

MEMPHIS THEOLOGICAL SEMINARY

IN ACCORDANCE WITH THE JEANNE CLERY ACT AND THE
VIOLENCE AGAINST WOMEN ACT AS AMENDED

MEMPHIS THEOLOGICAL SEMINARY 2016

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POLICY STATEMENT FOR VIOLENCE AGAINST WOMEN ACT

JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT, AS
AMENDED BY THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013

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

For a complete copy of Memphis Theological Seminary's policy governing sexual misconduct, visit www.MemphisSeminary.edu.

MTS has established a *Coordinated Community Response Team*. The team consists of members from Student Affairs, Human Resources, Campus Public Safety, Judicial Affairs, the Title IX Coordinator, the Campus Clery Compliance Officer, Campus Housing, and Chaplain. The team meets quarterly and is responsible for developing, reviewing, and revising protocols, policies and procedures for addressing violence against women on campus.

A. Definitions

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

Consent for this policy is defined as:

*Voluntary **Acquiescence** to the proposal of another; the act or result of reaching an accord; a concurrence of minds; actual willingness that an act or an infringement of an interest shall occur.* Consent is an act of reason and deliberation. A person who possesses and exercises sufficient mental capacity to make an intelligent decision demonstrates consent by performing an act recommended by another. Consent assumes a physical power to act and a reflective, determined, and unencumbered exertion of these powers. It is an act unaffected by **Fraud**, duress, or sometimes even mistake when these factors are not the reason for the consent. In the context of rape, submission due to apprehension or terror is not real consent. There must be a choice between resistance and acquiescence. If a woman resists to the point where additional resistance would be futile or until her resistance is forcibly overcome, submission thereafter is not consent.

Sexual Assault: Means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Additionally, Tennessee Code Annotated as defined in 39-13-501 through 39-13-533.

- (1) "Coercion" means threat of kidnapping, extortion, force or violence to be performed immediately or in the future or the use of parental, custodial, or official authority over a child less than fifteen (15) years of age;
- (2) "Intimate parts" includes semen, vaginal fluid, the primary genital area, groin, inner thigh, buttock or breast of a human being;
- (3) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of the person's conduct;
- (4) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent;
- (5) "Physically helpless" means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act;
- (6) "Sexual contact" includes the intentional touching of the victim's, the defendant's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the victim's, the defendant's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification;
- (7) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of the victim's, the defendant's, or any other person's body, but emission of semen is not required; and
- (8) "Victim" means the person alleged to have been subjected to criminal sexual conduct and includes the spouse of the defendant.

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 the jurisdiction

(a) As used in this section, "domestic abuse victim" means any person who falls within the following categories:

- (1) Adults or minors who are current or former spouses;
- (2) Adults or minors who live together or who have lived together;
- (3) Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;
- (4) Adults or minors related by blood or adoption;
- (5) Adults or minors who are related or were formerly related by marriage; or
- (6) Adult or minor children of a person in a relationship that is described in subdivisions (a)(1)-(5).

(b) A person commits domestic assault who commits an assault as defined in § 39-13-101 against a domestic abuse victim.

(c) (1) A first conviction for domestic assault and a second or subsequent conviction for domestic assault committed in a manner prohibited by § 39-13-101(a) (2) and (a) (3) is punishable the same as assault under § 39-13-101, and additionally, as provided in subdivisions (c) (2) and (c) (3) and subsections (d) and (e) of this section.

(2) A second conviction for domestic assault committed in a manner prohibited by § 39-13-101(a) (1) is punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than three thousand five hundred dollars (\$3,500), and by confinement in the county jail or workhouse for not less than thirty (30) consecutive days, nor more than eleven (11) months and twenty-nine (29) days.

(3) A third or subsequent conviction for domestic assault committed in a manner prohibited by § 39-13-101(a) (1), is punishable by a fine of not less than one thousand one hundred dollars (\$1,100) nor more than five thousand dollars (\$5,000), and by confinement in the county jail or workhouse for not less than ninety (90) consecutive days, nor more than eleven (11) months and twenty-nine (29) days.

(4) For purposes of this section, a person who is convicted of a violation of § 39-13-111 committed in a manner prohibited by § 39-13-101(a)(1), shall not be subject to the enhanced penalties prescribed in this subsection (c), if ten (10) or more years have elapsed between the date of the present violation and the date of any immediately preceding violation of § 39-13-111, committed in a manner prohibited by § 39-13-101(a)(1), that resulted in a conviction for such offense.

Domestic Violence Continued:

(5) In addition to any other punishment that may be imposed for a violation of this section, if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred twenty-five dollars (\$225), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred twenty-five dollars (\$225). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. This appropriation shall be in addition to any amount appropriated pursuant to § 67-4-411.

(6) A person convicted of a violation of this section shall be required to terminate, upon conviction, possession of all firearms that the person possesses as required by § 36-3-625.

(d) As part of a defendant's alternative sentencing for a violation of this section, the sentencing judge may direct the defendant to complete a drug or alcohol treatment program or available counseling programs that address violence and control issues including, but not limited to, a batterer's intervention program that has been certified by the domestic violence state coordinating council. Completion of a noncertified batterer's intervention program shall only be ordered if no certified program is available in the sentencing county. No batterer's intervention program, certified or noncertified, shall be deemed complete until the full term of the program is complete, and a judge may not require a defendant to attend less than the full term of a program as part of a plea agreement or otherwise. The defendant's knowing failure to complete such an intervention program shall be considered a violation of the defendant's alternative sentence program and the sentencing judge may revoke the defendant's participation in such program and order execution of sentence.

(e) A person convicted of a violation under this section shall be required to serve at least the minimum sentence day for day. All persons sentenced under this section shall, in addition to service of at least the minimum sentence, be required to serve the difference between the time actually served and the maximum sentence on supervised probation.

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.

39-13-111. Domestic assault. Adults or minors who are dating or who have dated or who have or had a sexual relationship, but does not include fraternization between two (2) individuals in a business or social context;

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

Tennessee Code Annotated 39-17-315. Defines Stalking, aggravated stalking, and especially aggravated stalking.

(a) As used in this section, unless the context otherwise requires:

(1) "Course of conduct" means a pattern of conduct composed of a series of two (2) or more separate noncontiguous acts evidencing a continuity of purpose;

(2) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling;

(3) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;

(4) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested;

(5) "Unconsented contact" means any contact with another person that is initiated or continued without that person's consent, or in disregard of that person's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(A) Following or appearing within the sight of that person;

(B) Approaching or confronting that person in a public place or on private property;

(C) Appearing at that person's workplace or residence;

(D) Entering onto or remaining on property owned, leased, or occupied by that person;

(E) Contacting that person by telephone;

(F) Sending mail or electronic communications to that person; or

(G) Placing an object on, or delivering an object to, property owned, leased, or occupied by that person; and

(6) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(b) (1) A person commits an offense who intentionally engages in stalking.

(2) Stalking is a Class A misdemeanor.

(3) Stalking is a Class E felony if the defendant, at the time of the offense, was required to or was registered with the Tennessee bureau of investigation as a sexual offender, violent sexual offender or violent juvenile sexual offender, as defined in § 40-39-202.

Tennessee Code Annotated 39-17-315 Continued:

(c) (1) A person commits aggravated stalking who commits the offense of stalking as prohibited by subsection (b), and:

(A) In the course and furtherance of stalking, displays a deadly weapon;

(B) The victim of the offense was less than eighteen (18) years of age at any time during the person's course of conduct, and the person is five (5) or more years older than the victim;

(C) Has previously been convicted of stalking within seven (7) years of the instant offense;

(D) Makes a credible threat to the victim, the victim's child, sibling, spouse, parent or dependents with the intent to place any such person in reasonable fear of death or bodily injury; or

(E) At the time of the offense, was prohibited from making contact with the victim under a restraining order or injunction for protection, an order of protection, or any other court-imposed prohibition of conduct toward the victim or the victim's property, and the person knowingly violates the injunction, order or court-imposed prohibition.

(2) Aggravated stalking is a Class E felony.

(d) (1) A person commits especially aggravated stalking who:

(A) Commits the offense of stalking or aggravated stalking, and has previously been convicted of stalking or aggravated stalking involving the same victim of the instant offense; or

(B) Commits the offense of aggravated stalking, and intentionally or recklessly causes serious bodily injury to the victim of the offense or to the victim's child, sibling, spouse, parent or dependent.

(2) Especially aggravated stalking is a Class C felony.

(e) Notwithstanding any other law, if the court grants probation to a person convicted of stalking, aggravated stalking or especially aggravated stalking, the court may keep the person on probation for a period not to exceed the maximum punishment for the appropriate classification of offense. Regardless of whether a term of probation is ordered, the court may, in addition to any other punishment otherwise authorized by law, order the defendant to do the following:

(1) Refrain from stalking any individual during the term of probation;

(2) Refrain from having any contact with the victim of the offense or the victim's child, sibling, spouse, parent or dependent;

(3) Be evaluated to determine the need for psychiatric, psychological, or social counseling, and, if determined appropriate by the court, to receive psychiatric, psychological or social counseling at the defendant's own expense;

Tennessee Code Annotated 39-17-315 Continued:

(4) If, as the result of such treatment or otherwise, the defendant is required to take medication, order that the defendant submit to drug testing or some other method by which the court can monitor whether the defendant is taking the required medication; and

(5) Submit to the use of an electronic tracking device, with the cost of the device and monitoring the defendant's whereabouts, to be paid by the defendant.

(f) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the conduct or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, is prima facie evidence that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(g) (1) If a person is convicted of aggravated or especially aggravated stalking, or another felony offense arising out of a charge based on this section, the court may order an independent professional mental health assessment of the defendant's need for mental health treatment. The court may waive the assessment, if an adequate assessment was conducted prior to the conviction.

(2) If the assessment indicates that the defendant is in need of and amenable to mental health treatment, the court may include in the sentence a requirement that the offender undergo treatment, and that the drug intake of the defendant be monitored in the manner best suited to the particular situation. Monitoring may include periodic determinations as to whether the defendant is ingesting any illegal controlled substances or controlled substance analogues, as well as determinations as to whether the defendant is complying with any required or recommended course of treatment that includes the taking of medications.

(3) The court shall order the offender to pay the costs of assessment under this subsection (g), unless the offender is indigent under § 40-14-202.

(h) Any person who reasonably believes they are a victim of an offense under this section, regardless of whether the alleged perpetrator has been arrested, charged or convicted of a stalking-related offense, shall be entitled to seek and obtain an order of protection in the same manner, and under the same circumstances, as is provided for victims of domestic abuse by title 36, chapter 3, part 6.

(i) When a person is charged and arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, the arresting law enforcement officer shall inform the victim that the person arrested may be eligible to post bail for the offense and to be released until the date of trial for the offense.

(j) If a law enforcement officer or district attorney general believes that the life of a possible victim of stalking is in immediate danger, unless and until sufficient evidence can be processed linking a particular person to the offense, the district attorney general may petition the judge of a court of record having criminal jurisdiction in that district to enter an order expediting the processing of evidence in a case.

If, after hearing the petition, the court is of the opinion that the life of the victim may be in immediate danger if the alleged perpetrator is not apprehended, the court may enter such an order, directed to the Tennessee bureau of investigation, or any other agency or laboratory that may be in the process of analyzing evidence for that particular investigation.

Tennessee Code Annotated 39-17-315 Continued:

(k) (1) For purposes of determining if a course of conduct amounting to stalking is a single offense or multiple offenses, the occurrence of any of the following events breaks the continuous course of conduct, with respect to the same victim, that constitutes the offense:

(A) The defendant is arrested and charged with stalking, aggravated stalking or especially aggravated stalking;

(B) The defendant is found by a court of competent jurisdiction to have violated an order of protection issued to prohibit the defendant from engaging in the conduct of stalking; or

(C) The defendant is convicted of the offense of stalking, aggravated stalking or especially aggravated stalking.

(2) If a continuing course of conduct amounting to stalking engaged in by a defendant against the same victim is broken by any of the events set out in subdivision (k)(1), any such conduct that occurs after that event commences a new and separate offense.

B. Education and Prevention Programs

MTS engages in comprehensive educational programming to prevent domestic violence, dating violence, sexual assault and stalking. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and faculty that:

- a. Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- b. Defines what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
- c. Defines what behavior and actions constitute consent to sexual activity in the State of Tennessee;
- d. Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than the bystander;¹
- e. Provides information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks.
- f. Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.

MTS is developing for implementation for the Summer Semester of 2016 a new educational campaign in accordance with the Violence Against Women Act. This campaign will consist of presentations that will include distribution of educational materials to new and current students. Additionally, the usage of Safe Colleges Training Modules will be aiding the Seminary in presentations on topics addressing V.A.W.A issues. Participation is mandatory for Students-Staff and Faculty.

C. Procedures for Reporting a Complaint

MTS has procedures in place that serve to be sensitive to those who report sexual assault, domestic violence, dating violence, and stalking, including informing individuals about their right to file criminal charges as well as the availability of medical, counseling and support services, and additional remedies to prevent contact between a complainant and an accused party, such as housing, academic, transportation and working accommodations, if reasonably available.

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

<p>Stalking</p>	<ol style="list-style-type: none"> 1. Institution will assess immediate safety needs of complainant 2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department 3. Institution will provide written instructions on how to apply for Protective Order 4. Institution will provide written information to complainant on how to preserve evidence 5. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate 6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate 	<p>Stalking cases are referred to the Title IX Coordinator and the Director of Facilities and Safety and adjudicated using the <i>clear and convincing</i> evidentiary standard. If the stalking is sexually based, it may fall under the institution’s Sexual Misconduct Policy and if so, would be referred to the Title IX Coordinator and adjudicated under the institution’s Sexual Misconduct Board using the <i>preponderance of the evidence</i> standard.</p>
<p>Dating Violence</p>	<ol style="list-style-type: none"> 1. Institution will assess immediate safety needs of complainant 2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department 3. Institution will provide written instructions on how to apply for Protective Order 4. Institution will provide written information to complainant on how to preserve evidence 5. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate 6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate 	<p>Dating Violence cases are referred to the Title IX Coordinator and the Director of Facilities and Safety and adjudicated using the <i>clear and convincing</i> evidentiary standard. If the dating violence incident is sexually based, it may fall under the institution’s Sexual Misconduct Policy and if so, would be referred to the Title IX Coordinator and adjudicated under the institution’s Sexual Misconduct Board using the <i>preponderance of the evidence</i> standard.</p>
<p>Domestic Violence</p>	<ol style="list-style-type: none"> 1. Institution will assess immediate safety needs of complainant 2. Institution will assist complainant with contacting local police if complainant requests AND complainant provided with contact information for local police department 3. Institution will provide written instructions on how to apply for Protective Order 4. Institution will provide written information to complainant on how to preserve evidence 5. Institution will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate 6. Institution will provide a “No trespass” (PNG) directive to accused party if deemed appropriate 	<p>Domestic Violence Cases are referred to the Title IX Coordinator and the Director of Facilities and Safety and adjudicated using the <i>clear and convincing</i> evidentiary standard. If the act of domestic violence is sexually based, it may fall under the institution’s Sexual Misconduct Policy and if so, would be referred to the Title IX Coordinator and adjudicated under the institution’s Sexual Misconduct Board using the <i>preponderance of the evidence</i> standard.</p>

Sexual Assault Protocol and Information:

If you are a victim of rape Contact the Shelby County Rape Crisis Center regardless of your law enforcement reporting status. The rape Crisis Center is located at 1750 Madison Ave Ste. 102 Memphis, Tn. 38104. Ph. 901-222-4350 regular business Hours are Monday through Friday 8:30 a.m. till 5:00 p.m. Weekends and outside of regular business hours emergency only access through Memphis Police Department Dispatch. Telephone answered after hours by the Crisis Center.

After an incident of sexual assault and domestic violence, the victim should consider seeking medical attention as soon as possible. Evidence may be collected even if you choose not to make a report to law enforcement.

39-13-519. Forensic medical examination of victims of sexually oriented crime –

Protocol for collection and processing of sexual assault evidence kits and hold kits.

(a) As used in this section, unless the context otherwise requires:

(1) "Forensic medical examination" means an examination by any healthcare provider who provides medical care and gathers evidence of a sexually oriented crime in a manner suitable for use in a court of law, provided to a victim reporting a sexually oriented crime to a healthcare provider;

(2) "Hold kit" means a sexual assault evidence collection kit of an adult victim that is coded with a number rather than a name pending the victim's decision to report the crime to law enforcement authorities, and has not been submitted to the state crime lab or similar qualified laboratory;

(3) "Law enforcement agency" means:

(A) An established state or local agency that:

(i) Is responsible and has the duty to prevent and detect crime and enforce laws or local ordinances; and

(ii) Has employees who are authorized to make arrests for crimes while acting within the scope of their authority; and

(B) Campus security force created by an institution of high education pursuant to §49-7-118;

(4) "Sexual assault evidence collection kit" means evidence collected from the victim of a sexually oriented crime with a sexual assault evidence collection kit provided by the state of Tennessee;

(5) "Sexually oriented crime" means those crimes listed in § 29-13-118(b); and

Sexual Assault Protocol and Information Continued:

(6) "Victim" means a victim of a sexually oriented crime as defined in § 29-13-118(b).

(b) A victim of a sexually oriented crime is entitled to a forensic medical examination without charge to the victim as provided in § 29-13-118. Upon the conclusion of the forensic examination, the resulting sexual assault evidence collection kit or hold kit shall be released to a law enforcement agency by a healthcare provider for storage or transmission to the state crime lab or other similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

(c) (1) If an adult victim elects not to report the alleged offense to police at the time of the forensic medical examination, the sexual assault evidence collection kit becomes a hold kit, and the healthcare provider shall assign a number to identify the kit rather than use the victim's name. The healthcare provider shall provide the victim with the identifying number placed on the victim's hold kit, information about where and how long the kit will be stored, and the procedures for making a police report. The hold kit shall be released to the appropriate law enforcement agency for storage pursuant to subdivision (d) (2).

(2) If an adult victim reports the alleged offense to the police, or the victim is a minor, the healthcare provider shall attach the victim's name to the sexual assault evidence collection kit, and it shall be released to the appropriate law enforcement agency.

(d) (1) The law enforcement agency shall, within sixty (60) days of taking possession of the sexual assault evidence collection kit with the victim's name affixed to it, submit the kit to the Tennessee bureau of investigation or similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

(2) Upon receipt of a hold kit with only an identification number attached to it, the law enforcement agency shall store the hold kit for a minimum of three (3) years or until the victim makes a police report, whichever event occurs first. Once the victim makes a police report, the law enforcement agency shall have sixty (60) days from the date of the police report to send the sexual assault evidence collection kit to the state crime lab or other similar qualified laboratory for either serology or deoxyribonucleic acid (DNA) testing.

However, no hold kit shall be submitted to the state crime lab or similar laboratory for testing until the victim has made a police report.

It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence as may be necessary to the proof of criminal activity may be preserved.

In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease.

Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking

Sexual Assault Protocol and Information Continued:

pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to University hearing boards/investigators or police.

Although MTS strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police.

MTS, Gregory Spencer, Director of Facilities and Safety and or Dr. Barry Anderson Student Services, will assist any victim with notifying local police if they so desire. If the student feels more comfortable in speaking to a female member of the Campus Security Authority then provisions will be made to offer that.

The main concern is for the victim to seek assistance and to be provided as much help as possible.

Memphis Police Department may also be reached directly by calling 911 or 901.545.2677 (non-emergency number), in person at 201 Poplar Ave, Memphis, TN 38103, Suite 1200.

Additional information about the Memphis Police Department may be found online at: www.memphispolice.org.

If you have been the victim of domestic violence, dating violence, sexual assault, or stalking, you should report the incident promptly to the following:

Memphis Police Department 901-458-5252

Please if you have been a victim or if a threat is present call 911.

Off Campus Law Enforcement: Memphis Police Department 901-458-5252

Title IX Coordinator, Dr. Barry Anderson 168 East Parkway South, Memphis, TN 38103, banderson@memphisseminary.edu 901-334-5806

Director of Facilities and Safety Gregory Spencer 168 East Parkway South, Memphis, TN 38103, 901-334-5834 after hour's emergency # 901-262-1111 gspencer@memphisseminary.edu

MTS will provide resources to persons who have been victims of sexual assault, domestic violence, dating violence, or stalking, and will apply appropriate disciplinary procedures to those who violate this policy.

The procedures set forth below are intended to afford a prompt response to charges of sexual assault, domestic or dating violence, and stalking, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

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

If a report of domestic violence, dating violence, sexual assault or stalking is reported to MTS, the following pages list the procedures that MTS will follow as well as our statement of the standard of evidence that will be used during any judicial hearing on campus arising from such a report:

D. Assistance for Victims: Rights & Options

Regardless of whether a victim elects to pursue a criminal complaint, the Seminary will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights.

In Tennessee, a victim of domestic violence, dating violence, sexual assault or stalking has the following rights:

40-38-103. Rights of crime victims -- Generally.

(a) All victims of crime shall, upon their request, have the right to:

(1) Be fully informed orally, in writing or by video tape by the office of the district attorney general, acting through the appropriate victim-witness coordinator, of the following:

(A) The various steps and procedures involved in the criminal justice system;

(B) The procedure and basis for continuances in the proceedings;

(C) The procedure involved in the plea-bargaining process and how to request input into the process;

(D) The times, dates and locations of all pertinent stages in the proceedings following presentment or indictment by the grand jury;

(E) The methods by which the victim may have input into a convicted defendant's sentence, including the presentence report and the sentencing hearing;

(F) The stages in the appellate process and how to obtain information concerning appellate action that has an effect on the defendant's conviction or sentence and the date a defendant's sentence becomes final;

(G) How to obtain pertinent information relating to the possible release of an appropriate inmate, including notification of any department of correction decision permitting the inmate's release into the community or any scheduled hearing by the board of parole concerning the inmate's parole or application for executive clemency;

(H) The methods by which the victim may obtain restitution directly from the defendant and information about obtaining assistance in obtaining restitution; and

(I) The methods by which the victim may obtain a monetary award or other benefits from the criminal injuries compensation fund and information about obtaining assistance in securing the award or benefits;

40-38-103. Rights of crime victims continued:

(2) Whenever possible, be advised and informed of plea bargaining discussions and agreements prior to the entry of any plea agreement where the victim is a victim of violent crime involving death of a family member or serious bodily injury, speak at parole hearings, submit a victim impact statement to the courts and the board of parole and give impact testimony at court sentencing hearings;

(3) Be informed that § 41-21-240 requires the department to notify them, upon their request, at least ninety (90) days prior to the date an inmate with a sentence of two (2) years or more is scheduled to be released by reason of expiration of the inmate's sentence and be informed how the request of the department is made; and

(4) Be compensated for expenses actually and reasonably incurred as the result of traveling to and from the trial of the defendant or defendants and traveling to and from appellate, post-conviction or habeas corpus proceedings resulting from the trial of the defendant or defendants alleged to have committed a compensable offense subject to the provisions of title 29, chapter 13, part 1, and the availability of funds in the criminal injuries compensation fund.

(b) Upon the request of a victim of violent crime involving serious bodily injury or death of a relative, the victim shall be supplied information and a request form by the law enforcement agency responsible for the investigation of the crime or the arrest of the defendant, the sheriff or other custodian of the defendant or the victim-witness coordinator as to how the victim or relative of a victim may request and secure notification of the release from custody of an offender from a jail or detention facility prior to trial. The jailer, sheriff or other custodian of criminal offenders shall maintain a record or file of the request forms and, prior to the release of an offender about whom a notification request has been made, give immediate and prompt notice of the release to the requesting victim or family member of a victim by the most direct means available, including telephone, messenger or telegram. Any identifying information contained in the request forms shall be confidential. For purposes of this subsection (b), "identifying information" means the name, home and work addresses, telephone numbers and social security number of the person being notified or requesting that notification be provided.

(c) In a prosecution for any criminal homicide, an appropriate photograph of the victim while alive shall be admissible evidence when offered by the district attorney general to show the general appearance and condition of the victim while alive

To obtain an Order of Protection in Shelby County you may contact the Orders of Protection Department at (901) 222-4013.

Additional resources may be found at the Shelby County Crime Victims Center at 901-222-3950

Any person who obtains an order of protection from Tennessee or any state in accordance with **Tennessee Code 36-3-622** should provide a copy to the Director of Facilities and Safety and the Office of the Title IX Coordinator. A complainant may then meet with Campus Authorities to develop a Safety Action Plan, which is a plan for local law enforcement officers and the campus security and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, providing a temporary cellphone, changing classroom location or allowing a student to complete assignments from home, etc.)

Further, Memphis Theological Seminary complies with Tennessee law in recognizing orders of protection per **Tennessee Code 36-3-622. Out-of-state protection orders.**

(a) Any valid protection order related to abuse, domestic abuse, or domestic or family violence, issued by a court of another state, tribe or territory shall be afforded full faith and credit by the courts of this state and enforced as if it were issued in this state.

To the extent of the victim's cooperation and consent, Seminary offices, including the Director of Facilities and Safety, the Title IX Coordinator as well as the Administrative Offices of the Seminary will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal investigation of the complaint. For example, if reasonably available, a complainant may be offered changes to academic, living, or working situations in addition to counseling, health services and assistance in notifying appropriate local law enforcement. The Director of Facilities and Safety, The Office of Student Service and the Title IX Coordinator will aid the student in obtaining these services.

Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant. The Seminary does not publish the name of crime victims nor house identifiable information regarding victims in the campus police departments Daily Crime Log or online. Victims may request that directory information on file be removed from public sources by request in writing to the Director of Facilities and Safety.

Resources for victims of Domestic Violence, Dating Violence, Sexual Assault & Stalking

On-Campus

Office of Title IX Coordinator	Dr. Barry L. Anderson	901.334.5806
Chaplain	Dr. Tiffany McClung	901.334.5840
Director of Facilities/Safety	Gregory Spencer	901.334.5834 901-262-1111 After Hours
Campus Police	MTS Security	901.834.7877
Dean of Students	Dr. Robert S. Wood	901.334.5830
Office of Student Affairs	Dr. Barry L. Anderson	901.334.5806

In the Metro-(CITY) Area

Memphis Police Department	201 Poplar Ave, Suite # 1200	901.636.3700
Battered Women's Shelter	1750 Madison Ave	901.222.4400
Shelby County Rape Crisis Center	1750 Madison Ave	901.222.4350
YWCA Advocacy Group	766 South Highland Street	901.323.2211
LGBTQ Alliance	892 South Cooper Street	901.278.6422
Domestic Violence Intake Center (Protective Orders)	1750 Madison Ave	901.222.4400
Shelby County Courthouse	160 North Main Street	901.222.2300

Online State/National Resources:

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

<http://www.tncoalition.org/> - Tennessee Coalition Against Rape

<http://www.tncoalition.org/> - Tennessee Coalition Against Domestic Violence

<http://www.thehotline.org/> - National LGBTQ Survivors of Sexual or Domestic Violence

<http://www.womenshealth.gov/> - OWH/Survivors of Sexual/Domestic Violence

WEBSITE FOR MALE SURVIVORS OF ABUSE

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

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

<http://www2.ed.gov/about/offices/list/ocr/index.html> - Dept. of Education, Office

E. Adjudication of Violations

Whether or not criminal charges are filed, MTS or its authorized representative may file a complaint under the rules of Students Rights and Responsibilities as listed in the student handbook alleging that a student or employee violated MTS's policy Code of Conduct. Reports of all domestic violence, dating violence, sexual assault and stalking made to Campus Public Safety will automatically be referred to the Title IX Coordinator for investigation regardless of if the complainant chooses to pursue criminal charges.

The Seminaries disciplinary process in accordance with Title IX and the student Handbook as listed in Discrimination, Harassment, and Retaliation Policy will include a prompt, fair, and impartial investigation and resolution process. Investigators and hearing board members are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking and taught how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability.

The Complaint procedures provides that:

- a. The accuser and the accused student each have the opportunity to attend a hearing before a properly trained hearing board;
- b. The accuser and the accused student each have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing;
- c. A student conduct decision is based on the preponderance of evidence standard, i.e. "more likely than not to have occurred" standard. In other words, the conduct process asks: "is it more likely than not that the accused student violated the university's Student Conduct Code?"
- d. The accuser and the accused will be notified simultaneously in writing of the outcome of any disciplinary proceeding, as well as any changes to those result or disciplinary actions prior to the time that such results become final; and
- e. The accuser and the accused each have the right to appeal the outcome of the hearing in accordance with the Complaint Procedures and Policy as listed and defined in the Student Handbook and will be notified simultaneously in writing of the final outcome after the appeal is resolved.
- f. A person alleging sexual assault, domestic violence, dating violence, or stalking may also utilize the complaint and investigatory procedures set forth in the Seminaries policy against Sexual Harassment located in the Student Handbook, Title IX rules and regulations and the Seminaries Violence Against Women Policy.
- g. All conduct proceedings against students involving crime of persons will be resolved through the Formal Complaint Procedures.
- h. When a complainant does not consent to the disclosure of his or her name or other identifiable information to the alleged perpetrator, the Seminaries ability to respond to the complaint may be limited.

Confidentiality

The Seminary will protect the identity of persons who report having been victims of sexual assault, domestic violence, dating violence, or stalking to the fullest extent of the law.

Sanctions and Protective Measures

- a) In all cases, investigations that result in a finding of more likely than not that a violation of the Seminaries Code of Conduct occurred will lead to the initiation of disciplinary procedures against the accused individual.
- b) Seminary sanctions including, expulsion may be imposed upon those determined to have violated this policy.
- c) In the case of violence against persons will be referred to the local law enforcement authorities for criminal prosecution.
- d) The Seminary may implement protective measures following the report of domestic violence, dating violence, sexual assault and/or stalking which may include some or all of the following actions: Suspension, Order of Protection for the alleged victim, and Criminal Prosecution.
- e) For students, sexual assault, domestic violence, dating violence, and stalking are violations of the Student Conduct Code.
- f) Employees who violate this policy will be subject to discipline, up to and including termination of employment. Sexual assault, domestic violence, dating violence, and stalking are criminal acts which also may subject the perpetrator to criminal and civil penalties under federal and state law.
- g) The Title IX Coordinator will determine whether interim interventions and protective measure should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to: an order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved.
- h) **Applicable law requires that, when taking such steps to separate the complainant and the accused, the University must minimize the burden on the complainant and thus should not, as a matter of course, remove the complainant from his or her job, classes or housing while allowing the accused to remain.**
- i) Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action.
- j) Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by MTS.

Sex Offender Registration

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

In Tennessee, convicted sex offenders must register with the Tennessee Bureau of Investigation (TBI). You can link to this information, which appears on Tennessee Bureau of Investigation's website, by accessing <https://www.tn.gov/tbi/>.