Safety from the scene of the reported crime, the UCCS officer(s) on the scene shall also preserve and secure the scene of the crime and await the arrival of Utica law enforcement authorities. If the scene of the crime is an off campus location or a location that is owned, leased or controlled by Utica College, the UCCS officers should immediately report that information to the responding UTICA PD officers, as they will need to determine if they intend to obtain a search warrant for the location of the crime.
4. Any and all witnesses should be identified by UCCS and asked to await the arrival of the UPD . All witnesses should be requested not to discuss the incident with anyone prior to being interviewed, and if practical, these witnesses should be kept separate from each other during this waiting period.
5. The Campus Safety officer shall write a preliminary report and immediately alert other units and Utica law enforcement units of pertinent information, should a suspect be at large.

Officer Response: Report of a Delayed Incident

1. The primary concern of the Campus Safety officer(s) taking a delayed report of an alleged sexual assault shall be the emotional and physical well-being of the victim. Any special requests made by the victim at this time, such as having a friend present during the interview, should be honored whenever practical.
2. The Campus Safety officer shall gather the basic details about the incident, including but not limited to: the date and time of occurrence, location of occurrence, reported injuries, the type of weapon used or mentioned, if any, vehicle description, if any, and a general synopsis of what occurred. The officer shall advise the victim of his/her right to make a report with the Utica PD, provide contact information for both off and on campus medical and mental health resources, and ask the victim if they need any support services at this time.

SPECIAL NOTES:

- **Once the Utica Police Department has been notified of the report of a recent incident, responding Campus Safety Officers should focus on ensuring the victim's safety and well-being, preserving and securing the crime scene, securing physical evidence, identifying witnesses for future questioning, and keeping onlookers away from the scene. Once UPD has been summoned and becomes involved with the investigation of the crime, all subsequent interviews and law enforcement functions shall be conducted by the Utica Police Department. The preservation of the crime scene includes the victim's clothing and body. Victims should be encouraged not to change clothing or shower in order to preserve evidence that may be obtained from the victim's person.**
- **Pursuant to Title IX requirements and this Memo of Understanding (MOU) between UCCS and the Utica PD, Utica Police will be given a specified period of time to initiate their criminal investigation. Under Title IX, once UCCS and/or a responsible employee of the Institution becomes aware of an incident of sexual violence or harassment, the Institution must take immediate and appropriate action to investigate or otherwise determine what occurred. This action would be separate from any Utica PD initial criminal investigation. The Institution will not wait until the completion of a criminal investigation, nor will it wait until charges are filed. Institutional investigatory obligations under Title IX are time sensitive and require prompt follow-up. However, the Institution will wait a reasonable amount of time (usually 7 to 10 business days) to allow UPD to initiate its initial fact finding and the gathering of evidence in the criminal investigation. The Campus Safety Director or designee and UTICA PD Chief or designee will regularly confer on the status of an active investigation to ensure compliance with federal requirements while maintaining the integrity of any active criminal process.**
 - **If sexual violence has occurred, Utica College is required to:**
 - **Take prompt and effective steps to end the sexual violence,**
 - **Prevent its recurrence, and**
 - **Address its effects, whether or not the sexual violence is the subject of a criminal investigation.**
 - **The institution must additionally take steps to protect the complainant as necessary, including interim steps to protect the complainant which must be taken prior to the final outcome of the investigation.**
- **When a complainant informs UCCS that he/she has been the victim of sexual violence, misconduct, or harassment, in addition to the above response protocols, the Campus Safety officer must inform the complainant of his/her right to report the incident to the Title IX officer(s) of the institution. Such a report can be made using the Institution's reporting form, via phone, or in person. The Campus Safety officer who takes the initial report will notify the complainant of the name(s) and contact information (including email address, phone number and location of the office) of the Title IX officer(s) and will document that the notification was made in the narrative of the Campus Safety Incident Report.**



Distribution of Timely Warnings (called Campus Safety Alerts at THIS CAMPUS):

Procedure:

Utica College must, in a manner that is timely and will aid in the prevention of similar crimes, provide information to the campus community about Clery Act crimes that have been reported to campus security authorities or state or local police that are considered to represent a serious or continuing threat to the Institution's community. These warnings, which the Department of Campus Safety issues as "UC Alerts", shall be issued in accordance with the procedures described below.

The following procedures shall be followed when initiating UC Alerts:

- 1. Criteria for a UC Alert.** The Director of Campus Safety or his/her designee will develop UC Alerts for the institution's community to notify members of the community about Clery Act crimes that have occurred on campus, on non-campus property or public property running through or immediately adjacent to the campus, when it is determined that the incident may pose a serious or ongoing threat to members of the Utica College community. UC Alerts are typically issued for the following crimes: major incident of arson, criminal homicide, motor vehicle theft and robbery. Alerts for the crimes of aggravated assault, burglary and sex offenses are considered on a case by case basis and depend upon a number of factors. These include the nature of the crime, the continuing danger to the campus community -- such as whether the perpetrator was apprehended or the threat has been mitigated. UC Alerts may be distributed for other serious crimes if deemed warranted by the Director or his or her designee in the Director's absence. UC Alerts will be distributed in a timely manner and will be issued as soon as pertinent information is received and it is determined that the reported incident may pose a serious or on-going threat to the community.

Campus Officials not subject to the timely warning reporting requirement include licensed or certified professional counselors and recognized pastoral counselors who are functioning in the role of providing confidential counseling to members of the Institution's community on behalf of the institution.

- 2. Preparation of a UC Alert.** The UCCS Shift supervisors/senior officers are responsible for notifying the Director or his/her designee of any reported incident that may necessitate the issuance of a UC Alert. UC alerts are generally written and distributed to the campus community by the Director of Campus Safety or a designee, and they are routinely reviewed and approved by the Dean of Students or other appropriate college officials prior to distribution. The Director of Campus Safety has the authority to issue a UC Alert without such consultation if consultation time is not available.

The Campus Safety Alert must include information with sufficient specificity to allow recipients to take an appropriate response and to potentially aid in the prevention of similar crimes.

A Campus Safety Alert will include:

- Title of the crime reported;
- Date and time the Campus Safety Alert was released;
- Accurate date, time and location of the incident;
- A succinct description of the incident;
- Tips for maintaining personal safety; and
- A request for information and where to direct information.

A Campus Safety Alert may also include:

- Physical description of the suspect
- Information about possible connection to previous incidents;

- 3. Dissemination of the Campus Safety Alert.** The Director of Campus Safety or his or her designee has primary responsibility for the distribution of UC Alerts. All campus-wide Campus UC Alerts will be sent by the Director of Public Safety or his/her designee through the campus email system. Additional supplemental methods for disseminating UC Alerts include, but are not limited to, the following means: posting of flyers, text messaging, the campus newspaper, and related news media announcements. The method or methods used will depend on the severity, location, and type of incident and the ongoing nature of the threat. However, the blast campus email is the primary and preferred method of distribution. UC Alerts may be issued for other crime classifications as deemed necessary.

If a crime is reported directly to the Utica Police Department that could pose a serious or ongoing threat to the Utica College community, a representative of UPD will notify Campus Safety as soon as practicable about the crime and will provide sufficient detail to allow UCCS to assess the crime and determine if a Timely Warning Notice should be distributed to the Utica College community. The Utica Police Department will assist the Institution in their response to a crime that affects college community, as deemed appropriate and as resources permit. Likewise, if a crime is reported directly to Campus Safety that could pose a serious or ongoing threat to the Utica College community, a representative of Campus Safety will notify UPD as soon as practicable about the crime.

Emergency Notifications:

In the event of an emergency or incident that poses a potential immediate threat to the health and safety of the Utica College campus community, an effective campus-wide communications process is vital in order to provide the greatest safety possible for the campus community. As part of its Emergency Management Plan, the Institution has adopted a formalized procedure for issuing emergency alerts to the campus community.

Procedure:

When on-duty Campus Safety officers become aware of a situation which may warrant issuing an emergency alert, the on-duty Public Safety Officer confirms that there is a potential threat to the health and safety of the community and then immediately contacts the Director of Campus Safety or his/her designee, who quickly evaluates the situation to determine if an alert is warranted, the content of the notification message and the appropriate segment or segments of the campus community who will receive the notification. In situations where an imminent threat is present, the Director of Campus Safety or his/her designee has the ability and authority to issue an alert without



further consultation with any other Institution official. In situations lacking the presence of an imminent threat, the Director of Campus Safety or his/her designee consults with member of the UC Crisis team prior to an alert being issued. The Institution, based on the judgments of members of Campus Safety and the UC Crisis team will endeavor to immediately notify the campus community (or appropriate segments) 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. A threat is imminent when the need for action is instant, overwhelming and leaves no time for deliberation. Such situations may include, but are not limited to, a hazardous materials incident requiring sheltering in place or evacuation, a hostage/barricade situation, a riot, suspicious package with confirmation of a device, a tornado, a fire/explosion, suspicious death, structural damage to Institution owned or controlled facility, biological threat, a gas leak, an active shooter on or near campus, or a shooting incident on or near the campus.

When the emergency mass notification system (EMNS) is activated using the email/cell-phone text/voice messaging, college officials will notify campus community members of the emergency situation, its exact location, and will most likely request community members to protect themselves by evacuating the affected area if it is safe to do so and/or by employing the "shelter-in-place" concept.

"Shelter-in-place" means to take immediate shelter wherever you happen to be at the time of a "shelter-in-place" notification - in campus housing, in privately owned housing near campus, in an academic or administrative building, etc. Community members should remain in a "shelter-in-place" status until the all clear is communicated by emergency response personnel via the emergency alert system. Institution authorities may instruct campus community members to "shelter-in-place" if a condition exists that is potentially life threatening and has an immediate threat to the health and personal safety of the campus community.

If an emergency or incident is reported directly to the Utica Police Department that could pose an immediate threat to the health and safety of the Utica College community, a representative of UPD will notify the Department of Campus Safety as soon as practicable about the incident/situation and will provide sufficient detail to allow the UCCS to assess the incident/situation to determine if an emergency alert should be distributed to the college community. The Utica Police Department will assist the institution in responding to an emergency on campus, as deemed appropriate and as resources permit. Likewise, if an emergency or incident is reported directly to Campus Safety that could pose an immediate threat to the health and safety of the Utica College community, a representative of Campus Safety will notify UPD as soon as practicable about the incident/situation.

RESPONDING TO AND INVESTIGATING INCIDENTS OF ARSON

The Clery Act requires Utica College to investigate any fire that is not immediately known to be accidental. The Utica College Campus Safety department does not have officers/investigators trained to conduct basic arson investigations. The Utica Police Department agrees to provide the necessary resources to support UCCS in conducting an investigation of a fire that is not immediately known to be accidental, if Campus Safety needs investigative support to meet their investigative obligations under the Clery Act. If the Utica Police Department assists in conducting the investigation, they will provide a summary of the investigation with a final determination (i.e. arson, suspicious fire or unknown cause) to Campus Safety for their records.

NO SPECIAL DUTIES AND HOLD HARMLESS

Neither party shall incur any liability or responsibility for the failure to respond to any request for assistance made pursuant to this MOU. Neither party shall be required to indemnify and will hold the other harmless for any claim arising out of participation under this MOU. Each party shall be responsible for defending its own respective entity in any action or dispute that arises in connection with or as a result of this MOU.

All immunities from liability enjoyed by the local government shall extend to its participation in rendering aid under this MOU. All the immunities from liability and exemptions from laws, ordinances and regulations which law



Utica College Campus Safety
1600 Burrstone Road
Utica, N.Y 13502


Utica City Police Dept.
413 Oriskany St. W
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governments which are parties to this MOU shall be enjoyed and not altered by this MOU.

This MOU shall not be construed as or deemed to be an MOU for the benefit of any third party or parties, and no third party or parties shall have any right of action whatsoever hereunder for any cause whatsoever.



Acknowledged and Understood:

By:  Date: 7/12, 2017

Robert Palmieri, Mayor
City of Utica

By:  Date: 7/12, 2017

Mark Williams, Chief of Police
City of Utica Police Department

APPROVED AS TO FORM ONLY FOR THE CITY OF UTICA,

By:  Date: 7/12, 2017

Zachary C. Oren, Esq.
First Assistant Corporation Counsel for the City of Utica

By:  Date: 7/12, 2017

Its: Senior Vice President

Utica College