September 28, 2015

Dr. Elliot Hirshman, President
San Diego State University
5500 Campanile Drive
San Diego, CA 92182

Dear Dr. Hirshman:

Subject: Audit Report 15-23, Clery Act, San Diego State University

We have completed an audit of the Clery Act as part of our 2015 Audit Plan, and the final report is attached for your reference. The audit was conducted in accordance with the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing.

I have reviewed the management response and have concluded that it appropriately addresses our recommendations. The management response has been incorporated into the final audit report, which has been posted to the Office of Audit and Advisory Services' website. We will follow-up on the implementation of corrective actions outlined in the response and determine whether additional action is required.

Any observations not included in this report were discussed with your staff at the informal exit conference and may be subject to follow-up.

I wish to express my appreciation for the cooperation extended by the campus personnel over the course of this review.

Sincerely,

Larry Mandel
Vice Chancellor and Chief Audit Officer

c: Timothy P. White, Chancellor
CLERY ACT

San Diego State University

Audit Report 15-23
August 3, 2015
EXECUTIVE SUMMARY

OBJECTIVE

The objectives of the audit were to ascertain the effectiveness of operational and administrative controls related to campus compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requirements, and to ensure compliance with relevant governmental regulations, industry-accepted standards, Office of the Chancellor directives, and campus procedures.

CONCLUSION

Based upon the results of the work performed within the scope of the audit, except for the effect of the weaknesses described below, operational and administrative controls as of March 20, 2015, taken as a whole, were sufficient to meet the objectives of this audit.

In general, the audit did not reveal any significant internal control problems or weaknesses that would be considered pervasive in their effects on operational and administrative controls. However, we did identify opportunities for improvement in some areas, such as annual security report (ASR) distribution; campus security authority (CSA) administration; location categories determination; and crime statistic tabulation.

Specific observations, recommendations, and management responses are detailed in the remainder of this report.
1. ANNUAL SECURITY REPORT NOTIFICATION

OBSERVATION

The campus process to ensure that the ASR was distributed in accordance with Clery Act requirements needed improvement.

The Clery Act requires that the ASR be distributed to all current students and employees; it also requires that prospective students and employees be notified of the availability of the report. The Clery Act allows for electronic notification to current students and employees, in lieu of the distribution of a hard copy, under certain circumstances.

Although San Diego State University (SDSU) chose to distribute the ASR via the electronic-notification method, we found that:

- Due to miscommunication, the campus had not maintained records showing that the annual electronic notification of the availability of the ASR was sent to current students, although mitigating evidence indicates this was done.

- The notification to current students and employees was included in an email message from the chief of police, but it was the last item in a list of other campus safety information items.

- Both the notification to current students and employees and the webpage notice to prospective employees were missing two required disclosures: a list and brief description of the information contained in the report, and a statement that a hard copy of the report would be provided upon request.

- Several campus webpages containing links to the ASR were nonfunctional, and the link route from the main campus webpage to the location of the report was complicated.

Effective processes for ASR distribution and notification improve compliance with Clery Act requirements.

RECOMMENDATION

We recommend that the campus:

a. Clarify responsibility for the maintenance of records showing that the annual electronic notification of the availability of the ASR has been sent to current students.

b. Isolate the ASR notification to current students and employees in an email that serves only this purpose.

c. Include all required disclosures on ASR distribution and notification correspondence and web links.
d. Consider placing a link directly to the ASR from the main campus webpage or another top layer, frequently visited webpage, and revise procedures to include a routine test of links to the ASR.

**MANAGEMENT RESPONSE**

The campus will:

a. Clarify responsibility for the maintenance of records showing that the annual electronic notification of the availability of the ASR has been sent to current students.

b. Isolate the ASR notification to current students and employees in an email that serves only this purpose.

c. Include all required disclosures on ASR distribution, notification correspondence, and web links.

d. Consider placing a link directly to the ASR from the main campus webpage or a frequently visited webpage, and revise procedures to include a routine test of links to the ASR.

This will be completed by January 31, 2016.

2. **CAMPUS SECURITY AUTHORITY MANAGEMENT**

**OBSERVATION**

The campus process to identify, notify, and train employees who fell under the definition of a CSA needed improvement.

The Clery Act indicates that certain non-law enforcement personnel have an obligation to disclose knowledge of crimes to the campus entity that compiles statistics for Clery Act purposes, although this is not specified in the act itself. These individuals are known as CSAs, and they generally include campus officials who have significant responsibility for student and campus activities, such as housing officials, club advisors, and coaches. The reason for identifying CSAs is to help the campus capture crime statistics that may not be reported directly to law enforcement.

We found that:

- The campus CSA list did not include the names of those identified in the ASR as responsible for reporting incidents at the off-campus research and recreation facilities.

- The campus could not provide evidence that CSAs received notification of their status and responsibilities in 2013 and 2014.

- CSAs had not been provided with training to ensure that they had adequate understanding of their role in Clery Act compliance.
Efficient and effective management of CSA identification, notification, and training helps improve compliance with Clery Act requirements.

RECOMMENDATION

We recommend that the campus:

a. Update the CSA list to include the names of individuals identified in the ASR as responsible for reporting incidents at the off-campus research and recreation facilities.

b. Maintain evidence that CSAs received notification of their status and responsibilities.

c. Provide training to CSAs.

MANAGEMENT RESPONSE

The campus will update the CSA list to include the names of individuals identified in the ASR, maintain evidence that CSAs received notice of their status and responsibilities, and also provide CSA training. This will be completed by January 31, 2016.

3. DETERMINATION OF CRIME LOCATION CATEGORIES

OBSERVATION

The campus process to determine Clery Act crime locations needed improvement.

The Clery Act requires institutions to report statistics for crimes that occur in specific, well-defined locations. We reviewed the manner in which the campus determined the location categories for the purpose of Clery Act crime reporting, and we found that:

- The campus unnecessarily included in the list of Clery-reportable locations several private businesses and residences surrounded by buildings that are owned or controlled by the campus, which are not required to be included, pursuant to the Clery Act.

- The procedures to identify Clery Act locations did not include routine communication with constituents in campus international programs.

The ability to carefully define crime locations within the definitions provided under the Clery Act helps to ensure the accuracy of statistical reporting.

RECOMMENDATION

We recommend that the campus reassess the process for determining crime locations and revise procedures as appropriate.
MANAGEMENT RESPONSE

The campus will reassess the process for determining crime locations and revise its procedures, as appropriate, by January 31, 2016.

4. CRIME STATISTICS

OBSERVATION

The campus process to record and report Clery Act crime and disciplinary-referral statistics needed improvement.

We reviewed 39 crime reports for compliance with Clery Act statistical reporting requirements, and we found that:

- The process to tabulate campus disciplinary referrals for alcohol, drug, and weapons violations excluded reported allegations that had not yet been substantiated in the student judicial area. U.S. Department of Education (DOE) guidance indicates that disciplinary referrals are to be counted whether or not they result in a determination of a violation and sanction.

- The crime log disposition for one incident was updated with a status of “unfounded,” but the corresponding investigative report did not confirm that this status was valid.

Proper recording and reporting of crime statistics helps improve compliance with Clery Act requirements.

RECOMMENDATION

We recommend that the campus:

a. Revise the process for tabulating campus disciplinary referrals for alcohol, drug, and weapons violations to ensure proper statistical reporting.

b. Review crime log procedures to ensure proper completion of the log, including entries in the required disposition column.

MANAGEMENT RESPONSE

The campus will:

a. Revise the process for tabulating campus disciplinary referrals for alcohol, drug, and weapons violations.

b. Review crime log procedures to ensure proper completion of the log, including entries in the required disposition column.

This will be completed by January 31, 2016.
GENERAL INFORMATION

BACKGROUND

Originally known as the Campus Security Act of 1990, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f), the Clery Act) is the landmark federal law that requires colleges and universities across the United States to disclose information about crime on and around their campuses. An amendment to the 1965 Higher Education Act, the law requires institutions participating in federal student financial aid programs under Title IV to prepare, publish, and distribute an ASR with specific information on crime statistics and campus policies and related resources to enable people to make informed decisions when choosing a college for educational or employment purposes.

The Clery Act requires colleges and universities to publish the annual ASR; maintain a comprehensive public crime log; disclose accurate crime statistics that occur on campus and in certain non-campus and public areas; issue timely warnings about crimes that pose a serious or ongoing threat to students and employees; devise an emergency response and notification policy; and enact policies and procedures to handle reports of missing students.

The Clery Act has been amended several times since its inception. The first amendment, in 1992, added a requirement that schools afford the victims of campus sexual assault certain basic rights. In 1998, another amendment expanded the reporting requirements and formally changed the name of the law to acknowledge the campus safety advocacy work of the parents of Jeanne Clery, a LeHigh University freshman who was raped and murdered in her dormitory room in 1986.

Subsequent amendments in 2000 and 2008 added provisions dealing with registered-sex-offender notification and campus emergency response. The 2008 amendments also added a provision to protect crime victims, whistleblowers, and others from retaliation. The most current amendments under the 2013 Violence Against Women Reauthorization Act (VAWA) added additional statistics reporting for incidents of sexual assault, domestic violence, dating violence, and stalking, as well as additional requirements for policy statements, particularly in reference to resources available to crime victims and procedures for internal disciplinary proceedings. Although the VAWA final rule is effective July 1, 2015, the rule itself and directives from the DOE state that universities are expected to take immediate measures to ensure that the programs in support of the changes are reasonably operative prior to that date.

The DOE is the agency assigned to enforce the provisions of the Clery Act. The agency revised and published its guidelines and best practices in 2011 in the Handbook for Campus Crime Reporting (Clery Handbook). In addition to reputational risk and the possibility of suspension of federal student financial aid, fines of up to $35,000 per violation may be imposed by the DOE on any university found to be noncompliant with the requirements of the Clery Act.

At SDSU, the University Police Department (UPD), under the associate vice president of administration, is the main entity responsible for ensuring Clery Act compliance. Specifically, the UPD is responsible for ensuring the issuance of an accurate, timely, and comprehensive ASR by the October 1 deadline each year. The UPD consists of 24 sworn police officers and 53
non-sworn support employees and has primary police jurisdiction for the main campus property.

With 35,000 students and 5,000 employees, SDSU is one of the largest campuses within the California State University system. Located in an urban area, the main campus spans 284 acres, and its Clery Act jurisdiction includes 12 on-campus and eight off-campus residence halls and apartments. In addition, the campus community includes a separate campus in the Imperial Valley and numerous student-frequented off-campus sites for academics, research, and recreation.

SCOPE

We visited the SDSU campus from February 16, 2015, through March 20, 2015. Our audit and evaluation included the audit tests we considered necessary in determining whether operational and administrative controls are in place and operative at the SDSU campus. In order to capture the entirety of the three years of crime statistics required as part of the 2014 ASR, the audit focused on procedures in effect from January 1, 2011, through March 20, 2015.

Specifically, we reviewed and tested:

- Processes to ensure accurate and timely compilation and publication of the required policies and crime statistics for the ASR.
- Measures to ensure timely distribution of the ASR to current students and employees, and publication of notices of ASR availability to potential students and employees.
- Processes to ensure that the campus has properly identified the campus boundaries and non-campus properties that encompass the Clery Act crime statistic reporting area.
- Processes to identify and notify campus security authorities of their responsibilities to centrally report incidents that may be part of the Clery Act crime statistics.
- Processes to accurately identify, count, and tabulate Clery Act crime statistics.
- Measures to ensure that the campus community is adequately warned, in a timely manner, of crimes that pose a serious or ongoing threat to students and employees.
- Measures to meet DOE expectations of a good-faith effort to comply with changes mandated as part of the VAWA.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls changes over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, and management overrides. Establishing controls that would prevent all these limitations would not be cost-effective; moreover, an audit may not always detect these limitations.

Our testing and methodology was designed to provide a review of key operational controls, which included detailed testing on a limited number of crime statistics and campus crime warning bulletins. In addition, our review was limited to steps to gain a reasonable assurance that required prevention, awareness, and training programs were implemented by the campus, but did not validate the content or adequacy the programs.
CRITERIA

Our audit was based upon standards as set forth in federal and state regulations; CSU Board of Trustee policies; Office of the Chancellor policies, letters, and directives; campus procedures; and other sound administrative practices. This audit was conducted in conformance with the Institute of Internal Auditors’ *International Standards for the Professional Practice of Internal Auditing*.

This review emphasized, but was not limited to, compliance with:

- 34 Code of Federal Regulations §668.41, *Reporting and Disclosure of Information*
- DOE, *The Handbook for Campus Safety and Security Reporting*
- Government Codes §13402 and §13403
- UPD Policy 822, *Jeanne Clery Campus Security Act*

AUDIT TEAM

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