

**Office of Audit and Advisory Services**  
401 Golden Shore, 4th Floor  
Long Beach, CA 90802-4210

562-951-4430  
562-951-4955 (Fax)  
lmandel@calstate.edu

August 21, 2015

Dr. Leroy M. Morishita, President  
California State University, East Bay  
25800 Carlos Bee Boulevard  
Hayward, CA 94542

Dear Dr. Morishita:

**Subject: Audit Report 15-26, Clery Act, California State University, East Bay**

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

**CSU Campuses**

Bakersfield • Channel Islands • Chico • Dominguez Hills • East Bay • Fresno • Fullerton • Humboldt • Long Beach • Los Angeles • Maritime Academy • Monterey Bay  
Northridge • Pomona • Sacramento • San Bernardino • San Diego • San Francisco • San José • San Luis Obispo • San Marcos • Sonoma • Stanislaus



## CLERY ACT

### **California State University, East Bay**

Audit Report 15-26  
June 29, 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, operational and administrative controls in effect as of May 20, 2015, taken as a whole, were not sufficient to meet the objectives of this audit.

The audit revealed weaknesses in critical areas of Clery Act compliance, including crime statistic compilation, annual security report (ASR) preparation and distribution, and location category determinations. Additional exceptions were noted in the areas of campus security authority (CSA) administration; and daily crime log maintenance. Significant turnover in key University Police Department (UPD) positions, including two chiefs and an interim chief since 2011, also contributed to these issues.

Specific observations, recommendations, and management responses are detailed in the remainder of this report.

## OBSERVATIONS, RECOMMENDATIONS, AND RESPONSES

### 1. ANNUAL SECURITY REPORT POLICY STATEMENTS

#### OBSERVATION

Administration of campus ASR policy statements needed improvement, as certain required policy statements were missing or incomplete and others did not reflect actual campus practices.

Specifically, we found that ASR statements did not adequately comply with Clery Act requirements to:

- Report crimes or emergencies to specified individuals and/or organizations.
- Adequately identify satellite campuses in Concord and Oakland and ensure that policy statements for these separate locations were clearly distinguished from the main campus information in the combined ASR.

Further, we found that ASR statements were inconsistent with corresponding campus practices to establish written memoranda of understanding with local enforcement agencies that have jurisdiction over locations included for Clery Act reporting purposes.

Effective processes for ASR preparation improve compliance with the Clery Act.

#### RECOMMENDATION

We recommend that the campus:

- a. Include all required policy information in future ASRs.
- b. Revise the ASR and campus Clery Act policy to reflect current campus practices.

#### MANAGEMENT RESPONSE

We agree.

- a. The campus will revise the ASR to reflect specified organizations or individuals to whom interested parties can report crimes, in accordance with Clery requirements. The campus will also distinguish policy statements in the ASR for the two satellite campuses from those of the main Hayward campus. This will be done for the 2014 ASR, which is due October 1, 2015.
- b. Although the campus has verbal agreements with the city of Hayward and Concord police departments to provide routine police services, and a Mutual Assistance agreement with Alameda County to provide emergency services, the UPD chief will execute formal Memoranda of Understandings (MOUs) with both cities. This change will align the campus practice with that described in the ASR. The MOUs will be completed by August 31, 2015.

## 2. ANNUAL SECURITY REPORT STATISTICS

### OBSERVATION

The process to identify, review, and compile Clery Act crime statistics in the ASR needed improvement.

We reviewed the statistic-gathering process, and we found that we could not readily validate the 2011 and 2012 crime statistics reported in the ASR. Specifically, we could not identify the specific cases counted and included in the various reportable categories to support their inclusion in the ASR statistics. Although there were revisions to the identification and compilation of 2013 Clery Act statistics, additional improvements were still needed to ensure its accuracy and completeness.

We further found that:

- On-campus crime statistics were understated in some instances because crimes that occurred in student housing facilities were not included in the overall tally. The Clery Act requires that all on-campus crimes be reflected in one statistic, and that crimes occurring in residence facilities be reflected as a subset of the on-campus total. The campus reported them as two separate tallies but did not include the housing crimes in the on-campus category.
- ASR statistics were not accurately counted by crime and/or location. For the incidences we were able to tie to ASR statistics, we noted over-reporting due to incorrect location identification and crime classification.

Effective processes for ASR preparation improve compliance with Clery Act.

### RECOMMENDATION

We recommend that the campus create and document a business process to identify, review, and compile Clery Act statistics in the ASR, including:

- a. Steps to ensure adequate documentation to support statistics reported in the ASR.
- b. Direction on how to determine the proper reporting category based on crime type, incident location, and number and nature of criminal charges per incident.

### MANAGEMENT RESPONSE

We agree.

- a. The campus has formed a campuswide team to create and document the Clery business process across functional areas. The new business process will address the correct reporting of statistics. The campus plans to retain the services of a Clery subject-matter expert, as well as the Clery Center for Security On Campus, to provide guidance to ensure that statistics in the ASR have adequate support. This will be done for the 2014 ASR, due October 1, 2015.

- b. The campus has registered five key members of the campuswide team in a Clery Act training course on August 3-4, 2015. The course will provide direction in the determination of the proper reporting category based on crime type, incident location, and number and nature of criminal charges per incident. These will be included in the new Clery campus business process. This will be done for the 2014 ASR, due October 1, 2015.

### 3. ANNUAL SECURITY REPORT NOTIFICATION

#### **OBSERVATION**

The campus could not provide evidence that it had complied with Clery Act requirements regarding the annual distribution of the ASR.

The Clery Act require 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. Electronic notification to current students and employees is allowed, in lieu of the distribution of a hard copy, under certain circumstances.

We found that although the campus was able to demonstrate its efforts to notify current employees about the availability of the ASR, it could not provide similar proof that current students, prospective students, and prospective employees were informed that the ASR was available. We could not validate a statement in the ASR that enrolled students received an annual postcard notification and that certain publications contained the appropriate disclosures regarding the availability of the ASR.

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

#### **RECOMMENDATION**

We recommend that the campus maintain evidence showing that current students, prospective students, and prospective employees were notified of the availability of the ASR.

#### **MANAGEMENT RESPONSE**

We agree. The associate vice president of human resources will add appropriate ASR notification language to all job postings for prospective employees by July 31, 2015. The director of enrollment development and the executive director of admissions will add appropriate ASR notification language to the campus webpages for current and prospective students, respectively. In addition, an email will be sent to current students by the university registrar staff. This will be completed by October 9, 2015, for the 2014 ASR.

#### 4. 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. 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 all resident advisors, Greek Life advisors, and faculty advisors for student organizations on campus.
- The campus could not provide evidence that CSAs received notification of their status and responsibilities.
- 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 who meet the definition of a CSA, including, but not limited to, resident advisors, Greek Life advisors, and faculty advisors for student organizations on campus.
- b. Maintain evidence that CSAs received notification of their status and responsibilities.
- c. Provide training to CSAs.

##### **MANAGEMENT RESPONSE**

We agree.

- a. The director of compliance and internal control has received updated CSA information for staff and faculty advisors for all student organizations on campus; all California State University, East Bay (CSUEB) coaches and assistant coaches; all resident advisors in student housing; as well as other administrators. The updated CSA list will be provided by August 14, 2015.

- b. A memo dated July 22, 2015, from the UPD chief was sent to all CSAs, which outlined their CSA status and responsibilities, including mandatory training. Evidence of the CSA notifications was retained by the director of compliance and internal control. This will be provided by August 14, 2015.
- c. The campus has requested the online CSA training developed for the California State University (CSU) by Law Room. The training module will be rolled out by the campus director of the Leadership and Employee Enrichment Program by August 31, 2015. The CSU's Skillport system provides evidence of training; the campus will run reports from the Skillport system to track and ensure that all CSAs have taken the training by October 31, 2015.

## 5. 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 procedures did not include routine communication with constituents outside of UPD, such as the offices for facilities, university extension, and auxiliaries.

We further found that:

- The campus requested statistics for a location that has not been utilized by the campus since 2008.
- The campus did not request statistics for non-campus locations in the cities of Pleasanton, Hayward, Oakland, and San Ramon, which have been utilized by university extension education.

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 business process for determining crime locations and revise procedures as appropriate.

### MANAGEMENT RESPONSE

We agree. The campus will reassess the business process for determining crime locations for ASR statistics. The campus has requested guidance from a Clery subject-matter expert, who will be on campus August 5-6, 2015. Revised business process procedures for determining crime locations will be provided by September 15, 2015.

## 6. DAILY CRIME LOG

### OBSERVATION

The daily crime log did not include all required information.

The Clery Act requires the campus to maintain a cumulative log of all criminal activity reported to UPD and make it readily available to the public during regular business hours. The daily crime log provides the campus community with additional information on criminal and alleged criminal incidents on a timelier basis than the annual statistical disclosures in the ASR.

We reviewed daily crime logs and found that:

- Entries did not always include the date and time when the crime occurred, and the nature of the crime did not always reflect the crime(s) noted in the crime reports, as required by the Clery Act.
- The UPD did not have a process to ensure that changes to daily crime log entries were made within two business days of learning about any additional information.
- The daily crime log at the UPD front desk did not include incidents that were reported to UPD within the last 60 days.

Proper administration of the daily crime log improves compliance with the Clery Act.

### RECOMMENDATION

We recommend that the campus:

- a. Include the date and time when crimes occurred and the nature of the crime(s) on the daily crime log.
- b. Establish procedures to ensure that changes to daily crime log entries are made within two business days of learning about any additional information.
- c. Verify that the daily crime log at the UPD front desk includes incidents that were reported to the UPD within the last 60 days.

### MANAGEMENT RESPONSE

We agree.

- a. The UPD administrative operations manager will establish a business process procedure to ensure that the daily crime log reflects the date, time and nature of all crimes. The procedures will be written and forwarded to the UPD chief for approval by August 14, 2015.
- b. The UPD administrative operations manager will establish a business process procedure to ensure that changes to the daily crime log entries are made within two business days of

- learning about any additional information. These procedures will be written and forwarded to the UPD chief for approval by August 14, 2015.
- c. The UPD administrative operations manager will establish procedures to ensure that the daily crime log at the UPD front desk includes incidents that were reported to UPD within the last 60 days. The procedures will be written and forwarded to the UPD chief for approval by August 14, 2015.

## 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 U.S. Department of Education (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. 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 CSUEB, the UPD, under the vice president of administration and finance, 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.

## SCOPE

We visited the CSUEB campus from April 20, 2015, through May 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 CSUEB 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 May 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:

- 20 United States Code §1092(f), *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*
- 34 Code of Federal Regulations §668.41, *Reporting and Disclosure of Information*
- 34 Code of Federal Regulations §668.46, *Institutional Security Policies and Crime Statistics*
- DOE, *The Handbook for Campus Safety and Security Reporting*
- Government Codes §13402 and §13403
- CSUEB UPD Policy 822, *Jeanne Clery Campus Security Act*

## AUDIT TEAM

Senior Director: Michelle Schlack  
Audit Manager: Ann Hough  
Senior Auditor: Carolyn Phu