

The University of Texas
Rio Grande Valley™

Clery Act Audit

Report No. 17-RBA-012

November 30, 2018

Office of Audits & Consulting Services

November 30, 2018

Dr. Guy Bailey, President
The University of Texas Rio Grande Valley
2102 Treasure Hills Blvd., Suite 3.115
Harlingen, TX 78550

Dear Dr. Bailey,

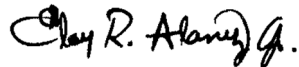
We completed a Clery Act audit at The University of Texas Rio Grande Valley (UTRGV). This audit was included in the fiscal year 2018 Internal Audit Plan. The objective of this audit was to determine The University of Texas Rio Grande Valley's (UTRGV) compliance with gathering and reporting crime and fire statistics and procedures pursuant to the Clery Act.

This audit was conducted in accordance with The University of Texas System's (UTS) Policy 129 *Internal Audit Activities*, the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing (Standards) and Generally Accepted Government Auditing Standards (GAGAS)*. The *Standards and GAGAS* set criteria for internal audit departments in the areas of independence, professional proficiency, scope and performance of audit work, and management of audits. We are required to adhere to these *Standards* and UTS 129.

Overall, UTRGV is in general compliance with gathering and reporting crime and fire statistics and procedures pursuant to the Clery Act. However, we identified corrections and improvements to mitigate the risk of noncompliance with the Clery Act. The recommendations in this report represent, in our judgment, those most likely to provide a greater likelihood that management's objectives are achieved.

We appreciate the assistance provided by UTRGV's management and other personnel. We hope the information presented in our report is helpful.

Sincerely,



Eloy R. Alaniz, Jr., CPA, CIA, CISA
Chief Audit Officer

cc: Rick Anderson, Executive Vice President for Finance & Administration
Doug Arney, Senior Associate Vice President for Operations
Raul Munguia, Chief of Police
UTRGV Internal Audit Committee
UT System Audit Office

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Executive Summary

The Clery Act (Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act) is a federal law enacted in 1990 that requires institutions of higher education to provide complete, accurate and timely information about crime and fire statistics to the campus community.

Several departments work towards Clery Compliance. The Police Department, Student Rights and Responsibilities, and the Compliance Office are key departments assisting the university adhere to the Clery Act.

The objective of this audit was to determine The University of Texas Rio Grande Valley's (UTRGV) compliance with gathering and reporting crime and fire statistics and procedures pursuant to the Clery Act. The audit scope is Clery Act data reported in UTRGV's 2016 Security & Fire Safety Report (ASR) for calendar year 2015 and its corresponding supporting documentation. We conducted interviews, reviewed the *U.S. Department of Education – The Handbook for Campus Safety and Security Reporting 2016 Edition* (DOE Handbook) and tested selected supporting documentation.

Based on the procedures performed, UTRGV is in general compliance with gathering and reporting crime and fire statistics and procedures pursuant to the Clery Act. However, we identified corrections and improvements to mitigate the risks of noncompliance and potential fines from the Department of Education (DOE).

The following observations were identified:

- UTRGV does not have a designated Clery Compliance Officer/Coordinator: a specific individual with expertise to ensure compliance with the Clery Act and oversee all Campus Security Authorities (CSA);
- There are no written procedures for the development of the ASR;
- Two incidents were inadvertently omitted from the ASR;
- Ten incidents, the majority of them being referrals, were properly included in the ASR but inadvertently omitted from the crime logs;
- The Police Department was not always notified of new university property that is purchased, leased, or under an agreement;
- The ASR did not list the name and address of each residential facility as required when reporting fires;
- The daily crime and fire logs link description does not reference the fire logs.

Background Information

In 1986, Jeanne Clery was murdered in her dorm room. As a result, the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) was enacted in her memory. The Act requires institutions of higher education receiving federal financial aid to report specific crime statistics on campus and provide safety and crime information to members of the campus community. This provides important information about the safety and security of the university community to enable people to make informed decisions when choosing a college or university for educational or employment purposes. Each campus is responsible for establishing appropriate procedures to implement these guidelines.

Below are some of the requirements of the Clery Act:

- Disclose, collect, classify and count crime reports and statistics;
- Issue Crime Alerts - timely warning for any Clery Act crime;
- Issue Emergency Notifications upon confirmation of significant emergency or dangerous situation involving immediate threat;
- Provide educational programs and campaigns;
- Have procedures for institutional disciplinary action in cases of dating violence, domestic violence, sexual assault and stalking;
- Publish ASR by October 1st;
- Submit statistics to the Department of Education;
- Maintain a publicly available daily crime log;
- Implement missing student notification procedures;
- Maintain Fire Safety information – including daily fire log, annual fire report with statistics, and policy statements.

Universities are required to publish and distribute an annual security and fire safety report by October 1st to all current students and employees. Additionally, they must inform prospective students and employees about the availability of the report.

The DOE is responsible for ensuring that all institutions are in compliance with the Clery Act. The DOE publishes a handbook, *The Handbook for Campus Safety and Security Reporting* (DOE Handbook), which provides guidance for complying with the Clery Act. On January 16, 2018, the DOE increased fines for violations of the Clery Act to \$55,907 per violation.

Audit Objective

The objective of this audit was to determine The University of Texas Rio Grande Valley's (UTRGV) compliance with gathering and reporting crime and fire statistics and procedures pursuant to the Clery Act (Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act).

Scope of Work

The audit scope is Clery Act data reported in UTRGV's 2016 Security & Fire Safety Report (ASR) for calendar year 2015 and its corresponding supporting documentation.

This audit was conducted in accordance with The University of Texas System's (UTS) Policy 129 *Internal Audit Activities*, the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing (Standards)* and *Generally Accepted Government Auditing Standards (GAGAS)*. The *Standards* and *GAGAS* set criteria for internal audit departments in the areas of independence, professional proficiency, scope and performance of audit work, and management of audits. We are required to adhere to these *Standards* and UTS 129.

Audit Results

Clery Compliance Oversight

According to Chapter 4 of the DOE's Handbook, UTRGV must "designate an individual or office to coordinate and oversee your campus security authorities." Currently, UTRGV does not have a designated Clery Compliance Officer/Coordinator: a specific individual with expertise to ensure compliance with the Clery Act. Many departments, including the Police Department, Compliance Office, and Student Rights & Responsibilities, have roles in achieving Clery compliance. The Police Department is the responsible party for the ASR and the Compliance Office assigns CSA training.

Recommendation #1:

The Police Department should have a designated Clery Compliance Officer/Coordinator. This should be an individual who coordinates all the university's Clery reporting and oversees training efforts, including overseeing all Campus Security Authorities. One individual could help ensure that efficient and effective reporting is achieved.

Management's Response:

Implemented

Implementation Date:

August 1, 2018

Currently, UTRGV has an unofficial Clery working group that develops the ASR. While evaluating their process, we determined that there are no written procedures. Several individuals work on different sections based on their area and use the DOE Handbook as guidance. This was also an annual process, but was recently changed. Best practices are to create procedures to develop the ASR. This would facilitate completion in the case of employee turnover.

Recommendation #2:

The Police Department should create written procedures to develop the annual *Security & Fire Safety Report*. These procedures should indicate the individuals responsible for preparing sections of the report as well as the necessary steps to ensure adequate support documentation is obtained.

Management's Response:

Recommendation accepted. The Clery Coordinator and police department personnel who have been responsible producing the ASR will meet to create written procedures for the creation of the ASR.

Implementation Date:

Projected completion date January 30, 2019.

Recommendation #3:

The Chief of Police should request that the UTRGV President establish an official Clery Committee.

Management's Response:

Recommendation accepted. The Clery Coordinator and the Police Department will meet to create and submit a list of positions to be included in the Clery Committee to the President's Office. Once the list of positions is approved, the Clery Coordinator will create a schedule of quarterly meetings with the Clery Committee.

Implementation Date:

Projected completion date December 30, 2018.

ASR Distribution

According to Chapter 9 of the DOE's Handbook, UTRGV "must publish and distribute your annual security report by Oct. 1 each year." Statistics must be reported for the most recent year as well as the two preceding calendar years. Institutions are required to report their statistics within the following specific location categories: on campus, on public property within or immediately adjacent to the campus, on in or on non-campus buildings or property that the institution owns or controls. The ASR must contain safety and security-related policy statements and the ASR should be distributed to all current students and employees. It must also be available to prospective students and prospective employees.

The ASR was published and distributed prior to the October 1 deadline. The ASR is found online on the Police Department's website and a printed version is available upon request. We reviewed the ASR to determine if selected policy statements were properly included. All statements tested were appropriately included in the ASR.

In order to make ASR more available we suggested that the Police Department create and place a link to the report on the UTRGV home page. Subsequently, a link was created making the ASR available in the footer section of all UTRGV webpages. The link is found in the lower right corner of all the UTRGV webpages, and includes the required wording for a printed version of the report. Therefore, if a prospective employee logs on to the career website to apply for a job, the ASR is available. In addition, if a prospective student logs on to the admissions website, the ASR is available as well. The UTRGV Admissions booklet and the UTRGV Transfer Admissions booklet refer to the Clery Act and provides the link to the ASR.

We determined that UTRGV had submitted crime statistics and fire statistics to the Department of Education via the annual web-based data collection. We did not confirm if the information on the website agreed to the published reports.

ASR Report Testing of Crime Statistics

The U.S. Department of Education can issue a civil fine of up to \$55,907 per violation for a substantial misrepresentation of the number, location, or nature of the crimes required to be reported or for a violation of any other provision of the safety and security related Higher Education Act. According to Chapter 9 of the DOE's Handbook, crime statistics should include statistics for the three most recent completed calendar years, include categories for all required geographic locations (on-campus, public property, and non-campus), and crime category.

The ASR tested included statistics for the three most recent calendar years, including geographic locations and crime categories. We verified that the crime categories are listed separately and that there are zeroes listed if there was no crime in the category. We tested crime data for the most recent year reported which comprised of crime data from January 1, 2015 through December 31, 2015. This period included crime data from UTRGV, The University of Texas Brownsville, The University of Texas Pan American, UT Health Science Center San Antonio – Harlingen. The ASR tested was the first report for UTRGV.

We concluded that the crime statistics were mostly accurate. During the review of crime logs two incidents were inadvertently omitted from the ASR. These items were included in the crime logs, but were not included in the ASR. An incomplete report could result in non-compliance with the Clery Act and may lead to fines and reputational damage. In addition, ten incidents, the majority of them being referrals, were properly included in the ASR, but they were not included in the corresponding crime logs. The procedures to account for referrals has been changed from an annual review to a monthly review. This new procedure helps ensure that the crime logs include the applicable referrals.

Recommendation #4:

The *2016 Security & Fire Safety Report* should be revised to include the two incidents that were inadvertently omitted. In addition, the *2017 Security & Fire Safety Report* should be revised to include the two incidents that were omitted from the prior year.

Management's Response:

2016 & 2017 ASR's have been updated to reflect the two inadvertently omitted incidents.

Implementation Date:

September 28, 2018

Campus Security Authorities (CSA)

According to Chapter 4 of the DOE's Handbook, "CSAs are responsible for reporting allegations of Clery Act crimes that are reported to them in their capacity as a CSA." The university must designate an individual or office to coordinate and oversee CSAs, identify the current CSAs, provide them training and provide a process of documentation and reporting incidents.

UTRGV has identified Campus Security Authorities and provides them training. Currently, no one person is overseeing all of the CSAs. The Police Department is in charge of the ASR and the Compliance Office assigns the CSA training.

CSAs may report incidents to the Police or Student Rights and Responsibilities (SRR). The Police Department has a record management system (ARMS) that is used to track all incidents. The online reporting system used by SRR is Maxient, also known as "Vaqueros Report It". The system provides centralized reporting and record keeping for all allegations related to student conduct. "Vaqueros Report It" allows students, staff, and faculty to report any potential violations of the Student Code of Conduct, student behavioral issues, or complaints. Every month SRR runs a report on Maxient activity and they analyze this information in conjunction with the Police Department to ensure that the Police Department has a complete list of reportable Clery crimes. Currently, incidents reported to SRR and thru Maxient are reconciled to ensure that they are not double counted in preparation for the ASR and to ensure the SRR is aware of all student related incidents. This new practice began in the fall. Prior to this, information was compared on an annual basis.

Fire Safety Log

UTRGV has two locations with on-campus student housing. The DOE requires that UTRGV maintain a log for fires in student housing. UTRGV is not required to record fires that occur anywhere else on campus on this log and not required to record fires that occur in any non-campus student housing that UTRGV might own or control.

According to Chapter 12 of the DOE's Handbook, the fire log must include the date the fire was reported, the nature of the fire, the date and time of the fire, and the general location of the fire. Additionally, "your institution must make an entry or an addition to an entry to the log within two business days of receiving the information. Make the fire log for the most recent 60-day period open to public inspection, upon request, during normal business hours." The DOE's Handbook also states "if there are no reported fires in any of your on-campus student housing facilities in the three most recent calendar years, you may simply list the name and address of

each facility in your annual fire safety report and state that there were no reported fires in facilities for the reporting years.”

We reviewed UTRGV’s fire log and it contained all the required elements for reporting. The log is readily available and updated timely. The most recent 60-day period is maintained in hard copy in the lobbies of the Police Departments and open to public inspection during normal business hours. This same log is also found in an electronic format on the Police Department’s website. We did not review any actual fire documentation because no fires occurred in on-campus student housing during the reporting period. However, the ASR tested did not list the name and address of each residential facility. It simply stated, "No fires reported for 2015."

The DOE’s Handbook states “an institution must make an annual report to the campus community on the fires recorded in the fire log. This requirement may be satisfied by the annual fire safety report." This requirement was met with the 2016 Security & Fire Safety Report (ASR).

Based on testing, the ASR contained all the required fire policy statements, but did not follow the DOE’s prescribed format.

Recommendation #5:

The Chief of Police should ensure that UTRGV reports fires in the prescribed format indicated by *The Handbook for Campus Safety and Security Reporting* when preparing the annual *Security & Fire Safety Report*.

Management’s Response:

The prescribed format was not used in the 2015 ASR, however, the correct format was utilized in 2016 and thereafter.

Implementation Date:

September 2016

According to the DOE’s Handbook, UTRGV should "provide students and employees with a description of the log noting its location and availability.”

Although the daily fire log and crime log statistics can be found on the Police Department website, the UTRGV homepage does not refer to the daily crime and fire logs in the link description. We also noted that the fire log information is on the Police Department website, but there is no reference to the fire logs. Both the fire and crime logs are found in the same place, yet the website links and header descriptions only refer to the crime logs. Without providing students and employees with specific notification of availability and location, there is a risk that they may not be aware of the daily crime and fire log's availability and location. As a result, UTRGV may be penalized by the DOE.

Recommendation #6:

The Chief of Police should revise the wording on the UTRGV home page from "Clery Crime Reports" to "Clery Crime Reports and Daily Crime and Fire Logs." Additionally, the Police Department website should be revised to include wording on the Daily Fire log to clearly indicate that the information can be found on the website.

Management's Response:

Due to web page limitations the web link "Clery Crime Reports" has been changed to "Clery Act Reports". The police department web site has been revised to clearly reflect the availability of the Daily Fire Log.

Implementation Date:

September 27, 2018

Daily Crime Log

According to Chapter 5 of the DOE's Handbook, "any institution, regardless of whether it is public or private, that has a campus police or security department, must create, maintain and make available a daily crime log."

The crime log must include the date the crime was reported, the date and time crime occurred, the nature of crime, the general location of crime, and the disposition of the complaint. We reviewed UTRGV's crime log and it contained all the required elements for reporting. The log is readily available and updated timely. The most recent 60-day period is maintained in hard copy at the Police Departments in the lobbies and is readily available and open to public inspection during normal business hours. This same log is also found in an electronic format on the department's website.

Geography

UTRGV has three main campuses and several research and teaching sites throughout the Rio Grande Valley. According to Chapter 2 of the DOE's Handbook, UTRGV must "disclose statistics for reported Clery Act crimes that occur (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on campus buildings or property that the institution owns or controls." Understanding each of these geographic categories as defined by the Clery Act is vital to complying with the law.

The ASR tested outlines the Clery geography and it contains maps of the three main campuses. The university is growing and expanding its locations, and the Police Department is not always notified of new university property that is purchased, leased, or under an agreement. This could result in the Police Department not listing a property and its corresponding Clery statistics on the ASR. During the annual ASR preparation, the Chief Real Estate and Space Planning Officer sends the Clery Working Group a list of properties. The Chief Real Estate and Space Planning Officer is currently not a member of the working group.

Recommendation #7:

- The Chief of Police should add the Chief Real Estate and Space Planning Officer to the Clery Working Group so that the individual may validate the university property listed on the annual *Security & Fire Safety Report*.
- The Chief Real Estate and Space Planning Officer should inform the Police Department when new properties are acquired or leased so that the Police Department has the most accurate Clery reporting information. Notification should also occur when any leases or contracts are terminated.

Management's Responses:

Implemented – The Real Estate Office is one of the positions that will be included as a Clery Committee member and will provide quarterly reports. The Real Estate Office has been attending Clery Committee meetings this past year.

Implementation Dates:

July 2018

Statistics from Local Law Enforcement Agencies

According to Chapter 4 of the DOE's Handbook, the Police Department should "obtain Clery Act crime statistics from all local law enforcement agencies that have jurisdiction over the school's Clery Act geography."

UTRGV has three academic campuses and various support facilities within the Rio Grande Valley. The academic campuses and support facilities are located in different cities with different law enforcement jurisdictions. The Police Department gathers a listing of local law enforcement jurisdictions associated with Clery geography. We verified that all external agencies were notified and that the Department received the crime statistics needed for the *2016 Security & Fire Safety Report*.

We determined that the Police Department received associated Clery information from all of the local law enforcement jurisdictions for the AFR tested. Additionally, all off campus incidents that should have been reported were included.

Timely Warnings

According to Chapter 6 of the DOE's Handbook, "The Clery Act requires you to alert the campus community to certain crimes in a manner that is timely and will aid in the prevention of similar crimes."

UTRGV has a *Campus Safety and Security Reporting, Emergency Notifications and Timely Warnings* Police Department General Order. There are designated individuals in charge of the timely warning and these warnings are disseminated through a university list serve to all persons with a university e-mail account. Additionally, UTRGV has a mutual aid relationship with local

law enforcement authorities and UTRGV is advised when crimes occur on, or adjacent to UTRGV's jurisdiction.

We tested documentation regarding timely warnings initiated during the AFR selected for testing as well as two more recent warnings. We determined that the warnings contained information on the crime that triggered the notification, information to prevent similar crimes, and the items tested were all issued in an appropriate manner.

Missing Student Notification Procedures

According to Chapter 10 of the DOE's Handbook, the following six requirements must be included in the ASR for the missing student notification policy:

- A list of titles of the persons or organization to which students, employees, or other individuals should report that a student has been missing for 24 hours;
- Require that any missing student report must be referred immediately to the institution's police;
- An option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police;
- Provide a statement advising students that their contact information will be registered confidentially and accessible to authorized campus officials only. This information may not be disclosed except to law enforcement personnel in furtherance of a missing person investigation;
- Provide a statement advising students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and
- Provide a statement advising students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

The ASR contained all the six missing student notification policy required statements. Additionally, it refers to a link to Handbook of Operating Procedures, *STU 01-400 - Notification Regarding Missing Resident Students* policy. This policy addresses missing student notification for students residing in on-campus housing and contains all six required statements. The missing student contact information is appropriately obtained and stored, and it is kept separate from general emergency contact information. Additionally, access to the missing person contact information is limited to authorized campus officials. There were no missing students during the period tested. Therefore, we did not review procedures actually enacted. We did obtain a copy of a Police report for a Welfare Concern; the student was found sick in their residential housing facilities.

Conclusion

Based on the procedures performed, UTRGV is in general compliance with gathering and reporting crime and fire statistics and procedures pursuant to the Clery Act. However, we identified corrections and improvements to mitigate the risks of noncompliance and potential fines from the DOE.

Norma L. Ramos

**Norma Ramos, CIA, CGAP
Director**

Isabel Benavides

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Assistant Director**