

# University of Texas Permian Basin Police Department

## 2019 Annual Security Report – UTPB Midland Campus

Reporting Years 2016, 2017, and 2018

Note: The required Annual Fire Safety Report is posted separately from the Annual Security Report. The Fire Safety Report can be found by clicking on the following link:

<http://www.utpb.edu/services/business-affairs/environmental-health-safety/fire-reporting->

For further information on the Fire Safety Report contact Lail Grant (Grant\_l@utpb.edu)

### Introduction

The University of Texas Permian Basin is concerned about the safety and welfare of all campus members and guests and commits itself to promoting a safe and secure environment. Because no campus can totally isolate itself from crime, the University of Texas Permian Basin has developed a series of policies and procedures designed to ensure that every possible precaution is taken to protect the campus community.

### *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*

Pursuant to 20 United States Code section 1092(f), the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act," and the Code of Federal Regulations (CFR) requires that each institution of higher education in the United States which participates in federal student aid programs must produce and distribute an annual report containing crime statistics and statements of security policy. Failure to provide required information or the inclusion of inaccurate information may result in fines up to \$27,500 per violation imposed by the U.S. Department of Education (DOE).

### The Campus Security Act – Legal Requirements

- Publish an annual report every year by October 1<sup>st</sup> that contains three (3) years' worth of crime statistics and certain security policy statements, including sexual assault policies.
- Make a good faith effort to disclose crime statistics for the campus, unobstructed public areas immediately adjacent to or running through the campus, and certain non-campus facilities including Greek housing and remote classrooms. The statistics must be gathered from campus police or security, local law enforcement, and other University/College officials who have "significant responsibility for students and campus activities".
- Provide "timely warning" notices of those crimes that have occurred and pose an "ongoing threat to students and employees".
- Disclose in a public crime log any crime that occurred on campus or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or security department."

This publication, in keeping with the requirements of the Clery Act, is designed to aid in the cooperative effort of providing the public with specific information on campus security, crime statistics for the most recent three-year period, alcohol and drug use, crime prevention, police operations and authority, policies relating to reporting crime and campus disciplinary procedures.

Each year, a bulk e-mail notification is made to all employees and enrolled students regarding the availability of the Annual Security Report. A printed copy of this report may be obtained by writing the UTPB Police Department at 4901 E. University, Odessa, TX 79762 or by coming in person to the UTPB Police Department administrative offices located in the Mesa Building, Room 1103, during normal business hours Monday - Friday. This report is also published on the UTPB Police Department web page at <http://ss.utpb.edu/university-police/students-right-to-know/annual-security-report/>

# **CAMPUS SECURITY**

## **Facilities Security**

Most campus buildings and facilities are accessible to members of the campus community and their guests and visitors during normal business hours, Monday through Friday, and for limited hours on the weekend (this excludes most holidays). Students have access to the buildings during all scheduled class sessions to include laboratory, library study, and research periods.

After normal business hours, including weekends and holidays, all campus buildings are considered closed and secured. Persons needing entry must be granted access via an after-hours list held in Dispatch or based on permissions assigned via electronic card access. Students utilizing special areas need prior written authorization from the Faculty member over that area. Faculty members requiring students to enter buildings after hours need to complete the After Hours Authorization Form. The Authorization Form may be obtained from the Police Department. The forms should be specific as to time of day and dates of authorization. Police personnel will either check out a key or enter buildings with students as necessary to unlock special areas. Lights can be left on in hallways on any floor when it is known that students will be required to use the area after hours.

Those exterior building doors on campus that secure using magnetic locks are equipped with alarms which provide feedback to the Communications Department indicating that doors are propped open. A representative from the UTPB Police Department will respond to these notices and ensure the building is secure.

Exterior doors to apartment styled student housing are controlled by each occupant. Each exterior door has a mechanical lock and only the residents of that apartment are issued a key. Students are encouraged to keep their doors locked for their own personal safety. Inside each apartment, there are separate doors to each bedroom. These doors are also controlled by the students by way of a mechanical lock, which only the occupant of the bedroom is issued a key. When students lock themselves out of their assigned apartment, resident assistants may be contacted. UTPB Police Officers and Public Safety Officers do not unlock doors in student housing unless in the event of a serious emergency. Residents are encouraged to report all suspicious incidents to Residence Life staff or the UTPB Police Department.

As the University continues to implement new technology, key locks are phasing out and card access devices are taking their place in student housing. Exterior doors to the Residence and Dining Hall are controlled through card access, assigned by Residence Life. These doors will only open to those Students and Staff who have been granted access through their local system. Once inside the housing portion of the Residence and Dining Hall, each apartment door is secured using the same card access device. Each card, implanted with identifying chips, will only open the apartment in which the Student lives. Inside each apartment, there are separate doors to each bedroom. These doors are controlled by the students using a mechanical lock in which only the occupants of each bedroom have a key. All other procedures reference lockouts are the same as stated above. Students are encouraged to report lost or stolen cards immediately so that they can be deactivated.

Visitors to student housing must always be accompanied by the resident. Visitors to campus are welcome, but are expected to adhere to all campus regulations and policies. Visitors are encouraged to stop by the Police Department located on the first floor of the Devonian Entrance to the Mesa Building for information on university regulations. The University reserves the right to restrict the access of any person who does not adhere to University policies and procedures. ANY person may be required, upon request by the Police Department, to present identification while on campus.

Employees and students are required to have their UTPB ID card in their possession at all times and to present it upon request by any University Official, as per the University of Texas Rules and Regulations of the Board of Regents, Rule 80101, Section 3. The UTPB ID card is available at the UTPB Police Department, located in the Devonian Entrance to the Mesa Building, Room 1240. Security cameras are positioned at several locations around campus including the entrances and exits of parking garages and some buildings, some public plazas, some parking lots, certain areas of student housing, and the library. These cameras are monitored at all times. They are equipped to digitally record activity within the field of view. Presence of security cameras should not preclude individuals from practicing good, common sense crime prevention practices and exercising caution.

## **Maintenance**

University facilities, lighting, and landscaping are maintained so as to reduce hazardous conditions. The University also has emergency blue light phones installed throughout the campus. University Police Officers and Public Safety Officers regularly test the emergency phones and submit work orders for those in need of repair. Officers also routinely report the need for replacement lights and any other physical hazard they note. Malfunctioning lights and other unsafe conditions are reported to the Physical Plant for repair or correction on a daily basis. Problems with the emergency phones are reported to the Information Resources Division (IRD), who will repair or

correct the problem daily. Any student, faculty, staff, or visitor who sees a possibly unsafe condition is encouraged to notify UTPB Police or the Physical Plant for further attention to the problem.

## **Crime Prevention and Education Programs**

The UTPB Police Department conducts crime prevention and information sessions at each scheduled student/parent orientation meeting. This face to face contact is crucial; allowing prospective students and parents to ask questions regarding safety and security on campus. During these presentations, Students and Parents are presented with the information on how to obtain a copy of the Annual Security Report. Upon invitation, the Department provides crime prevention programming to any student organizations and faculty/staff events. Officers are encouraged to make unscheduled "crime prevention contacts" with students and employees of UTPB as they patrol the campus.

Crime prevention is a tool utilized to encourage students, faculty and staff to be aware of ways to reduce their chances of becoming victims of crime. Crime prevention brochures and other printed materials are presented during each registration period and kept in the Police Department lobby all year long. While it is impossible to prevent all crime, awareness is the key to preventing the opportunity for crimes to be committed. The UTPB Police Department offers the following crime prevention programs and services free of charge:

### **Facilities Surveys:**

An ongoing program known as "directed patrol" and "park and walks" are made at irregular intervals during each shift. A "directed patrol" is a deliberate drive through of all areas of campus where Officers and Public Safety Officers look for or are alerted to suspicious activity. A "park and walk" involves Public Safety Officers and Officers parking their patrol vehicle and conducting foot patrols of selected areas of the campus. All these types of patrols are documented in the Communications Center.

### **Security Escort Program:**

There are times when people feel the need for a little extra security. This could be due to a personal issue or other security concern. The UTPB Police Department will provide security escorts to all locations on campus 24 hours a day. Police Officers and Public Safety Officers provide this service.

### **Operation ID:**

This is an on-going program that involves engraving a driver's license or student identification number on valuable items of personal property. Engravers are available at the UTPB Police Department. The department encourages the documentation of identifiers found on valuable property.

### **Security Alarm System:**

An electronic security alarm system is located at the UTPB Police Department Communications Center monitored by an alarm company. This alarm system provides a comprehensive network of intrusion detection and duress alarms for campus buildings in which they are installed.

## **Authority and Jurisdiction of the University Police**

### **Law Enforcement Authority**

UTPB police officers are State Police Officers licensed by the Texas Commission on Law Enforcement commissioned under the provisions of the Texas Education Code § 51.203 or the Texas Code of Criminal Procedures, Article 2.12, and are vested with all of the powers, privileges, and immunities of peace officers while on the property under the control and jurisdiction of University of Texas System or otherwise in the performance of their assigned duties.

In addition to Police Officers, the University Police Department employs uniformed security guards who provide parking enforcement, facility security, and support for special event operations. These employees are referred to as Public Safety Officers. Public Safety Officers do not have arrest authority, except as provided for citizens as outlined in the Texas Penal Code.

The UTPB Police Department has the responsibility and duty to enforce all local, state, and federal laws. UTPB Police Officers carry firearms, may arrest violators and refer them to the judicial system for prosecution. Criminal violations are processed through the Ector County District Attorney's Office, Ector County Attorney's Office, or federal criminal justice system. Officers may also issue citations

for the City of Odessa Municipal Court and the Midland County Justice of the Peace, Precinct 4. Locally, UTPB has properties in both Ector and Midland counties, giving the UTPB Police Department Officers the authority to work in both counties. The Police authority extends beyond the local area to any Texas county in which the University of Texas owns property or operates / holds classes, such as remote classrooms.

### **Municipal Law Enforcement Jurisdiction**

The University of Texas of the Permian Basin is within the city limits of Odessa, Texas, a community of just under 99,000 people occupying 35.04 square miles. The City of Odessa has developed around the UTPB campus since the campus was initially built. The City of Odessa Police Department (OPD) employs 170 licensed and sworn police officers and has concurrent jurisdiction on the campus which they regularly patrol. The City of Odessa Fire Department (OFD) has a fire house stationed on the southeast portion of the UTPB campus and provides firefighting and emergency paramedic services to the campus. Through interagency agreements, the City of Odessa Police Department, Ector County Sheriff's Department and the Texas Department of Public Safety will also provide assistance if requested by the UTPB Police Department. The UTPB Police Department also has the same working relationship with Midland County authorities and public safety personnel at its Midland Campus including Midland Police Department and Midland County Sheriff's Department.

### **University Lands Office**

The University of Texas Lands Office is located within the city limits of Midland, Texas. The UTPB Police Department does not routinely patrol this university property. However, the UTPB Police Department is still available upon request to respond to and handle any law enforcement needs at this facility. The UTPB Police Department does coordinate with the City of Midland Police Department to provide day-to-day police patrols of the UT Lands office. The City of Midland Police Department is also available upon request to handle any law enforcement situation at the facility

## **Reporting Crime**

### **Procedures for Reporting Crimes and Other Emergencies**

All University community members and guests of the University are encouraged to report suspected criminal activity to the police as soon as possible. Fires, health emergencies, crimes and violations of university policies and procedures should be reported to the UTPB Police Department either in person at Mesa Building, Room 1240, or by telephone by dialing 2911 on campus for emergencies, or at 552-2786. Conspicuously placed, lighted emergency (Blue Light) telephone towers with direct lines to the UTPB Police Department are located throughout the campus to facilitate reporting. There are a total of eleven Blue Light telephones throughout the campus. There is one in the Mesa parking lot, one between the Mesa Building and the Library, one in the Gym parking lot, one in the Founder's Building parking lot, and seven around student housing. There is an also emergency phone installed in the elevators.

Community members are encouraged to report all crimes, to include off campus incidents. The UTPB Police Department will assist community members in reporting all off campus incidents to the appropriate law enforcement agencies. Local law enforcement agency phone numbers are listed in the helpful phone numbers section of this document.

### **Reporting Crimes to Other Campus Security Authorities**

#### **Who Are Campus Security Authorities?**

The *Clery Act* also mandates that institutions must disclose statistics for crimes reported to local police agencies and crimes reported to campus security authorities. Campus security authorities include the following:

- A member of a campus police department or a campus security department of an institution.
- Any individual or individuals who have responsibility for campus security, but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property).
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, the following areas:
  - Vice President for Student Affairs
  - Dean of Student Life
  - Director of Residence Life and Student Housing
  - Title IX Coordinator
  - All Head Coaches and Assistant Coaches for all areas in the Athletic Department.
  - All Associate Athletic Directors
- **An official is defined as** any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.

The intent of including non-law enforcement personnel as campus security authorities is to acknowledge that many people, students, are hesitant about reporting crimes to the Police, but may be more inclined to report incidents to other campus-affiliated individuals.

Examples of individuals who DO NOT meet the criteria for being campus security authorities include a faculty member who does not have any responsibility for student and campus activity beyond the classroom, clerical staff, custodians, maintenance personnel, and cafeteria staff. A pastoral or professional counselor on campus does not have significant responsibility for student and campus activity and are exempt from reporting crimes to the campus police. A physician in a campus health center or a counselor in a counseling center whose only responsibility is to provide care to students is unlikely to have significant responsibility for student and campus activity.

All campus officials, counselors, faculty and staff are encouraged to report all crimes even if not required to do so. The Police Department understands the confidential nature of certain campus officials and will respect the confidentiality of all information obtained for statistical reporting purposes. Only general information, such as general location, type of crime and date of crime, are needed to report crime statistics. Complete reporting by all university members will assist in providing a secure campus environment.

### **Responsibilities of Campus Security Authorities**

Because of the law’s complex reporting requirements, the most reasonable and effective way to manage the reporting is as follows: If Campus Security Authorities observe any crime listed below, or if any person reveals to a Campus Security Authority, in good faith, that he/she learned of or were the victim of, perpetrator of, or witness to any crime listed below, the Campus Security Authority must immediately notify the UTPB Police Department.

Crimes that should be reported are:

- Murder and non-negligent manslaughter
- Negligent manslaughter
- Forcible sex offenses
- Non-forcible sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- All hate crimes involving bodily injury
- All liquor, drug or weapons law violations resulting in an arrest

Definitions of these crimes may be found beginning on page 12 of this report.

Clery Act crimes reported to local municipal police will be included as long as the municipal police agency notifies the UTPB Police and the reported crime occurred in an area for which the institution is responsible. The University contacts the City of Odessa and makes a good faith effort to obtain information on reported Clery Act crimes.

## Reporting Crimes Outside of the Patrol Jurisdiction of UTPB PD

The UTPB Police Department makes a good faith effort to stay informed of all criminal activity involving students at off-campus locations. Surrounding municipal agencies, state law enforcement agencies and federal agencies do not routinely inform campus police about incidents where their officers contact UTPB students.

When a UTPB student is involved in an off-campus incident, UTPB Police officers may assist with the investigation in cooperation with local, state or federal law enforcement. Odessa Police Department routinely works and communicates with campus police officers on any serious incidents occurring in the immediate neighborhood and business areas surrounding the campus. Many students live in the neighborhoods surrounding UTPB. The Odessa Police Department has primary jurisdiction in all areas off campus, and will respond to all incidents in this area. UTPB Police Officers may assist with major crimes near campus when requested. UTPB Police Officers have direct radio communications with the Odessa Police Department, Odessa Fire Department and EMS Services to facilitate rapid response in any emergency situation.

## Timely Warnings

### CRIME ALERT

In order to keep the UTPB community informed about serious crimes and security issues, timely warnings may be issued in the form of a Crime Alert. Crime Alerts are issued on a case-by-case basis in a manner that will provide notification to the campus community about certain reportable criminal incidents that occur on or very near the campus. The institution must also believe the criminal incident poses a continuing threat to the community and the alert will aid in the prevention of similar crimes in the future. The UTPB Chief of Police, or his designee, will meet with the President of the University and assess the level of the threat to the University community if time allows. The crimes that typically result in a timely warning are referred to herein as "Clery Act Crimes". These crimes, as defined by 34 CFR 668.46(b) (c), are listed below:

<b>Criminal Homicide</b> (1) Murder and Non-Negligent Manslaughter (2) Negligent Manslaughter
<b>Forcible Sex Offenses</b> (1) Forcible Sexual Assault (2) Forcible Sodomy (3) Sexual Assault with an Object (4) Forcible Fondling
<b>Non-Forcible Sex Offenses</b> (1) Incest (2) Statutory Rape
<b>Robbery</b>
<b>Aggravated Assault</b>
<b>Burglary (this does not include burglary of a motor vehicle)</b>
<b>Motor Vehicle Theft</b>
<b>Arson</b>

These crimes must have occurred within those areas of the campus that are specifically defined in 34 CFR 668.46(a). These areas are broken down into four categories:

- On Campus Property
- Residential Facilities (*Definitions for these categories can be viewed at [www.securityoncampus.org](http://www.securityoncampus.org)*)
- Non-Campus Property

- Public Property

\* UTPB will not necessarily issue timely warnings for every Clery Act criminal incident that is reported since that specific incident may not pose a continuing threat to the community. Certain Clery Act crimes like motor vehicle theft, for example, occur infrequently on the campus at random locations. Suspect information is often never provided or determined. This is also true of the Odessa area. Individuals should exercise due care and caution to avoid being victimized. Check out the crime prevention tips posted by the UTPB Police to deter these crimes.

#### CRIME ALERT (Off Campus)

UTPB may post a Crime Alert (Off Campus) for certain Clery Act crimes occurring outside the patrol jurisdiction of the UTPB PD, when timely notification is received by the UTPB PD and the offense is considered to represent a serious or continuing threat to the students and employees of UTPB due to the nature of the crime, and/or proximity to the campus

Even though this action is not required by law, UTPB strongly believes in supporting the spirit of the Clery Act by informing the community about certain crimes that are reported in the areas immediately surrounding our campus; yet still outside the normal UTPB Police patrol area.

### **When are timely warnings issued?**

In accordance with the published guidelines used to interpret 34 CFR 668(e), the decision to issue a timely warning is made on a case-by-case basis in light of all facts surrounding the crime, including factors such as the nature of the crime, the continuing danger to the community, and the possible risk of compromising law enforcement efforts. Neither the Clery Act nor the Department of Education defines "timely". The Department of Education has stated the warning should be issued as soon as the pertinent information is available.

UTPB will issue timely warnings without delay once reported information has been verified and the determination is made that an immediate threat to the community is evident. Furthermore, timely warnings may be issued for other offenses not covered by this regulation if a determination is made that the warning will aid in preventing similar offenses from occurring.

### **How are Timely Warnings Issued?**

Timely warnings will be issued through a mass notification software used by the University, commonly known as "Falcon-Alert." This system will send each person a text message, an email, and post the information to the University website, Twitter, and Facebook. The UTPB Communication and Special Projects Department may send out a campus wide email message containing the alert information if deemed necessary.

### **Crime Definitions:**

#### ***Murder – Non-negligent Manslaughter***

The killing of another person intentionally and with premeditation.

#### ***Negligent Manslaughter***

The killing of one human being by another 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 or violence and/or by putting the victim in fear.

#### ***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 and probably would result in serious personal injury if the crime were successfully completed.)

#### ***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 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 joyriding.)

***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; and all attempts to commit any of the aforementioned.

***Drug Abuse Violations:***

These are 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, and codeine); marijuana; synthetic narcotics (Demerol, Methadone), and dangerous non-narcotic drugs (GHB, Rohypnol, and Ecstasy).

***Liquor Law Violations***

The violation of laws or ordinances prohibiting: manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; driving under the influence as a minor; maintaining unlawful drinking places; bootlegging; operating an illegal still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Public Intoxication and Driving While Intoxicated are Penal Code violations and are not included in this definition.)

***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 of another, etc.

**Sex Offenses Definitions / Domestic Violence Definitions**

***Sex Offenses-Forcible***

Any sexual act directed against 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.

**A. Forcible Rape**-The carnal knowledge of a 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 temporary or permanent mental or physical incapacity (or because of his/her youth).

**B. Forcible Sodomy**-Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the persons 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.

**C. 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.

**D. 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 incapacity.

***Sex Offenses-Non-forcible***

**Unlawful, non-forcible sexual intercourse.**

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

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



“Family Violence” (domestic violence) to mean an act, other than a defensive measure to protect oneself, by a member of a family against another member of the family that is intended to result in physical harm, bodily injury, or sexual assault or that is a threat that reasonably places the family member in fear of imminent physical harm, bodily injury, or sexual assault.

“Dating Violence” is defined in Texas as an act, other than a defensive measure to protect oneself, that is committed against a victim with whom the actor has or has had a dating relationship; or because of the victim's dating relationship with an individual with whom the actor is or has been in a dating relationship. The act is intended to result in physical harm, bodily injury, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, or sexual assault. A "Dating Relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature which is determined based on consideration of the length, nature, frequency and type of interaction between the persons involved in the relationship. (Texas Family Code 71.0021)

“Sexual Assault” as an offense if committed by a person that intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; or causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor. (Texas Penal Code

Sec. 22.011)

“Without Consent” in regards to sexual assault is defined in Texas Penal Code as:

- the actor compels the other person to submit by the use of violence;
- the actor compels the other person to submit by threatening to use violence against the victim or against any other person;
- the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
- the actor knows that as a result of mental disease the other person is at the time of the sexual assault incapable of appraising the nature of the act;
- the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
- the actor has intentionally impaired the other person's any substance without the victim's knowledge. (Texas Penal Code Sec. 22.011)

“Stalking” when a person commits an offense on more than one occasion and pursuant to the same course of conduct directed specifically at another person, knowingly engages in conduct that:

- the actor knows or reasonably believes the victim will regard as threatening bodily injury or death for the other person; bodily injury or death for a member of the other person's family or for an individual with whom the other person has a dating relationship; or that an offense will be committed against the other person's property;
- causes the other person, a member of the other person's family, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property.

## **Monitoring and Recording Criminal Activity**

The UTPB Police Department tracks and records index crimes (as defined on page 12 of this report) occurring on **ALL** UTPB campuses and in those areas immediately contiguous to the main campus where many students live and frequently access. These crimes are categorized as:

- Non-campus buildings or property owned or controlled by student organizations that are recognized by the University.
- Non-campus buildings or property owned or controlled by the University that are used in direct support of, or in relation to, the University's educational purposes, are frequently used by students, and are not in the same reasonable contiguous geographic area of the University; and
- Public property including thoroughfares, streets, sidewalks, and parking facilities that are within the campus or immediately adjacent to and accessible from the campus. The jurisdiction of the UTPB Police department does not extend to public property contiguous to the campus; therefore the department has a limited role in investigating criminal activity at these locations. The department's role is limited to information sharing, cooperation, and coordination with the investigating local law enforcement agency.

## Public Crime Log

A crime log for all campus crime activity is maintained in the UTPB Police Department. The crime log contains the following information: nature of the crime, date and time crime occurred, date and time crime was reported, general location crime occurred, and disposition.

A hard copy of the crime log is available during normal business hours for public inspection at the UTPB Police Department, Mesa Building Room 1240. The log is updated within two days of any activity taking place. The crime log for the most recent 60 day period is available for viewing for the upon request during normal business hours. Any portion of the log that is older than 60 days will be made available within two business days of a request for public inspection.

An online copy of the public crime log is available on the UTPB Police website at <http://ss.utpb.edu/university-police/students-right-to-know/daily-crime-log/>. This online log only contains the most recent 60 day period. Any portion of the log that is older than 60 days will have to be requested and will be made available within two business days of the request, and will be made available for public inspection at the Police Communications/Information Office

## **Criminal Incidents within the Contiguous Area**

The UTPB Police Department attempts to obtain crime statistics from the Odessa Police Department regarding the criminal incidents occurring within the contiguous area surrounding the campus.

**UTPB - MIDLAND CAMPUS**  
**Crime on Campus Report 2016-2018**

<b>Offense Type</b>	<b>Year</b>	<b>On-Campus Student Housing</b>	<b>On-Campus Other</b>	<b>On Campus (Total)</b>	<b>Non-Campus Buildings &amp; Property</b>	<b>Public Property</b>
<b>Murder and Non-Negligent Manslaughter</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Negligent Manslaughter</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Forcible Sex Offenses</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	1	1	0	0
<b>Forcible Sex Offenses- Not Reported to Police</b> (reported to other campus officials)	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Non-Forcible Sex Offenses</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Non-Forcible Sex Offenses- Not Reported to Police</b> (reported to other campus officials)	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Robbery</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Aggravated Assault</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Burglary</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Motor Vehicle Theft</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Arson</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Domestic Violence</b>	2016	0	0	0	0	0
	2017	0	1	1	0	0
	2018	0	1	1	0	0
<b>Dating Violence</b>	2016	0	0	0	0	0
	2017	0	1	1	0	0
	2018	0	0	0	0	0
<b>Stalking</b>	2016	0	1	1	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0

**UTPB - MIDLAND CAMPUS**  
**Arrests for Liquor Law, Drug and Weapons Violations**

<b>Offense Type</b>	<b>Year</b>	<b>On Campus</b>	<b>Residential Facilities</b>	<b>Non-Campus Buildings &amp; Property</b>	<b>Public Property</b>
<b>Liquor Law Violations</b>	2016	0	0	0	0
	2017	0	0	0	0
	2018	0	0	0	0
<b>Drug Violations</b>	2016	0	0	0	0
	2017	0	0	0	0
	2018	0	0	0	2
<b>Weapons Violations</b>	2016	0	0	0	0
	2017	0	0	0	0
	2018	0	0	0	0

**UTPB - MIDLAND CAMPUS**  
**Judicial Referrals for Liquor Law, Drug and Weapons Violations**

<b>Offense Type</b>	<b>Year</b>	<b>On Campus</b>	<b>Housing Facilities</b>	<b>Non-Campus Buildings &amp; Property</b>	<b>Public Property</b>	<b>Total</b>
<b>Liquor Law Violations</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Drug Violations</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0
<b>Weapons Violations</b>	2016	0	0	0	0	0
	2017	0	0	0	0	0
	2018	0	0	0	0	0

For more information regarding crime statistics reporting for this and other campuses, visit the Office of Postsecondary Education (OPE) website at: <http://www.ed.gov/about/offices/list/ope/index.html>

## **Hate Crimes - Midland Campus (2016-2018)**

Reported by category of prejudice, any crime reported that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity or disability.

During the 2016 calendar year, no hate crimes were reported.

During the 2017 calendar year, no hate crimes were reported.

During the 2018 calendar year, no hate crimes were reported

## **Sex Offender Registry and Access to Related Information**

The federal **Campus Sex Crimes Prevention Act**, enacted on October 28, 2000, went into effect October 28, 2002. The law 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, or is a student.

This act amends the Family Educational Rights and Privacy Act of 1974 to clarify that nothing in that Act may be construed to prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders and requires the Secretary of Education to take appropriate steps to notify educational institutions that disclosure of this information is permitted.

State law requires persons convicted of or placed on deferred community supervision for certain offenses to register as sexual offenders. Offenders who committed "sexually violent" offenses (most contact offenses) must register for the remainder of their life, even after completing probation or parole. Others (some non-contact offenses) may quit registering ten years after completing their term of supervision.

Law enforcement authorities are required to inform the University when registered sex offenders indicate they are living, working or volunteering services on campus. To learn whether information of this nature has been provided to the University, contact the UTPB Police Department at 4901 E. University in the Mesa Building, or call [552-2786](tel:552-2786).

You can access the sex offender registration files free of charge through the Texas Department of Public Safety web page at [www.txdps.state.tx.us](http://www.txdps.state.tx.us).

## **Alcohol**

The University is dedicated to providing a healthy, comfortable, and productive environment for students, faculty, staff, and guests. All members of the University community are expected to maintain self-control. Conduct should be consistent with ideals of academic excellence, health, and responsible social behavior, including recognition of the rights of others.

It is also recognized that University of Texas of the Permian Basin is a community of free and open inquiry in which adults are encouraged to make responsible decisions in their lives, including abstinence from or careful use of alcohol. The University recognizes the freedom of conscience that determines such issues, but cautions that such freedom does not imply license to violate the law or university policy.

Series 50000, Section 2 of the Rules and Regulations of the Board of Regents of the University of Texas System provides for disciplinary action against any student who engages in conduct that is prohibited by state, federal, or local law. This includes those laws prohibiting the use, possession, or distribution of drugs or alcohol.

The University may impose penalties for conduct related to the unlawful use, possession, sale, or distribution of alcohol, which include disciplinary probation, payment for damage to or misappropriation of property, suspension of rights and privileges, suspension for a specified period of time, expulsion, or such other penalty as may be deemed appropriate under the circumstances.

## **Texas State Law**

All members of the University community should at all times be cognizant of and comply with state and local liquor laws. **It is unlawful in the state of Texas for any person under the age of 21 to possess, purchase, or drink alcoholic beverages, except when with either a parent or adult spouse.** Providing alcoholic beverages to minors other than where the law provides is prohibited. A violation of this policy subjects the offender(s) to internal disciplinary and/or law enforcement action, which may include a court appearance citation or arrest.

## Possession and Consumption

The University prohibits the possession and consumption of alcoholic beverages on campus, with the exception of alcohol approved dormitories and during certain special events such as official university receptions. For these exceptions, those individuals possessing and consuming the alcoholic beverages must be 21 years of age or older. Kegs and other similar containers - including, but not limited to, 1/2 kegs, party balls or pony kegs - are **not permitted** anywhere on campus. Exemptions to possession and consumption of alcoholic beverages on campus must receive written authorization from the University President's Office prior to the date of the event. The UTPB Police Department will be notified when an exemption has been granted.

## University Education Programs

The University Counseling Center works closely with the Dean of Students to assist those students who are at risk, or have violated the University Drug and Alcohol policies. Once students are referred to the Counseling Center, sessions are focused on each type of violation.

Counselors also present information at Freshman Seminar, at the beginning of each semester, and present information about alcohol. This presentation is a two part program. Part one addresses perceptions, social norming, use of alcohol to solve problems, and what services are available. The second part is based on the Choices Program which instructs the students in the physiology and psychological aspects of substance abuse.

A special program has also been created for Resident Advisors. This program informs the advisors about stress, alcohol use, depression, suicide, and other issues the advisors may face with students who are going to be living on campus.

The Counseling Center also offers programs throughout the semester to groups upon request. The Communications and Connection Program allows students, staff, and faculty an opportunity to learn communication and relational strategies to deepen connection with others. This group focuses on building familial, friendship, romantic, employment, and volunteer relationships. Participants will learn the skills to develop healthy and safe relationships with others improving their feeling of purpose on campus.

The Center also offers referrals to outside assistance agencies which can provide further assistance to students, faculty, and staff.

For more information regarding the University Counseling Center and related programming, contact the Center at 552-2365. The Center is located in the Mesa Building in room 1150 located off the quad next to the Bookstore. The Center is available Monday through Thursday, 12:00 noon to 5:00 PM. Appointment may be set up in advance by contacting the Center. Other information can be obtained by visiting: <http://ss.utpb.edu/university-counseling-center/>

Allows Additional information regarding Drug Free Schools and Campus Act/Penalties for Alcohol Offenses can be found at:

### **Drug Free Schools and Campus Act:**

<http://ss.utpb.edu/dean-of-students/university-policies/alcohol-and-drug-free-schools-and-communities/>

### **Penalties for Alcohol Offenses:**

<http://ss.utpb.edu/dean-of-students/alcohol/>

### **Penalties for Drug Offenses:**

<http://ss.utpb.edu/dean-of-students/drugs/>

## **Drugs**

Every UTPB student shall be responsible for compliance with all local, state, and federal laws regarding controlled substances including, but not limited to, their use, sale, distribution, possession, or manufacture. Violations of any local, state, or federal law regarding controlled substances may subject the person to disciplinary proceedings by the Dean of Students Office without regard to any proceedings in local, state, or federal courts.

When the standards of conduct regarding illicit drugs are violated, sanctions may be imposed by the Dean of Students. Possible sanctions include, but are not limited to, a fine, assignment to community service, notification of parents, suspension, time-frame suspension, or expulsion. The University will impose a minimum disciplinary penalty of suspension for a specified period of time or suspension of

rights and privileges, or both, for conduct related to the use, possession, or distribution of drugs that are prohibited by state, federal, or local law.

Sanctions upon conviction in the criminal court system for possession, distribution, or manufacture of controlled substances range from fines and probation to imprisonment. Amounts of fines, terms of probation, or years of imprisonment generally are contingent upon the circumstances and amounts of drugs in possession, sale, distribution, or manufacture.

## **Texas State Law**

UTPB enforces all state and federal laws that prohibit the possession or sale of illegal drugs or drug paraphernalia. In addition, the Rules and Regulations of the Board of Regents provide for suspension of students found guilty of possession of drugs on campus.

## **University Education Programs**

The University Counseling Center works closely with the Dean of Students to assist those students who are at risk, or have violated the University's Drug and Alcohol policies. Once students are referred to the Counseling Center, sessions are focused on each type of violation.

Counselors also present information at Freshman Seminar, at the beginning of each semester, and present information about drugs and drug use. This presentation is a two part program. Part one addresses perceptions, social norming, use of drugs to solve problems, and what services are available. The second part is based on the Choices Program which instructs the students in the physiology and psychological aspects of substance abuse.

A special program has also been created for Resident Advisors. This program informs the advisors about stress, drug use, depression, suicide, and other issues the advisors may face with students who are going to be living on campus.

The Counseling Center also offers programs throughout the semester to groups upon request. The Center also offers referrals to outside assistance agencies which can provide further assistance to students, faculty, and staff.

For more information regarding the University Counseling Center and related programming, contact the Center at 552-2365. The Center is located on south campus in the Founders Building, Room 054. The Center is available Monday through Thursday, 12:00 noon to 5:00 PM. Appointment may be set up in advance by contacting the Center. Other information can be obtained by visiting: <http://ss.utpb.edu/university-counseling-center/>

Additional information regarding Drug Free Schools and Campus Act/Penalties for Drug Offenses can be found at:

### **Drug Free Schools and Campus Act:**

<http://ss.utpb.edu/dean-of-students/university-policies/alcohol-and-drug-free-schools-and-communities/>

### **Penalties for Drug Offenses:**

<http://ss.utpb.edu/dean-of-students/drugs/>

## **Violence Against Women Reauthorization Act of 2013 / Campus SaVE Act**

It is the policy of The University Permian Basin to maintain an environment that is free from intimidation and one in which students may be educated to their fullest potential. UTPB will not tolerate physical abuse, threats of violence, physical assault, or any form of sexual assault, including but not limited to acquaintance or date rape, domestic & dating violence, and/or stalking. In addition, all such acts of sexual violence are considered forms of Sexual Harassment covered under Title IX of the Education Amendments of 1972 (Title IX).

Domestic Violence defined:

“Family Violence”(domestic violence) to mean an act, other than a defensive measure to protect oneself, by a member of a family against another member of the family that is intended to result in physical harm, bodily injury, or sexual assault or that is a threat that reasonably places the family member in fear of imminent physical harm, bodily injury, or sexual assault.

"Dating Violence" is defined in Texas as an act, other than a defensive measure to protect oneself, that is committed against a victim with whom the actor has or has had a dating relationship; or because of the victim's dating relationship with an individual with whom the actor is or has been in a dating relationship. The act is intended to result in physical harm, bodily injury, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, or sexual assault. A "Dating Relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature which is determined based on consideration of the length, nature, frequency and type of interaction between the persons involved in the relationship. (Texas Family Code 71.0021)

"Sexual Assault" as an offense if committed by a person that intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent; or causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor. (Texas Penal Code Sec. 22.011)

"Without Consent" in regards to sexual assault is defined in Texas Penal Code as:

- the actor compels the other person to submit by the use of violence;
- the actor compels the other person to submit by threatening to use violence against the victim or against any other person;
- the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
- the actor knows that as a result of mental disease the other person is at the time of the sexual assault incapable of appraising the nature of the act;
- the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
- the actor has intentionally impaired the other person's any substance without the victim's knowledge. (Texas Penal Code Sec. 22.011)

"Stalking" when a person commits an offense on more than one occasion and pursuant to the same course of conduct directed specifically at another person, knowingly engages in conduct that:

- the actor knows or reasonably believes the victim will regard as threatening bodily injury or death for the other person; bodily injury or death for a member of the other person's family or for an individual with whom the other person has a dating relationship; or that an offense will be committed against the other person's property;
- causes the other person, a member of the other person's family, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property.

## **Procedures to Follow**

Anyone who is a victim of any form of sexual assault, domestic & dating violence, and stalking should immediately call the UT-Permian Basin Police Department by dialing 2911 on campus or by calling 432-552-2786. Reporting these crimes does not mean that the victim must press charges, take the case to criminal trial and/or a university disciplinary hearing. Even if a victim is undecided about filing criminal charges, calling the police, preserving evidence, and going to the hospital will provide for their emotional and medical needs and preserve the option to file criminal charges at a later time. Victims may also report assaults in a confidential manner to the University Counseling Services 432-552-2362.

## **Notification of Law Enforcement**

Victims of sexual assault, domestic & dating violence and stalking or persons who have information regarding these crimes are strongly encouraged to report the incident to the UT- Permian Basin Police Department immediately. It is the UTPB PD's policy to conduct investigations of all sexual assault, domestic & dating violence, and stalking complaints with sensitivity, compassion, patience and respect for the victim. Investigations are conducted in accordance with guidelines established by the Texas Penal Code, Code of Criminal Procedure.

## **Changes in Academic and Living Situation**

The University can assist a victim of Sexual Assault, Domestic & Dating Violence, and Stalking with issues including, but not limited to, class schedule changes, withdrawal procedure, campus housing relocation and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. If the reporting student provides credible evidence that the accused student presents a continuing danger to a person or property or poses an ongoing threat of disrupting the academic process. The Dean of Students and or the Title IX Coordinator may take interim action against the accused student, as appropriate.



## **Title IX Requirements**

Title IX prohibits discrimination on the basis of sex in education programs of activities operated by recipients of Federal financial assistance. Sexual Harassment of students, faculty, and staff, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Title IX requires UTPB to take immediate action to eliminate harassment, prevent its recurrence, and address its effects. The Title IX Coordinator is responsible for administrative investigation of claims of sexual harassments and sexual violence, and ensuring there are appropriate grievance procedures for a prompt resolution of student, faculty, and staff sex discrimination complaints. The university's Title IX investigation is different from a law enforcement investigation, and a law enforcement investigation does not relieve the University of its independent Title IX obligation to investigate conduct.

## **Procedures for Campus Disciplinary Action**

A student may choose to report the assault to the Dean of Students Office for disciplinary action regardless of whether or not the student has decided to press criminal charges. A student may also file a report of sexual assault, domestic and dating violence, and stalking against another student, or a faculty or staff member, by directly contacting the Dean's office (432- 552-4654).

## **Standard of Evidence in Disciplinary Hearings and Processes:**

The term "evidence" refers to the means by which alleged facts are either proved or disproved. It includes the testimony of witnesses and documentary or objective exhibits offered by the parties involved. The Hearing Officer shall be the sole judge of the admissibility of evidence, the credibility of the witnesses, and the weight to be given to the evidence or any inference drawn therefrom. The Hearing Officer may ask questions of witnesses, the parties, or their counsel as may be deemed appropriate to ascertain the facts, or to aid the Hearing Officer in deciding upon the admissibility of evidence, the credibility of a witness, or the weight given to evidence admitted. The Hearing Officer is entitled to have the advice and assistance of legal counsel from the Office of General Counsel of the U.T. System. Legal rules of evidence do not apply to Student Code of Conduct hearings. Either party may object to the admission of evidence upon any ground that they deem appropriate. The Hearing Officer shall rule upon such objections and either admit or exclude the objectionable evidence. Evidence which is irrelevant, immaterial, or unduly repetitious will be excluded by the Hearing Officer upon objection of either party. Documents, letters, writings, pictures, drawings, or objects that a party plans to offer in evidence shall first be given to the Hearing Officer to be marked and identified as the exhibit of that party and listed by the Hearing Officer. After being marked and identified, each exhibit shall be shown to the opposing party. Unless the opposing party disputes the authenticity of the exhibit or has no knowledge with respect thereto, the exhibit may be offered without authentication; however, the exhibit may be objected to on grounds other than authenticity.

## **Sanctions That May Be Imposed as a result of an Administrative Hearing:**

The disciplinary actions assessed in a particular case will be dependent upon the nature of the conduct involved, the circumstances and conditions which existed at the time the student engaged in the conduct, and the results which followed as a consequence of the conduct.

- i. Disciplinary warning
- ii. Disciplinary probation
- iii. Withholding of grades, official transcripts or degree
- iv. Prohibited from readmission or dropped from current enrollment
- v. Suspension of rights and privileges
- vi. Suspension
- vii. Expulsion
- viii. Educational programs
- ix. Other penalty as deemed appropriate under the circumstances.

## **Sexual Assault Policy**

UTPB is a community of trust whose very existence depends on adherence to standards of conduct. Student conduct that violates these standards is handled through the Dean of Students. Cases of alleged student misconduct involving serious physical or psychological harm are referred to the Dean of Students. This includes cases involving sexual misconduct and/or sexual assault or attempted sexual assault.

## WHAT CONSTITUTES SEXUAL ASSAULT?

Texas Penal Code § 22.011 states:

A person commits an offense if the person:

- (2) intentionally or knowingly:
  - (A) causes the penetration of the anus or sexual organ of another person by any means without that person's consent;
  - (B) causes the penetration of the mouth or another person by the sexual organ of the actor, without that person's consent; or
  - (C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or
- (3) intentionally or knowingly:
  - (A) causes the penetration of the anus or sexual organ of a child by any means;
  - (B) causes the penetration of the mouth or a child by the sexual organ of the actor;
  - (C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;
  - (D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or
  - (E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.
    - (b) A sexual assault under Subsection (a) (1) is without the consent of the other person if:
      - (1) the actor compels the other person to submit or participate by the use of physical force or violence;
      - (2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;
      - (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
      - (4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it
      - (5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
      - (6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;
      - (7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;
      - (8) the actor is a public servant who coerces the other person to submit or participate;
      - (9) the actor is a mental health services provider
      - (10) the actor is a clergyman
      - (11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2 Family Cod

## EDUCATIONAL PROGRAMS THAT PROMOTE AWARENESS

The University Counseling Center will conduct educational programs on sexual assault for students through the semester for specific groups as requested. In addition, confidential, ongoing counseling for student survivors of sexual assault is available with the University Counseling Center. Confidential, ongoing counseling for faculty and staff survivors of sexual assault is available through the Counseling Center and may require a small fee.

The University Counseling Center, the Odessa Rape Crisis Center, and the Midland Rape Crisis Center are available to provide support services for anyone affected by any form of sexual offense. Students who may have been assaulted by someone who is not affiliated with the university may also contact any of the available university support services. The University Counseling Center can be contacted at [552-2365](tel:552-2365). The Odessa Rape Crisis Center is available at [333-2527](tel:333-2527) and Midland Rape Crisis Center at [682-7273](tel:682-7273).

## WHAT TO DO IF YOU HAVE BEEN SEXUALLY ASSAULTED

Students, faculty, and staff are strongly encouraged to report sexual assaults to UTPB Police, whether the assault occurs on or off campus, no matter who the alleged assailant is. Students may report sexual assaults to UTPB Police Department, Vice President of

Student Services, the Dean of Student, University Student Housing Director, or any other campus security authority. Reporting a sexual assault to University officials or filing a police report does not automatically initiate criminal charges.

If the assault occurs off campus, the UTPB Police will assist a victim with notifying the appropriate law enforcement agency having jurisdiction where the crime occurred.

It is important for persons who have been sexually assaulted to seek medical attention. A representative from the Rape Crisis Center is available to accompany students who have been sexually assaulted to the hospital and for counseling, if desired. A medical examination called a "SANE" Exam, conducted by an area hospital, will help preserve important evidence of the sexual assault if the person who has been sexually assaulted decides later to prosecute. It is important for persons who have been sexually assaulted to contact the police who will arrange for immediate medical attention and will initiate an investigation.

The UTPB Police Department will investigate all sexual assault complaints with sensitivity, compassion, patience and respect for the victim. Investigations are conducted in accordance with guidelines established by state laws and the Ector County District Attorney's Office.

In accordance with the Texas Code of Criminal Procedure Art. 57, victims may use a **pseudonym** to protect their identity. **A pseudonym is a set of initials or a fictitious name** chosen by the victim to be used in all public files and records concerning the sexual assault. Victims of sexual assault are not required to file criminal charges; however, preferring charges is encouraged.

Students may report sexual assaults to the UTPB Police Department, Vice President of Student Services, the Dean of Students, University Student Housing Director, or any other campus security authority. Reporting a sexual assault to anyone other than police will delay criminal investigation and possibly hinder criminal prosecution.

## **Remember-If you have been sexually assaulted:**

1. **Call 2911 on campus or 552-2911 from a cell phone or off campus phone line**
2. **DO NOT shower, bathe, or douche.**
3. **Have a trusted friend take you to Medical Center Hospital or Midland Memorial Hospital. These are the two hospitals in the area that perform SANE Exams. Take the clothes in which you were assaulted with you to the hospital. If reported to the UTPB Police, clothing and other items will be provided to you at the hospital.**
4. **Obtain counseling services through the UTPB Counseling Center at 552-2365.**
5. **Remember it is not your fault. You will recover.**

## **HOW TO FILE A SEXUAL ASSAULT COMPLAINT**

If the complainant elects not to file criminal charges, but still wishes to proceed with formal administrative charges, an investigation is conducted, and the case is referred to the University disciplinary system. Students may contact the Vice President of Student Services or the Title IX Coordinator to file the complaint at 552-2600. A student who wishes to file a complaint against a faculty or staff may contact the Vice President of Student Services as well. Procedures for discipline and dismissal of staff and faculty are outlined in the University Handbook of Operating Procedures.

Those students who have been a victim of a sexual assault also have the option of being moved from their on-campus living arrangements, or their class schedule altered in order to protect their emotional health or physical safety. The University Handbook of Operating Procedures, Part 5, Section 4 states:

“When a student reports that the campus regulations prohibiting sexual assault have been violated, informal procedures which provide for the protection of the emotional health and physical safety of the complainant may be invoked. For example, a student who lives on campus may be moved to another campus living environment if he/she chooses or may be allowed to drop a class. Such arrangements will be facilitated through the office of the Vice President for Student Services. If the complainant provides credible evidence that the accused student presents a continuing danger to person or property or poses an ongoing threat of disrupting the academic process, the Vice President for Student Services may take interim action against the accused student as appropriate.”

As listed in the University Handbook of Operating Procedures, Part 5: Student Life and Activities, if the complainant elects not to file criminal charges, but wishes a hearing to be held by the University disciplinary system, the complainant, notwithstanding the rights of the accused student, under this policy is entitled to the following rights:

- The right to be present during the entire hearing, notwithstanding the fact that the complainant is to be called as a witness. (The accused student has the same right.)
- The right to have a support person present during the entire hearing. This person is not entitled to represent the complainant or to assist him/her with his /her testimony. If the support person is to act as a witness, the hearing officer may require him/her to testify prior to the complainant.
- The right not to have evidence of his/her past sexual history with third parties admitted as evidence.
- The right to have the hearing closed to spectators unless both the accused and the complainant consent in writing to having the hearing open to the public.
- The right to know the outcome of the hearing as defined by the Federal Family Educational Rights and Privacy Act.

During the hearing, the accused student, faculty, or staff member also has the right to have others present during the hearing to act as a support person. The accused party is also entitled to be notified of the outcome of the hearing to the extent permitted by federal Family Educational Rights and Privacy Act. In addition, the accused has the right to appeal the decision of the university disciplinary system. Students found responsible for sexual misconduct or sexual assault face sanctions imposed by the Vice President of Student Services, from reprimand to expulsion.

Filing formal charges through the university disciplinary system does not preclude filing criminal and/or civil charges. Students who wish to file criminal and/or civil charges may receive information and assistance from the Vice President of Student Services and UTPB Police.

## **NON-REPORTED SEXUAL ASSAULT EVIDENCE PROGRAM**

The Non-Reported Sexual Assault Evidence Program was created in House Bill 2626 by the 81<sup>st</sup> Texas Legislature and went into effect June 21, 2009. The program allows survivors of a sexual assault to obtain a forensic medical exam and have evidence collected, without cost to the victim, even if they do not wish to involve law enforcement personnel at the time of its collection. This will secure the evidence while giving the victim time to consider if they want to report the assault to law enforcement officials. Victims may contact the UTPB Police Department or the UTPB Counseling Center.

## **Missing Students Who Reside in On-Campus Housing**

If a member of the university community has reason to believe that a student that resides in on-campus housing is missing, he or she should immediately notify the UTPB Police Department at (432) 552-2786. UTPB-PD will generate a missing person report and initiate an investigation. After investigating the missing person report, should UTPB-PD determine that the student is missing and has been missing for more than 24 hours, UTPB-PD will notify the student's emergency contact no later than 24 hours after the student is determined to be missing. If the missing student is under the age of 18 and is not an emancipated individual, UTPB will notify the student's parent or legal guardian immediately after UTPB-PD has determined that the student has been missing for more than 24 hours.

In addition to registering an emergency contact, students residing in on-campus housing have the option to select a confidential contact person to be contacted by UTPB in the event the student is determined to be missing for more than 24 hours. If a student has selected a confidential contact person UTPB will notify the person no later than 24 hours after the student is determined to be missing. Students who wish to identify and select a confidential contact can do so through their respective on-campus housing management.

## **Hazing**

Hazing in state educational institutions is prohibited by both state law (Sections 51.936 & 37.151 et seq., Texas Education Code) and by the Regents' Rules and Regulations (Series 50101, Section 2). Individuals or organizations engaging in hazing could be subject to fines and charged with criminal offenses. Additionally, the law does not affect or in any way restrict the right of the university to enforce its own rules against hazing.

## **Individuals**

A person commits an offense if the person:

1. engages in hazing;
2. solicits, encourages, directs, aids or attempts to aid another engaging in hazing;
3. recklessly permits hazing to occur; or
4. has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred,
5. and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.

## Organizations

An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

## Definition

The term “hazing” is broadly defined by statute to mean any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization. Hazing includes, but is not limited to:

- any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
- any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subject the student to unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
- any activity involving the consumption of a food, liquid, alcoholic beverage, liquor, drug or other substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
- any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame or humiliation, that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this subdivision; and
- any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code. The fact that a person consented to or acquiesced in a hazing activity is not a defense to prosecution.

The University of Texas System Board of Regents’ Rules and Regulations, Series 50101, Section 2 provides that:

1. Hazing with or without the consent of a student is prohibited by the System, and a violation of that prohibition renders both the person inflicting the hazing and the person submitting to the hazing subject to discipline.
2. Initiations or activities by organizations may include no feature which is dangerous, harmful, or degrading to the student and a violation of this prohibition renders both the organization and participating individuals subject to discipline.

Activities which under certain conditions constitute acts that are dangerous, harmful, or degrading, in violation of Rules include but are not limited to:

- calisthenics, such as sit-ups, push-ups, or any other form of physical exercise;
- total or partial nudity at any time;
- the eating or ingestion of any unwanted substance;
- the wearing or carrying of any obscene or physically burdensome article;
- paddle swats, including the trading of swats;
- pushing, shoving, tackling, or any other physical contact;
- throwing oil, syrup, flour, or any harmful substance on a person;
- rat court, kangaroo court, or other individual interrogation;
- forced consumption of alcoholic beverages either by threats or peer pressure;
- lineups intended to demean or intimidate;
- transportation and abandonment (road trips, kidnaps, walks, rides, drops);

- confining individuals in an area that is uncomfortable or dangerous (hot box effect, high temperature, too small);
- any type of personal servitude that is demeaning or of personal benefit to the individual members;
- wearing of embarrassing or uncomfortable clothing;
- assigning pranks such as stealing; painting objects; harassing other organizations;
- intentionally messing up the house or room for clean up;
- demeaning names;
- yelling and screaming; and
- requiring boxing matches or fights for entertainment.

## **Immunity**

In an effort to encourage reporting of hazing incidents, the law grants immunity from civil or criminal liability to any person who reports a specific hazing event in good faith and without malice to the Dean of Students or other appropriate official of the institution and immunizes that person for participation in any judicial proceeding resulting from that report. Additionally, a doctor or other medical practitioner who treats a student who may have been subjected to hazing may make a good faith report of the suspected hazing activities to police or other law enforcement officials and is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report. The penalty for failure to report is a fine of up to \$1,000, up to 180 days in jail, or both. Penalties for other hazing offenses vary according to the severity of the injury which results and include fines from \$500 to \$10,000 and/or confinement for up to two years.

## **Emergency Notification and Evacuation Procedures**

In cases where there is an imminent and immediate threat to the university community, UTPB has designed a redundant notification system that employs campus-wide text messages, voice messages, emails, web pages and sirens. In addition, low-tech solutions include bullhorns, walkie-talkies, and runners delivering messages word of mouth, all with the goal of notifying the campus community, regardless of disaster-related communication failures.

When the need to evacuate buildings on campus arises, fire alarms will be utilized. When the alarm is activated, then silenced, then reactivated, it signals a need for evacuation of the building. For those subjects in the Mesa Building, faculty and staff will assist students in an orderly walk to the nearest stairwell to either the ground level or mesa level in the NW and SW stairwells and down the ramp. Faculty and staff will advise students to evacuate to the fields around the respective buildings. Cars will not be allowed to leave the campus as traffic could delay emergency vehicles or other persons could be injured in the parking lots. Faculty and staff will assist injured persons to EMS points for medical treatment and possible transport off campus.

For those people who are not in the Mesa building, faculty and staff will advise students to evacuate to the fields around campus. Resident assistants will assist in the evacuation of student housing.

In the event of a weather related emergency, such as a tornado or other severe thunderstorm, students, faculty, and staff are encouraged to heed the following precautions:

- If a tornado warning is issued, seek shelter immediately inside an interior room within the building in which you are located or nearest to your location at the time of the warning. Stay away from windows, doors, and outside walls.
- Do not drive to shelter, unless you are already in a vehicle when the warning is issued, then drive to the nearest building or seek shelter in a ditch or ravine.
- Never try to outrun a tornado in your vehicle.
- If you are in a building, go to the designated shelter area. Interior halls on the lowest floors are usually best. Go to an interior room on the lowest level (e.g., bathroom, closet, hall, etc.). Get under a piece of sturdy furniture if possible. Stay away from all windows.

(Some information obtained from the online UTPB Safety Manual: <http://ba.utpb.edu/environmental-health-safety/utpb-safety-manual/> )

## **General Crime Prevention Tips**

- Avoid walking alone, particularly after dark. Contact UTPB Police for a security escort whenever possible. If walking alone is unavoidable, be aware of your surroundings and let someone know when to expect you.
- Walk purposefully and make eye contact with strangers.
- Avoid shortcuts. The shortest route is not always the safest route. Walk along the mid-point between curbs and buildings and away from alleys and bushes.
- Dress for mobility, particularly after dark.
- Avoid deserted areas, poorly lit streets, alleys, and pathways.
- Never jog alone after dark.
- When walking or jogging, go against the flow of traffic; that makes it harder for motorists to bother you. (If harassed from a car, walk or run in the opposite direction. Scream if you are truly frightened.)
- Do not jog while wearing stereo headphones. It's important to be alert to what's happening around you.
- Carry your personal belongings in a backpack or similar container that will enable your arms and hands to be free at all times.
- Avoid approaching your car with bundles that restrict use of your arms. If you've been shopping, ask the store for assistance.
- Always have your keys ready to unlock the door to your car or residence and enter without delay. Lock the doors after you get inside.
- Before entering your car, look in the back seat and on the floorboard.
- Always lock car doors and windows when you leave or enter your car.
- Never leave belongings in plain view in your car. Lock them in the trunk.
- If someone in a vehicle attempts to stop you - even to ask for directions - do not get close to the vehicle.
- Register, engrave, mark, and/or photograph all your valuables including bicycles, stereos, jewelry, vehicles, computers, etc.
- Never get on an elevator with someone who looks suspicious. If someone who looks suspicious gets on, get off immediately.
- Avoid using ATMs in dark, isolated areas; it's best to use machines that are highly visible in public areas such as supermarkets.
- Never flash your cash. Always have "emergency" change for a phone call.
- Be responsible with alcohol. If you are intoxicated, you are less alert and an easier target for robbers and attackers.

### **Security in the Student Apartments**

- Never leave your door open, even if you will be gone for only a few minutes.
- Never prop any door open.
- Always lock doors, screens, and windows to prevent uninvited access to your room.
- Don't mark your room key or key chain with your name, address, or telephone number.
- Do not give anyone a key to your room.
- Do not leave valuables in plain sight.
- Never let strangers into your apartment. This puts you and others at risk.
- Be aware of suspicious persons and activities. If you observe someone or something suspicious, notify a resident assistant and the UTPB Police Department, [552-2786](tel:552-2786)

### **Electrical Safety**

- Do not overload extension cords, power strips, or outlets.
- Get a power strip with an over-current protector.
- Be wary of electrical outlets that are too hot to touch.
- Do not connect multiple extension cords together.
- Do not route cords under doors or carpets.
- Do not staple extension cords.
- Look for the UL Mark on any electrical product you use.
- Use light bulbs with correct wattage for lamps.

### **Fire Safety**

- Never ignore a fire alarm.
- Never disable a smoke alarm by removing the battery.
- Always call the fire department or [552-2911](tel:552-2911) immediately.
- Memorize the number of doors to the nearest exit.
- Close doors behind you as you leave the building.
- Protect yourself and your roommates before property and valuables.

## Helpful Telephone Numbers

<b>Police/Fire/Ambulance Emergency</b>	<b>911</b>
<b>On Campus Emergency</b>	<b>2911</b>
Police Non-Emergency	552-2786
Police Administration	552-2780
Dean of Student Life	552-2600
UTPB Counseling Center	552-2365
UTPB Physical Plant	552-2760
Medical Center Hospital	640-4000
Odessa Regional Medical Center	582-8000
Midland Memorial Hospital	685-1111
Odessa Police Department	
Emergency	<b>911</b>
Non-emergency	333-3641
Odessa Fire Department	
Emergency	<b>911</b>
Non-emergency	335-3318
Ector County Sheriff's Office	
Emergency	<b>911</b>
Non-emergency	335-3050
Midland Police Department	
Emergency	<b>911</b>
Non-emergency	685-7110
Midland County Sheriff's Office	
Emergency	<b>911</b>
Non-emergency	688-4600
Midland Fire Department	
Emergency	<b>911</b>
Non-emergency	685-7340
Odessa Rape Crisis Center	333-2527
Midland Rape Crisis Center	682-7273
To Check Texas Road Conditions	(800) 452-9292
To Check New Mexico Road Conditions	(800) 432-4269
Texas Road Side Assistance	(800) 525-5555