



**2017**  
**Annual Security Report**

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intimidation and exploitation. Sexual assault, domestic assault, dating violence or stalking are not only incompatible with biblical standards of Christian conduct, but also are criminal acts. Therefore, the College prohibits sexual assault, domestic violence, dating violence and stalking. .... 14

**Sex Offender Registry:** In accordance with the *Campus Sex Crimes Prevention Act of 2000*, which amends the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act*, the *Jeanne Clery Act*, and the *Family Educational Rights and Privacy Act of 1974*, the Messenger College Office of Student Development provides a link to publicly accessible Internet web sites containing the *Texas Sex Offender Registry* and the *Tarrant County Sex Offender List*. This law also requires sex offenders, who already are required to register in a state, to provide notice of each institution of higher education in that state at which the person is employed or enrolled as a student. .... 28

**Possession, Use or Sales of Alcoholic Beverages:** All students, faculty, and staff, while on or off College property, are expected to refrain from the possession, sale or use of alcoholic beverages. Providing, purchasing, attempting to purchase, or facilitating the purchase of alcoholic beverages is likewise prohibited. “Use” includes consumption by any means. Students are considered “in possession” and responsible for alcoholic beverages that have been determined to be on their person or in their residence or vehicle. Consistent with Texas law, the College prohibits the use or possession of an alcohol beverage vaporizer. The College reserves the right to check for compliance with this alcohol policy by various means, including active and passive alcohol sensors. .... 29

**Illegal Drug Possession:** Everyone in the Messenger College community (including employees, resident students, commuter students, and graduate/professional studies students), while on or off College property, is expected to refrain from the manufacture, possession, use or distribution of illegal drugs. Purchasing, attempting to purchase, or facilitating the purchase of illegal substances is likewise prohibited. Students are considered “in possession” and responsible for illegal substances found on their person or in their residence or vehicle. Possession of drug paraphernalia is prohibited. If an illegal substance is suspected, the College policy is to call Euless Police and secure the area until their arrival. Individuals violating these policies may be subject to sanctions by Messenger College, criminal prosecution, fine and imprisonment. .... 29

**Preparation of the Annual Disclosure of Campus Crime Statistics:** To comply with the *Jeanne Clery Disclosure of Campus Security and Crime Statistics Act*, the Vice President of Student Development is designated as the Campus Security Survey Administrator, who is responsible for the preparation of the Annual Security Report (consisting of campus security policy disclosures and campus crime statistics for the previous three calendar years) and its submission by October 1 to the U.S. Department of Education.

This Annual Security Report is prepared in cooperation with local law enforcement agencies surrounding our campus, as well as Messenger College's Student Development Division, which provides updated information on the College's educational programs and policy disclosures conducted in order to comply with the Clery Act.

Additionally, the Annual Security Report includes the frequency of occurrence of certain categories of crimes specified in the Clery Act. These crime statistics are collected by the Vice President of Student Development from the following sources: incident reports written by MC Student Development staff members; information that may be provided by the Euless Police Department, Texas Highway Patrol and/or the Tarrant County Sheriff's Department; reports provided by campus victims of crime; and reports provided by MC officials designated as "Campus Security Authorities" (including, but not limited to: vice presidents, directors, department heads, Residence Life Department staff, and faculty/staff advisors to student organizations). Once Messenger College's crime statistics report has been submitted to the U.S. Department of Education and reviewed by that staff, the Department of Education will make that data available to the general public at <http://ope.ed.gov/security>.

It is the policy of Messenger College that the Vice President for Student Development or designee shall distribute by electronic mail, to all enrolled students, faculty and staff, the appropriate hyperlink to the Annual Security Report; that the Business Office will notify prospective employees of the availability of the report; and that the Director of Enrollment Services will notify all prospective students of the availability of the report.

**Access Control:** During business hours the College facilities (excluding housing facilities) will be open to students, parents, employees, contractors, and guests. During non-business hours access to these facilities is gained by utilization of a key, if issued, or by admittance via Office of Student Development personnel. In the case of periods of extended closing, the Office of Student Development will admit to College facilities only those having prior written approval.

Student housing is locked 24 hours per day. During semesters, access to student housing is gained by utilization of a key or by admittance via Residence Life staff or Office of Student Development personnel, and is limited to residence directors, resident students of the respective housing and their guests. Authorized service personnel (select maintenance and IT staff) are allowed access to student housing to conduct their duties

7:00 a.m. – 10:00 p.m. and are limited to 10:00 a.m.- 5:00 p.m. for non-emergency repairs; exceptions may be made after hours to make emergency repairs.

Over extended breaks, the doors of all student housing will be secured around the clock, and access will be limited to residence directors, authorized service personnel, and only those resident students who might be given authorization by the Residence Life staff for such access.

Emergencies may necessitate changes or alterations to any posted schedules.

Security surveys will be conducted in areas that are identified as problematic. These surveys examine security issues such as landscaping, locks, alarms, lighting, and communications. The Office of Student Development checks for appropriate lighting and other safety concerns and reports problems to the Business Office for correction.

**Campus Law Enforcement Authority:** Messenger College Student Development staff members have the authority to ask persons for identification and to determine whether individuals have lawful business at Messenger College.

Student Development staff members do not possess arrest power and are not commissioned police officers. Student Development staff members' jurisdiction is comprised of property owned and/or controlled by Messenger College. Criminal incidents are referred to Euless Police Department who have jurisdiction on the campus. The Office of Student Development at Messenger College maintains a highly professional working relationship with the Euless Police Department. Messenger College does not have a formal Memo of Understanding with the Euless Police Department.

All crime victims and witnesses are strongly encouraged to immediately report the crime to the Office of Student Development at 817-554-5950 Ext. 103 and the Euless Police Department. Prompt reporting will assure timely warning notices on campus and timely disclosure of crime statistics.

**Procedure for Reporting Criminal Offenses:** Students, faculty, staff, and guests are expected to report all crimes to the Euless Police Department and the Office of Student Development in a timely manner. Any suspicious activity or person seen in parking lots or loitering around vehicles, inside buildings or around the student housing should also be reported to the Office of Student Development.

To report a crime, emergency or non-emergency incident on the Messenger College campus, call the Office of Student Development at 817-554-5950 Ext. 103. Sex crimes may also be reported to the Title IX officers, the Vice President of Business and the Vice President of Student Development.

All Student Development incident reports involving students are referred to the Vice President of Student Development and the Residence Life Department for review and potential disciplinary action. Incidents are reviewed by the Vice President of Student Development or her designee to determine if a timely warning notice is appropriate. The Office of Student Development will investigate a report when it is deemed appropriate. Additional information obtained via the investigation will also be forwarded to the Vice President for Student Development and the Residence Life Department.

If assistance is required from the Euless Police Department, the Office of Student Development will contact Euless-Tarrant County 911 and request an officer. Crimes should be reported to the Euless Police Department and the Messenger College Office of Student Development to aid in providing Timely Warning notices to the community, when appropriate, and to ensure inclusion in the annual crime statistics report.

**Prompt and Accurate Reporting :** Messenger College encourages and expects victims and witnesses of crimes to report crimes to the Euless Police Department and to the Office of Student Development even if the victims do not want to pursue action within Messenger College's Community Accountability Program or through the local or state criminal justice system.

When the victim of a crime elects to, or is unable (physically/mentally) to make such a report either witnesses or Messenger College Community members can make a report on behalf of the victim.

All reports are counted and disclosed in the annual crime statistics for the institution and will be evaluated by the Vice President or her designee to determine if an immediate notification, timely warning, or public announcement should be made.

**Voluntary Confidential Reporting:** If you are the victim of a crime and do not want to pursue action within the Messenger College System or the criminal justice system, you may still want to make a confidential report. With your permission, the Vice President of Student Development or a designee can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to keep your identity confidential while allowing others to take precautions to insure their safety. With such information, Messenger College can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the institution.

## Timely Warning:

### A. *Definitions:*

Clery Act Crimes—Criminal Homicide, including: a) Murder and Non-Negligent Manslaughter; and b) Negligent Manslaughter; Rape, Forcible Fondling, Statutory Rape and Incest.; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; Arson; Domestic Violence; Dating Violence; Stalking and Hate Crimes.

Campus Security Authorities—Non-police security staff responsible for monitoring campus property; individuals and offices designated by the campus security policies as those to whom crimes should be reported; and officials of the institution with significant responsibility for student and campus activities.

Pastoral counselor—A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

Professional counselor—A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the institution, but are under contract to provide counseling at the institution.

### B. *Requirements:*

In order to keep the campus community informed about safety and security issues on an ongoing basis, an institution must alert the campus community of certain crimes in a manner that is timely and will aid in the prevention of similar crimes. Efforts will be made to avoid unnecessarily identifying the victim in such cases.

These crimes must include all Clery Act crimes that are:  
Reported to campus security authorities and local police agencies; and are considered by the institution to represent a serious or continuing threat to students and employees.

In addition to making timely warnings, an institution is required to have a timely warning policy. All Title IV institutions are subject to the timely warning regulations. There are no exceptions.

Timely warnings can be issued for threats to property, as well as for threats to persons. It is irrelevant whether the victims or perpetrators are members of the campus community.

Timely warnings must be issued in a manner that gets the word out quickly communitywide.

The responsibility for the warning rests solely with the institution.

The institution's policy on timely warnings should specify who or which office is responsible for issuing the warnings.

The issuing of a timely warning must be decided on a case-by-case basis in light of all the facts surrounding a crime, including factors such as the nature of the crime, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts.

An institution is not required to provide a timely warning for crimes reported to a pastoral or professional counselor.

FERPA does not preclude an institution's compliance with the timely warning provision of the campus security regulations.

C. *Summary and Procedures:*

The campus crime "Timely Warning" is provided to heighten awareness and to provide students, faculty and staff timely notification of Clery Act crimes that are considered to represent a serious or ongoing threat to the campus community. The warning will provide pertinent information related to the crime and available suspect information.

The Vice President of Student Development or her designee is responsible for preparing and issuing timely warnings. The Vice President of Student Development will make the decision to issue a timely warning on a case-by-case basis considering the facts surrounding a crime, including the continuing danger to the campus community and the possible risk of compromising law enforcement efforts.

When the Vice President of Student Development issues a Timely Warning, it will be issued when deemed appropriate through the College email system to students, faculty, and staff and posted around campus. Depending on the particular circumstances of the crime, especially in all situations that could pose an immediate threat to the community and individuals, the Office of Student Development may activate the electronic messaging system or other means of

communication, providing the community with more immediate notification. In such instances, a copy of the notice will be posted in student housing and updates regarding the situation will follow as more information becomes available.

Anyone with information warranting a timely warning should report the circumstances to the Office of Student Development, by phone 817-554-5950 Ext. 103, or in person at the Office of Student Development in the MC Learning Center.

**Emergency Notification:** Messenger College utilizes an Emergency Notification System (ENS) for faculty, staff, students, and affiliated College constituents. After responsible personnel have been made aware of an emergency that poses a significant threat to the health or safety of students or employees occurring on campus, affecting all or part of the Messenger College campus, the ENS is activated without delay by the Office of Student Development. Initial confirmation for activating the ENS may occur by observation of a Student Development staff member, notification from an emergency liaison, multiple witness telephone calls, or an alarm system notification received.

The ENS message will contain pre-scripted brief messages or tailored content developed by the Vice President of Student Development or designated staff member. The information will be shared to help the public take action for their safety. An “all clear” message or follow up information will be disseminated as appropriate.

Localized incidents within a building, such as a small fire or hazardous material spill in a lab most likely will not require a mass notification.

In the event of an emergency that poses a significant threat to health or safety of students or employees occurring on campus, the ENS, fire detection system, email, website, social media sites, and/or phone attendant messages may be activated to notify the campus community, as Messenger College administrative personnel deem necessary, based on the circumstances of the event. The ENS activation may make notifications in the following manner:

- E-mail
- SMS text message

Faculty, staff, and students are responsible for providing all necessary information to insure a successful message delivery. At the beginning of each semester, students have an opportunity during registration to change their contact information. Faculty and staff information is gathered upon hire and can be updated through the Business Office. It is the responsibility of each faculty member, staff member, and student to provide the correct information for contact and update the appropriate campus office when contact changes are made.

The following Messenger College officials have authority to activate the Emergency Notification System:

- President
- Vice President of Business
- Vice President of Student Development
- Vice President of Academic Affairs

After the appropriate notification system is selected, it may be used to transmit brief urgent messages. Emergency notifications may include, but are not limited to:

- Campus Closures
- Weather Warnings (Severe Thunderstorm Warnings & Tornado Watches & Warnings)
- Fire
- Natural gas leaks or hazardous material spills
- Natural disasters affecting the Campus
- Campus wide power outages and/or utility failures
- Violent criminal behavior
- Bomb threats or other imminent violent threats
- Explosions on campus
- Terrorism incidents

Dependent upon the contact information supplied by faculty, staff, and students, notification may be made in the following manners:

- Cell phone
- Home phone
- Business phone
- Messenger College email
- Personal email
- SMS text to cell phone

The ENS will be internally tested each month with key College staff members and externally tested once a semester with the Messenger College community.

**Security Awareness Programs:** During Welcome Weekend, students are informed of services offered by the Messenger College Office of Student Development. Presentations outline ways to maintain personal safety and student housing security. Students are informed about procedures for reporting crime on campus. A common theme of the program is to encourage students to be aware of their responsibility for their own security and the security of others.

In addition to programs, information is disseminated to students and employees through articles on the news feed of campus management software, Populi. When time is of the essence, information is released to the College community through Timely Warning emails sent over the College's electronic mail system.

**Crime Prevention Programs :** Messenger College provides crime prevention education and information to students annually through programs such as:

- *Self Defense Training* as part of Welcome Weekend;
- *Residence Hall Access Control* protocols including: informing students of their responsibility for entering and exiting the building so as to protect the safety of others;
- *Issuance of Timely Warnings* to inform students of any criminal issues in order to prevent future incidents.

**Monitoring Criminal Activity Off-Campus :** When a Messenger College student is involved in any off-campus criminal activity, MC Office of Student Development staff members may assist with the investigation in cooperation with local, state, or federal law enforcement.

The Messenger College Office of Student Development maintains a working relationship with the Eules Police Department, whose officers work and communicate with MC Student Development staff members on serious incidents occurring on campus or in the immediate neighborhood.

Messenger College does not operate any non-campus housing or non-campus student organization facilities.

**Pastoral and Professional Counselors Reporting Policy:** In accordance with federal law U.S.C. Section 1092 (f), campus “Pastoral Counselors” and campus “Professional Counselors,” who are functioning only within the scope of their responsibilities as counselors (per the definitions below), are not considered to be campus security authorities and, therefore, are not required to report crimes for inclusion in the annual disclosure of campus crime statistics. It should be noted if a Pastoral Counselor or Professional Counselor qualifies as a CSA under some other standard they are not exempt and are required to report crimes for inclusion in the annual disclosure of campus crime statistics.

As a matter of policy, however, they are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures and requirement to report crimes for inclusion in the annual campus crime statistics.

The rulemaking committee defines counselors as:

*Pastoral Counselor:* An employee of an institution, who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor

*Professional Counselor:* An employee or contracted counselor of an institution whose official responsibilities include providing psychological counseling to members of the institution's community, and who is functioning within the scope of his or her license or certification.

**Missing Person Policy:** Every Messenger College employee and student has a duty to report a person believed to be missing to the Messenger College Office of Student Development at 817-554-5950 Ext. 103. The Office of Student Development immediately investigates any report of an individual missing from campus.

It is the policy of Messenger College to provide each student residing in student housing facilities the option of identifying an individual to be contacted by the College in the event that the student is determined to be missing for a period of more than 24 hours. The students will provide this information during the registration process or throughout the semester on the campus management software, *Populi*. The student will be advised that his or her "missing student" contact information will be registered confidentially, will be accessible only to authorized College officials, and may not be disclosed except to those officials and enforcement personnel engaged in a missing person investigation.

After investigating a missing person report, should MC Student Development determine that the student has been missing for 24 hours, MC will notify EPD and the student's "missing student" contact no later than 24 hours after the student is determined to be missing. Students under the age of 18, who are not emancipated individuals, shall be advised that the College is required to notify the student's custodial parent or legal guardian within 24 hours after the Messenger College Office of Student Development or another law enforcement agency determines that the student has been missing for more than 24 hours, in addition to notifying any contact person designated by the student.

**Disclosure to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses:**

Messenger College will, upon request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the College against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, Messenger College will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

**Sexual Assault, Domestic Violence, Dating Violence and Stalking Policy:** Respecting the human dignity of every employee, student and guest, Messenger College strives to maintain a safe, Christian community free from all forms of sexual or physical intimidation and exploitation. Sexual assault (forcible and non-forcible), domestic assault, dating violence or stalking are not only incompatible with biblical standards of Christian conduct, but also are criminal acts. Therefore, the College prohibits sexual assault, domestic violence, dating violence and stalking.

This policy pertains to sexual assaults including rape, forcible fondling statutory rape, and incest; domestic assaults, dating violence and stalking that occur between students or against a student by a non-student perpetrator. This policy addresses the definition of sexual assault, domestic violence, dating violence and stalking and prevention efforts, how to report these crimes and gain assistance if it occurs, and the procedures for resolution of an incident

#### **A. Definitions**

##### **1. Sexual Assault**

The term *sexual assault* is defined as any non-consensual sexual physical contact that involves the threat or use of force or violence, or any other form of coercion or intimidation; any sexual physical contact with a person who is unable to give consent. It includes the crimes of rape, forcible fondling, statutory rape and incest as defined by the 2013 Violence Against Women Act and Texas Revised Statutes.

Note: For reference, *sexual harassment* is defined as any unwelcomed action of a sexual nature by a person (of the same or opposite sex), which results in sexual discrimination or a hostile environment. In some instances sexual assault may also constitute sexual harassment. For information regarding reporting of sexual harassment, as opposed to sexual assault, see the *Messenger College Sexual Harassment Policy* (page 12 of the Student Handbook).

#### **FORCIBLE AND NON-FORCIBLE SEXUAL ASSAULT**

The personal trauma experienced by the victims of sexual assault and the nature and consequences of this crime undermine the trust essential to the process of education and the mission of Messenger College. This crime also conflicts with the College's basic standards of behavior. These forms of sexual violence are particularly damaging to the College community because victims of sexual assault are often acquainted with and must continue to interact with their assailants.

Incidents reported to the appropriate departments will be addressed promptly and will be treated confidentially. Information will be shared among College staff and students only on a "need to know" basis necessary to allow for the investigation and the

provision of assistance and services to those involved. The procedures which are used to implement this policy will take into account the need to investigate all incidents of forcible and non-forcible sexual assault and the right to confidentiality of all involved parties.

Definition:

### **Sex Offenses, Forcible**

Definition: Any sexual act directed against another person, forcible and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent.

#### A) Forcible Rape (Except "Statutory Rape")

Definition: 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.

(NOTE: If force was used or threatened, the crime should be classified as Forcible Rape regardless of the age of the victim, and if the victim was under the statutory age of consent and force was not used or threatened, the crime should be classified as Statutory Rape).

#### 2. B) Forcible Sodomy

Definition: Oral or anal sexual intercourse with another person, forcibly 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 youth or because of his/her temporary or permanent mental or physical incapacity.

#### 3. C) Sexual Assault With an Object

Definition: To use 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 where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity. (NOTE: An "object" or "instrument" is anything used by the offender other than the offender's genitalia. Examples are a finger, bottle, handgun, stick, etc.)

#### 4. D) Forcible Fondling

Definition: 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 incapacity. (NOTE: Forcible Fondling includes "Indecent Liberties and Child Molesting." Because Forcible Fondling is an element of Forcible Rape, Forcible Sodomy, and Sexual Assault With An Object, it should be reported only if it is the sole Forcible Sex Offense committed against the victim.

## Sex Offenses, Non-forcible

### A) Incest

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

### B) Statutory Rape

Definition: Non-forcible sexual intercourse with a person who is under the statutory age of consent. (NOTE: If force was used or threatened, the offense should be classified as Forcible Rape, not Statutory Rape.)

As used in this procedure, the term “accuser” describes the individual who believes he/she is a victim of a sexual assault and the term “accused” describes the individual who allegedly committed the sexual assault.

## 2. Consent

The term *consent* is defined as an unambiguous and willful participation or cooperation in an act or as an attitude that is commonly understood to be consistent with the exercise of free will. Consent requires participants who are fully conscious, are equally free to act, have clearly communicated their willingness, cooperation, or permission to participate in a specific sexual activity, are positive and clear in their desires, and are able to cease ongoing consensual activity at any time. Refusal to consent does not have to be verbal; it can be expressed with gestures, body language or attitude. A prior sexual history between the complainant and respondent does not constitute consent. Consent is not freely given if one of the following applies:

- a. The individual is unable to make an informed decision as a result of alcohol or other drugs (including but not limited to predatory drugs or prescribed medications); or
- b. The individual is unconscious, asleep, or suffering from shock; or
- c. The individual is under the age of seventeen and therefore legally unable to give consent; or
- d. The individual has a known mental disorder or developmental or physical disability, and therefore legally unable to give consent.

“No” means “No”

“No” can be expressed or implied, it does not have to be spoken.

“Yes” means “No” if conditions a, b, c, or d listed above exist.

Note: For the purposes of the College, use of alcohol by an offender neither diminishes personal responsibility nor is considered a mitigating factor in disciplinary sanctions should a violation be found to have occurred.

### 3. Domestic Violence/Dating Violence

**Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or 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 Texas.

**Dating Violence:** Means violence committed by a person—(a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship will be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

In Texas, Domestic Violence is covered in Penal Code, Title 5, Chapter 22, Section 22.01.

(a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section [71.0021\(b\)](#), [71.003](#), or [71.005](#), Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section [20.03](#), [20.04](#), [21.11](#), or [25.11](#) against a person whose relationship to or association with the defendant is described by Section [71.0021\(b\)](#), [71.003](#), or [71.005](#), Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility as defined by Section [1.07\(a\)\(14\)](#), Penal Code, or Section [51.02\(13\)](#) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(5) a person the actor knows is emergency services personnel while the person is providing emergency services.

(b-1) Notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second degree if:

(1) the offense is committed against a person whose relationship to or association with the defendant is described by Section [71.0021\(b\)](#), [71.003](#), or [71.005](#), Family Code;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section [20.03](#), [20.04](#), or [21.11](#) against a person whose relationship to or association with the defendant is described by Section [71.0021](#)(b), [71.003](#), or [71.005](#), Family Code; and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual, as those terms are defined by Section [22.04](#); or

(2) a Class B misdemeanor if the offense is committed by a person who is not a sports participant against a person the actor knows is a sports participant either:

(A) while the participant is performing duties or responsibilities in the participant's capacity as a sports participant; or

(B) in retaliation for or on account of the participant's performance of a duty or responsibility within the participant's capacity as a sports participant.

(d) For purposes of Subsection (b), the actor is presumed to have known the person assaulted was a public servant, a security officer, or emergency services personnel if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer or emergency services personnel.

(e) In this section:

(1) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section [773.003](#), Health and Safety Code, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

(3) "Security officer" means a commissioned security officer as defined by Section [1702.002](#), Occupations Code, or a noncommissioned security officer registered under Section [1702.221](#), Occupations Code.

(4) "Sports participant" means a person who participates in any official capacity with respect to an interscholastic, intercollegiate, or other organized amateur or professional athletic competition and includes an athlete, referee, umpire, linesman, coach, instructor, administrator, or staff member.

(f) For the purposes of Subsections (b)(2)(A) and (b-1)(2):

(1) a defendant has been previously convicted of an offense listed in those subsections committed against a person whose relationship to or association with the defendant is described by Section [71.0021\(b\)](#), [71.003](#), or [71.005](#), Family Code, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections is a conviction of the offense listed.

(g) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

#### 4. Stalking

Stalking: Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—*a*) fear for his or her safety or the safety of others; or *b*) suffer substantial emotional distress. In Texas Stalking is defined as: a pattern of malicious behavior -- such as repeatedly showing up at an estranged partner's house after being told to stay away -- as opposed to a one-time event. While stalking is often associated with repeatedly following or pursuing someone, stalking can also be characterized by less direct actions, such as repeatedly contacting someone through the mail, phone, or internet. In addition, stalking can take the form of unwanted gifts or messages. The pattern of behavior must cause the victim to fear for his or her safety or well-being in order to be considered stalking.

In Texas, Stalking is covered in Penal Code 42.072

**B. Prevention of Sexual Assault**

Periodically throughout the school year the Office of Student Development provides programming aimed to enable individuals to protect themselves through preventing attacks and learning techniques for escape in the event of an attack. It provides valuable information about how to avoid confrontation and how to best defend oneself if physically attacked or confronted.

**C. Reporting Sexual Assault, Domestic Violence, Dating Violence or Stalking**

To students assistance is available through the entire year by calling the Messenger College Office of Student Development at 817-554-5950 Ext. 103. The Office of Student Development personnel will offer assistance in reporting the crime and in providing information for counseling support and medical treatment. Victims will be provided with written copies of their rights, options and services available regardless of if the offense occurred on or off campus.

**D. Office of Student Development Response to a Report of Sexual Assault, Domestic Violence, Dating Violence or Stalking.**

**1. Assessment of Danger:** Upon receiving a call, the Student Development staff member will determine if the survivor or others are in immediate danger, the survivor's name or other means by which the survivor can be identified, nature of the offense, and present location and phone number where the survivor may be reached.

**a. Immediate Danger.** If the staff member believes that there is an immediate danger to the caller, the Euless Police Department and the Vice President of Student Development will be notified. When the immediate danger is past, the help of a Crisis Counselor will be offered.

**b. No Immediate Danger.** When there is no indication of immediate danger, the staff member will encourage the victim to accept the help of a Crisis Counselor, who has been trained to provide such assistance.

**c. Preservation of evidence.** Once there is no immediate danger the staff member will advise the survivor of the importance of preserving evidence to prove any criminal case of domestic violence, dating violence, and sexual assault or stalking, of if needed to obtain a protective order.

**2. Medical Assistance:** The staff member shall encourage the survivor to seek medical treatment or examination, if needed, and offer to arrange

transportation to a local hospital. Should the survivor desire counseling, the staff member will offer to make the necessary arrangements outlined below.

- a. **Rape Kit.** If the sexual assault involved sexual intercourse, the staff member will inform the survivor about the importance of the Rape Kit (if the sexual intercourse occurred within the last 72 hours) in order to preserve evidence. The staff member should instruct the survivor to not wash, shower, douche, or change (destroy or clean) the clothes worn at the time of the assault. Not washing or changing clothes is important in order to preserve evidence.
- b. **Support and Safety** Should the survivor require medical examination, College personnel can remain outside the examination or treatment room during the examination or treatment and then return the survivor to his or her residence or, if necessary, to a safe place other than the survivor's residence.

3. **Crisis Counseling Assistance:** The staff member shall encourage the survivor to access support services from those specially trained to assist survivors of sexual assault, domestic violence, dating violence or stalking.

On Campus – Campus Ministries Office, 817-554-5950 ext 103

Off Campus – Metroplex Counseling 817-571-4110

- a. **Consent for Help:** If the survivor consents to talk with a counselor, the staff member will immediately seek to contact the counselor for immediate assistance. The staff member then will contact the survivor to provide the name of the proposed counselor. The victim then may ask for a different counselor if the proposed counselor is known to the survivor and unacceptable for any reason. In such an event, the staff member will request another counselor who is available and then repeat the identification process. When no proposed counselor is approved by the victim, the staff member will immediately call Metroplex Counseling.
- b. **Refusal of Help:** If the victim declines to talk with a counselor, any information obtained by the staff member will be reported to the Vice President for Student Development.

#### 4. Information

The staff member will provide the survivor with the following information, including telephone numbers for the referral sources:

- a. The survivor's right to anonymity
- b. The College's willingness to appoint a person to serve as the survivor's liaison with school officials and other parties, including service as the survivor's advisor in any disciplinary proceeding against the alleged offender;

- c. The availability of medical treatment, counseling services, and other resources;
- d. The procedure for reporting the incident to the Office of Student Development, the Eules Police Department, or other appropriate law enforcement agencies;
- e. The College's willingness to assist in contacting the appropriate outside law enforcement agency if requested by the survivor; survivor has the right to decline to report the incident to law enforcement if they wish.
- f. The College procedures for disciplinary action against students found guilty of sexual assault, domestic violence, dating violence or stalking and;
- g. The availability of local attorneys for legal counsel.

**5. Sexual Assault, Domestic Violence, Dating Violence and Stalking**

**Reporting:** The staff member shall take appropriate steps for the completion of a report in cooperation with the expressed wishes of the survivor.

- a. **Police Report Filed:** If the survivor chooses to file a Eules Police Department report, then the staff member will assist the survivor in contacting the Eules Police Department and will also complete a brief report for statistical records.
- b. **No Police Report Filed:** If the survivor decides to not file a report with the Eules Police Department, then, as soon as possible, the staff member will interview the survivor in an area free from distractions and complete an Messenger College Incident Report containing the following:
  - i. **Survivor's Statement:** The staff member will record the survivor's account of the offender's action and any relevant background information.
  - ii. **Other Information:** The staff member will also seek and identify in the report as much potential corroborating information as possible
- c. **Incident Report Options:** The staff member will provide information to the survivor concerning the options for reporting the alleged offense and will use one of the following three formats selected by the survivor. Absent special circumstances the officer will encourage the survivor to choose the third option (a formal complaint).
  - i. **Anonymous Report:** The report will not include the name of the survivor or other information about the victim's identity. The report will be used solely for information to enhance prevention programs and to prepare statistical records. The report will be signed by the staff member, who will verify that the survivor has requested that no further investigation or action be undertaken.

- ii. **Signed Report:** The report will include the name of the survivor, but will be used solely for information to enhance prevention programs and to prepare statistical records. The report will be signed by the survivor and will verify that the he or she has requested that no further investigation or action be undertaken.
    - iii. **Formal Report:** The report will be signed by the survivor and will request further investigation and appropriate disciplinary action. If a police report was filed the survivor will provide the College a copy of the report.
  - d. **Confidentiality:** Regardless of the type of report, the name of the survivor and other information about the victim's identity will be kept confidential by the officer and other College employees to the extent possible.
  - e. **Filing of Report:** Promptly after the completion of a report, the staff member will deliver the original copy of the report to the Vice President of Student Development. Upon receipt of a report, if the Vice President of Student Development determines there is a safety threat to the community, the survivor will be consulted and an appropriate timely warning will be issued to the community.
- E. College Response to Reported Sexual Assault, Domestic Violence, Dating Violence and Stalking
1. **Change of Program or Residence:** The College will accommodate change of academic, living, transportation, and working situation if so requested by the survivor. The survivor may make change request to the Vice President of Student Development. The institution may adjust the accused's schedule, location in the housing system, adjust the accused's work schedule to minimize contact with the survivor and make accommodations to transportation to limit the accused's contact with the survivor. Or the College may change the survivor's class schedule, survivor's location in the College housing system, the survivors work schedule, or make accommodations to the survivor's transportation to limit contact with the accused. The College will make reasonable efforts to accommodate the survivor's requests even if the survivor chooses not to pursue the matter. The College will make reasonable efforts to maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would impair the ability of the institution to provide that accommodations or protective measures.
  2. **Disciplinary Action:**

- a. If the Incident Report requests disciplinary action, and if the offender is a visitor or vendor, then the Vice President of Student Development will contact the Euless Police Department to investigate.
- b. If the Incident Report requests disciplinary action, and if the offender is a College employee, then the Vice President of Student Development will contact the Euless Police Department to investigate and will forward the Incident Report to the Business Office and the appropriate Vice President for resolution in accordance with policies governing employee conduct.
- c. If the Incident Report requests disciplinary action, and if the offender is a student, then the Vice President for Student Development will review the complaint for action pursuant to the Community Standards of Conduct published in the *Messenger College Student Handbook*. The policy for student disciplinary cases is established by the Community Standards of Conduct, and copies are available for review. Disciplinary action under the Messenger College student conduct code is independent of any legal proceedings. This action may run concurrently with or in addition to any law enforcement investigation or court proceedings. The following sections of this protocol summarize some of the steps in the disciplinary procedures implemented by the Vice President of Student Development.
  - i. **Parties.** In the disciplinary process, the victim of a sexual assault, domestic violence, dating violence or stalking is referred to as the complainant, and the student who assaulted or stalked the survivor is referred to as the accused student. Collectively, the complainant and the accused student are referred to as the parties for the particular case.
  - ii. **Gender Balance.** The Vice President for Students Development may elect to handle sexual offense complaints in cooperation with another faculty or staff member of the opposite sex in order to eliminate the risk of any gender bias, either perceived or real.
  - iii. **Administrative Resolution.** The Vice President for Student Development will conduct an investigation to determine if the complaint has merit. Unless the complaint is found to be without merit, the Vice President for Student Development will seek to resolve the matter administratively by determining the nature and severity of the violations and by reaching an agreement with the accused student on the appropriate sanctions for such violations. The Vice President for Student Development will confer with the complainant prior to completing an agreement with the accused student. If the

- complainant is dissatisfied with the completed agreement, the complainant may appeal to the College Accountability Board.
- iv. **Written Charges.** If the complaint cannot be resolved administratively by mutual consent, the Vice President for Student Development will prepare written charges against the accused student. The charges will be forwarded to the College Accountability Board. Copies will also be sent to the accused student and the complainant by the Vice President for Student Development.
  - v. **Hearing Date.** The College Accountability Board will set the time and place for the hearing, and both the accused student and the survivor will be given notice of the hearing at least 48 hours in advance of the date. Either party may request the board to delay the hearing for good cause.
  - vi. **Hearing Guidelines.** The hearing will be administrative in nature, and every attempt will be made to assure a fair and impartial hearing. Following is a summary of the guidelines for such hearings.
  - vii. **Closed Hearings.** Hearings will be conducted in closed session. The parties may be present during the hearings, but may not be present during the deliberations of the board.
  - viii. **Advisors.** The complainant and the accused student each will have the right to be assisted by an advisor.
  - ix. **Admission of Others.** Admission of witnesses and other persons to the hearing will be subject to the discretion of the board, as permitted by the Family Educational Rights and Privacy Act.
  - x. **Witnesses.** The parties will have the privilege of presenting witnesses, and the board may call additional witnesses.
  - xi. **Cross-Examination.** The members of the board may question and cross-examine witnesses. The parties and/or their advisors may not cross-examine witnesses or other parties, but may suggest questions to be asked by the chairperson of the board.
  - xii. **Deliberation and Voting.** After the hearing, the board will deliberate and then determined whether or not a majority of the members believe the accused student violated the Community Standards of Conduct.
  - xiii. **Standard of Required Proof.** The board's determination will be made on the basis of whether it is more likely than not that the accused student violated the Community Standards of Conduct, which is equivalent to the "preponderance of the evidence" standard.
  - xiv. **Reopening of Hearing on Question of Sanctions.** If the board finds that the accused student committed one or more violations of the Community Standards of Conduct, the board

may recall the parties, and any other witnesses, to receive evidence or statements about the appropriateness of disciplinary sanctions. Such evidence may include testimony of character witnesses on behalf of the accused student, evidence of prior acts of misconduct, and/or a survivor's impact statement.

- xv. **Disciplinary Sanctions.** Based on its findings of violations, or the lack of violations, and its information about the appropriateness of sanctions, the board will determine the disciplinary sanctions to be recommended to the Vice President for Student Development for imposition against the accused student. If the accused is found to be in violation of the Sexual Assault policy, then the minimum sanction is *Immediate Suspension* for one year, plus evidence of successful counseling prior to readmission; additional sanctions may include the maximum sanction of *Dismissal*, meaning permanent separation from the College. If the accused is found to be in violation of the policy against domestic violence, dating violence or stalking the sanctions may include, official warning, Alert Level 1, Alert Level 2, Probation Level 1, Probation Level 2, Withdrawal, Suspension or Dismissal.

**Announcement of Decision.** Upon conclusion of its deliberations, the board will unconditionally inform both parties of its findings and any sanctions simultaneously in writing. Both the complainant and the accused student may appeal the hearing board decision to the College Appeals Board.

**Sex Offender Registry:** In accordance with the *Campus Sex Crimes Prevention Act of 2000*, which amends the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act*, the *Jeanne Clery Act*, and the *Family Educational Rights and Privacy Act of 1974*, the Messenger College Office of Student Development provides a link to publicly accessible Internet web sites containing the *Texas Sex Offender Registry* and the *Tarrant County Sex Offender List*. This law also requires sex offenders, who already are required to register in a state, to provide notice of each institution of higher education in that state at which the person is employed or enrolled as a student.

Individuals included on the web sites are included solely by virtue of their conviction record and Texas state law. The primary purpose of providing this information is to make the information easily available and accessible, not to warn about any specific individual. Anyone who uses this information to commit a criminal act against another person is subject to criminal prosecution.

Follow the link below to access the *Texas Sex Offender Registry* website. The Texas Department of Public Safety is responsible for maintaining this registry:

<https://records.txdps.state.tx.us/sexoffender/>

Follow the link below to access the *Tarrant County Sex Offender List* website. The Tarrant County Sheriff's Department is responsible for maintaining this registry:

<http://www.tarrantcounty.com/esherriff/cwp/view.asp?a=768&q=450565>

**Possession, Use or Sales of Alcoholic Beverages:** All students, faculty, and staff, while on or off College property, are expected to refrain from the possession, sale or use of alcoholic beverages. Providing, purchasing, attempting to purchase, or facilitating the purchase of alcoholic beverages is likewise prohibited. “Use” includes consumption by any means. Students are considered “in possession” and responsible for alcoholic beverages that have been determined to be on their person or in their residence or vehicle. Consistent with Texas law, the College prohibits the use or possession of an alcohol beverage vaporizer. The College reserves the right to check for compliance with this alcohol policy by various means, including active and passive alcohol sensors.

It is unlawful to sell furnish, or provide alcohol to anyone under 21 years of age. The possession of alcohol, including possession by consumption, by anyone under 21 years of age is illegal. Individuals violating these policies may be subject to sanctions by Messenger College, criminal prosecution, fine and imprisonment.

**Illegal Drug Possession:** Everyone in the Messenger College community (including employees, resident students, commuter students, and graduate/professional studies students), while on or off College property, is expected to refrain from the manufacture, possession, use or distribution of illegal drugs. Purchasing, attempting to purchase, or facilitating the purchase of illegal substances is likewise prohibited. Students are considered “in possession” and responsible for illegal substances found on their person or in their residence or vehicle. Possession of drug paraphernalia is prohibited. If an illegal substance is suspected, the College policy is to call Euless Police and secure the area until their arrival. Individuals violating these policies may be subject to sanctions by Messenger College, criminal prosecution, fine and imprisonment.

**Available Help:** Messenger College recognizes the college community is not immune to the societal problem of substance abuse. Confidential referrals for counseling, treatment, or rehabilitation are available from the office of the Vice President of Student Development for students and employees who voluntarily seek such assistance.

**Drug and Alcohol Abuse Prevention Program:** Messenger College complies with the Drug-Free Schools and Campuses Regulations, by annually distributing to students and employees written documentation regarding the availability of a Drug and Alcohol Awareness Program. Our partnering agency is Metroplex Counseling 817-571-4110. In addition, the office of Community provides related information during Welcome Weekend, student registration and other health awareness programs throughout the year.