

Memorandum

Date: July 6, 2021
To: Taylor Eighmy, Ph.D., President
From: Paul Tyler, Chief Audit Executive *Paul A. Tyler*
Cc: Carlos Martinez, Senior Vice President for Institutional Strategic Planning, Compliance Risk Management, and Office Operations & Chief of Staff
Veronica Mendez, CFO and Senior Vice President for Business Affairs
James Weaver, Executive Director of Institutional Compliance and Risk Services
Subject: Responses to Margolis Healy & Associates Clery Act Focused Compliance Assessment for the University of Texas at San Antonio Report

In August 2020, UTSA hired [Margolis Healy & Associates](#), a national consulting practice, to assess our compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”). We appreciate the time and energy Margolis Healy & Associates provided to UTSA in the efforts to build a model Clery Compliance Program at UTSA.

I have included the actions implemented to address the recommendations in the Margolis Healy & Associates, LLC Clery Act Focused Compliance Assessment for the University of Texas at San Antonio (UTSA) dated December 10, 2021 (the “Assessment”). The Assessment included 28 recommendations. The recommendations were categorized into the following main topics with corresponding number of recommendations.

- Systemic Improvements to Clery Act Compliance – 2 recommendations
- Data Audit Results – 3 recommendations
- Campus Security Authorities (CSA) Program – 6 recommendations
- Clery Act Geography – 3 recommendations
- Daily Crime Log – 2 recommendations
- Timely Warnings and Emergency Notifications – 2 recommendations
- Annual Security Report (ASR) – 10 recommendations

The Assessment coincided with the [U.S. Department of Education Office of Inspector General Report University of Texas at San Antonio’s Controls Over Reporting Clery Act Crime Statistics](#) (dated November 24, 2020, *ED-OIG/A09T0008*). Our [OIG formal response](#) highlights several actions that the university has implemented to comply with the Clery Act requirements and to improve our Clery Compliance Program. In addition, your [communication](#) to the UTSA community and [UTSA’s Safe Campus Resources website](#) outline the initiatives and changes implemented at UTSA over the last three years. Based upon discussions with the Clery Compliance Coordinator and other Clery stakeholders, the 28 recommendations have been implemented. We included their responses and actions taken to address the recommendations. As a part of our FY22 Internal Audit Plan, the Office of Auditing and Consulting Services will conduct an audit to validate these responses and to provide assurance on the accuracy and completeness of Clery Act crime statistics included in the Annual Security Report.

Systemic Improvements to Clery Act Compliance

The two recommendations in this area have been implemented; see details below.

1. Adopt a University policy creating and empowering both the Clery Act Compliance Committee and the Data Integrity Subcommittee.

UTSA's Response: UTSA agrees with this recommendation and published [UTSA Handbook of Operating Procedures \(HOP\) 4.33 Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act \(Clery Act\) and Campus Fire Safety Right to Know Reporting](#) on January 14, 2021. HOP 4.33 was vetted through the Clery Compliance Committee and other campus stakeholders. HOP 4.33 empowers both the Clery Act Compliance Committee and Data Integrity Working Group. HOP 4.33 outlines the responsibilities of the Clery Coordinator, the Clery Compliance Committee, the Data Integrity Working Group and other stakeholders. The Data Integrity Working Group, formed in January 2021 by the Clery Compliance Coordinator, includes members from EOS/Title IX, Student Conduct and Community Standards, Housing, Student Activities, Campus Living Villages, PEACE, Behavioral Intervention, People Excellence, and Athletics.

2. Ensure the leadership of the Clery Act compliance effort has the requisite organizational gravitas to steer UTSA stakeholders toward active participation and embracing their stakeholder responsibilities.

UTSA's Response: UTSA agrees with this recommendation. The Clery Compliance Coordinator position has been moved organizationally to the Office of Institutional Compliance and Risk Services that reports to President's Office and is under the supervision of the Director of Equal Opportunity Services and Title IX Coordinator to ensure Clery Act compliance is a university-wide compliance effort.

Data Audit Results

The three recommendations in this area have been implemented; see details below.

3. Provide training to those CSAs who commonly write reports that may document Clery Act crimes that explain the elements of an appropriately descriptive report, and why such documentation is critical.

UTSA's Response: UTSA agrees with this recommendation. The Clery Compliance Coordinator and the Department of Public Safety Executive Director of Strategic Initiatives have provided enhanced formal training for CSAs who commonly write reports that may document Clery Act Crimes. The enhanced training clearly outlined the critical elements necessary in an appropriately descriptive report. The training was provided to Equal Opportunity Services (EOS) staff, Student Conduct and Community Standards (SCCS) staff, the Behavior Intervention Team, PEACE, and all UTSA Police Officers.

In addition, elements of the training have been integrated into both the Clery Compliance Committee and Data Integrity Working Group meetings. For example, on March 26, 2021 training on how to count stalking and on May 27, 2021 training on hierarchy, dating and domestic violence were presented during the Clery Compliance Data Integrity Working

Group Meeting. Additionally, UTSA has joined the [Clery Center](#) which provides [training opportunities](#) at little or no cost to the university.

4. Train line supervisors to review reports for missing Clery Act detailed information, and empower these supervisors to reject incomplete reports, returning them for appropriate revision.

UTSA's Response: UTSA agrees with this recommendation. The Clery Compliance Coordinator has trained police supervisors and the Police Records Specialist to review reports for missing Clery Act detailed information. The training outlines the elements of Clery countable crimes vs. Texas State Law. Police supervisor are empowered to reject incomplete reports.

5. Hold line supervisors accountable for incomplete reports that they have reviewed and approved.

UTSA's Response: UTSA agrees with this recommendation. Police supervisors and the Police Records Specialist review all reports and return reports that are incomplete. Police supervisors are held accountable for reports they review and approve through supervisor review, counseling and annual performance evaluations.

Campus Security Authorities Program

The six recommendations in this area have been implemented; see details below.

6. Integrate Attachment 3 into the CSA function determination process.

UTSA's Response: UTSA agrees with this recommendation. All CSAs for the 2020-2021 academic year were identified and added to the CSA database. The CSA database includes name, e-mail, phone number, position title, and date of training. The Clery Compliance Coordinator will utilize the Campus Safety Authority Function Determination Process Form to identify new CSAs for the 2021-2022 academic year.

Procedures to enhance CSA identification and training have been implemented. Department heads are notified when CSAs in their area have not completed training. Additional future enhancements to the CSA identification process are incorporated into the Clery Compliance Committee Meetings. For example, the Clery Compliance Committee is now aiding with the identification of potential new positions that fall within the definition of a CSA.

7. Hold CSAs accountable to complete the CSA training.

UTSA's Response: UTSA agrees with this recommendation. HOP 4.33 mandates annual training. Supervisors, Deans, department heads, VPs and the President are notified when training has not been completed. Online and classroom training are tracked in UTSA's People Excellence/Human Resources Training System. The few CSAs who are not employed by UTSA, such as the employees of Campus Living Villages and graduate assistants in Athletics, are trained in-person and a record of their training is added to the CSA database.

8. Modify the report's section headers clarifying where a CSA may provide more than one selection, i.e. type of bias. We offer the CSA report form used by Texas State University as an effective sample CSA report.

UTSA's Response: *UTSA agrees with this recommendation. The CSA form was revised on November 25, 2020 to include the option to select more than one bias type and crime type. The Clery Compliance Coordinator worked with the Public Safety Senior Systems Administrator to add Clery Act Crime definitions to the Clery Act Compliance webpage that links to the [Maxient CSA Submission Form](#). A link to the CSA form is available on the UTSA Police website.*

9. Revise the existent CSA form to address the anonymity gap.

UTSA's Response: *The CSA form has been revised to include the names of all parties involved. An option for the reporter to include the victim's identity or to remain anonymous, if they choose, is included on the CSA form.*

UTSA determined that the recommendation to disclose a victim's name outside Equal Opportunity Services (EOS) or other employees deemed confidential in HOP 9.24 would violate Senate Bill 212 (SB212) unless a statutory exception applies. No statutory exception applies for Clery reporting. Therefore, EOS/Title IX and other confidential employees (i.e. Ombudspersons and PEACE Center) listed in HOP 9.24 are exempt from providing names. Instead EOS utilizes a CSA Incident Referral Number and EOS Maxient Case Number to each CSA Report submitted to ensure completeness of reporting. Additionally, to mitigate the risk of incomplete Clery Act crime reporting identified by Margolis Healy, other controls have been enhanced. Specifically, the Data Integrity Working Group, led by the Clery Compliance Coordinator, began meeting monthly in January 2021 to discuss and evaluate all cases, including EOS, Student Conduct files, Public Safety, CSA reports, etc. to ensure Clery Act crime reporting is complete and accurate.

10. Add the dispatchers to CSA report recipients and require an action by the dispatchers to ensure they act upon the form when received.

UTSA's Response: *UTSA recognizes that the Margolis Healy recommendation to include dispatchers in the CSA form distribution process is to mitigate the risk of untimely warnings and notifications. To address the risk, UTSA has instead authorized additional personnel to send Timely Warnings and Emergency Notifications, effective November 2020. Those UTSA employees who may send Timely Warnings and Emergency notifications are the Associate Vice President for Public Safety/Police Chief, Assistant Police Chief, Police Captains, Police Lieutenants, the Department of Public Safety Executive Director of Strategic Initiatives, the Clery Compliance Coordinator, the Police Records Specialist, on-duty police supervisors, and on-duty dispatchers. To further mitigate this risk, CSAs are trained to immediately report any serious or continuing threat to the UTSA Police Department. This information is also included on the CSA form.*

11. Change the travel form to require a trip leader to complete the CSA training.

UTSA's Response: *UTSA agrees with this recommendation. The Department of Public Safety Executive Director of Strategic Initiatives and the Clery Compliance Coordinator*

met with those staff overseeing student travel the Director of Student Assistance Services, the Senior Director of International Programs and the Associate Athletics Director. The [Student Travel: Request for Authorization Form](#) has been updated to add the requirement that staff and faculty trip leaders successfully complete Campus Security Authority (CSA) training prior to departure, but at least once a year, for an activity or event which falls under the scope of the [Handbook of Operating Procedures, Section 5.18 Travel or Events that Involve Students and other Non-Employee Participants](#).

Clery Act Geography

The three recommendations in this area have been implemented; see details below.

12. Strategize ways to expand the travel documentation to increase records for domestic curricular and co-curricular travel.

UTSA's Response: UTSA believes that our student travel procedures and documentation is robust. The Clery Compliance Coordinator currently receives copies of approved student travel requests for activities or events which fall under the scope of the [Handbook of Operating Procedures, Section 5.18 Travel or Events that Involve Students and other Non-Employee Participants](#). HOP 5.18 outlines requirements and responsibilities for approved activities or events which fall under the scope of that policy. This policy and the [Student Travel: Request for Authorization Form](#) have been updated to include the CSA training requirement for staff and faculty trip leaders. The Clery Compliance Coordinator currently requests crime statistics from law enforcement with jurisdiction in all UTSA sponsored overnight travel locations. To better strengthen our program, [UTSA Handbook of Operating Procedures \(HOP\) 4.33 Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act \(Clery Act\) and Campus Fire Safety Right to Know Reporting](#) includes guidelines to ensure all staff and faculty trip leaders complete Campus Security Authority training prior to departure, but at least once a year.

13. Supplement the requests of local and state police agencies for Clery Act defined crime data to include definitions of Clery Act crimes and geographies as well as examples.

UTSA's Response: UTSA agrees with this recommendation. To prepare the 2021 Annual Security and Fire Safety Report, the Clery Compliance Coordinator added Clery Act Crime definitions, detailed descriptions of UTSA Clery Act geography and examples to the requests sent to law enforcement agencies in May 2021 for 2020 crimes.

14. Annually maintain a spreadsheet of local and state law enforcement agencies from which UTSA must request crime data, and whether the agency has responded and if it has, whether it was able to provide crime data with the accuracy and detail required to correctly disclose that data.

UTSA's Response: UTSA agrees with this recommendation. The Clery Compliance Coordinator utilizes a tracking spreadsheet of all law enforcement agencies with jurisdiction in areas of travel and tracks local law enforcement statistical requests separately. The Clery Compliance Coordinator includes the requests for statistics from local law enforcement in the existing spreadsheet for documenting and tracking purposes.

Daily Crime Log

The two recommendations in this area have been implemented; see details below.

15. Insert a definitions page at the top of the electronically available Daily Crime Log. For a sample, visit Baylor University's DCL site.

UTSA's Response: UTSA agrees that the inclusion of Clery Act Crime definitions in the Daily Crime Log enhances transparency and helps the public understand the meaning of the dispositions. The Clery Act website has a link to the [UTSA Daily Crime Log](#).

16. Ensure appropriate recording of ALL crime reported to University police and taking place in any of the Clery Act geographies regardless of how the University police learn of the crime, for example officers self-dispatching to assist other agencies.

UTSA's Response: UTSA agrees with this recommendation. The Clery Compliance Coordinator has provided training outlining expectations in documenting Clery geography and patrol jurisdiction in UTSA Police Department dispatch entries and incident reports, regardless of how the UTSA Police Department learns of the crime. In addition, all Computer Aided Dispatch (CAD) entries are reviewed by a member of the UTSA Public Safety Police Records Unit and a review of the CAD entries are a part of the Data Integrity Working Group responsibilities.

Timely Warnings and Emergency Notifications

The two recommendations in this area have been implemented; see details below.

17. Integrate the MHA provided Timely Warning Determination Form (Attachment 4) into the determination process. This form ensures the reviewer identifies which Clery Act crime is at hand, and what Clery Act geography the crime's location represents.

UTSA's Response: UTSA agrees with this recommendation and has included the Timely Warning Decision Matrix in HOP 4.33. Personnel authorized to send Timely Warnings have been trained to utilize the Timely Warning Matrix and to include applicable preventative advice in those warnings. The Timely Warning Decision Matrix has also been incorporated in the UTSA Police Department General Orders.

18. Ensure timely warnings include preventative advice. MHA is able to provide training and guidance on this issue.

UTSA's Response: UTSA agrees with this recommendation. HOP 4.33 states that Timely Warning Notifications must include preventative tips that are relevant to the crime associated with the Timely Warning. Training highlighting the Timely Warning Matrix has been provided to the UTSA Police Department. UTSA appreciates the offering of additional training and guidance on Timely Warning Notifications by Margolis Healy. UTSA believes that HOP 4.33 updates, the utilization of the Timely Warning Decision Matrix and related discussions should resolve past issues with Timely Warning Notifications and Emergency Notifications. No additional training and guidance is necessary at this time.

Annual Security Report

The ten recommendations in this area have been implemented in the 2020 Annual Security and Fire Safety Report. See details below.

19. In item 1, we noted the ASFSR did not provide a Title IX required notice of non-discrimination. The Citation is a hyperlink to the ED factsheet, although it is likely the University has already created a notice that meets or exceeds the requirements of the factsheet. We noted UTSA HOP 9.01 addressed discrimination but it is not likely the notice used in University publications, as it is very lengthy.

UTSA's Response: UTSA agrees with this recommendation and has added a Title IX Notice of Non-Discrimination to the 2020 Annual Security and Fire Safety Report.

20. In item 2, the publication we reviewed did not have a name as it was a draft, but the 2019 version is correctly named.

UTSA's Response: UTSA agrees with this recommendation and the 2020 Annual Security and Fire Safety Report now has a cover page with a name. An early draft of the report was sent to Margolis Healy before the final crime reconciliation was completed that did not include the cover page, table of contents, statistics or maps.

21. Items 38 and 39 fail to include that UTSA provides written documents to victims that identify the required resources.

UTSA's Response: UTSA agrees with this recommendation and the 2020 Annual Security and Fire Safety Report states that UTSA provides written documentation to victims that identify the required resources available to victims.

22. Item 45 is commonly missed completely or confused with similar disclosures required by the Violence Against Women Act amendments to the Clery Act. UTSA should simply provide a statement in the ASFSR providing for the right as the regulation describes it.

UTSA's Response: UTSA agrees with this recommendation and the 2020 Annual Security and Fire Safety Report statement on HEOA 493(a)(1)(A) has been enhanced by the addition of "If the alleged victim is deceased, the disposition of records is a matter of state laws regarding inheritance and the next of kin or estate of the deceased victim shall be treated as the alleged victim for purposes of this paragraph."

23. In items 100 and 104, UTSA's missing student notification process fails to include that it will notify the local police within 24 hours.

UTSA's Response: UTSA agrees with this recommendation. The 2020 Annual Security and Fire Safety Report includes a statement that local police will be notified in 24 hours as part of UTSA's missing student notification process. This notification is already included in Public Safety General Orders.

24. Item 112 requires the University to provide information on risk reduction in the ASFSR. While it mentions programming which addresses risk reduction, the ASFSR must include this information.

UTSA's Response: UTSA agrees with this recommendation and the 2020 Annual Security and Fire Safety Report Risk Reduction information in the Crime Prevention section has been enhanced.

25. Item 119 is a common gap and the University must provide a complete listing of sanctions it may impose for policy violations of sexual assault or VAWA crimes as defined by the Clery Act. The University's use of the permissive "may impose" suggests there are other sanctions available.

UTSA's Response: UTSA confirmed that all possible sanctions for students and employees are included in the 2020 Annual Security and Fire Safety Report. Additionally, all possible sanctions for employees are outlined in [Handbook of Operating Procedures 9.24 Sexual Harassment and Sexual Misconduct](#), which is also included in the 2020 ASFSR.

26. In item 123 UTSA does not describe training it provides to those who are involved in the conduct of investigations of policy violations of sexual assault or VAWA crimes as defined by the Clery Act. The annual training of those officials (investigators, Title IX coordinators, hearing panel members, and appeal review members) in those areas identified in the regulation must be included in the ASFSR.

UTSA's Response: UTSA agrees with this recommendation and the 2020 Annual Security and Fire Safety Report describes the [training](#) that employees receive who are involved in the conduct of investigations or hearings of policy violations of sexual assault or VAWA crimes as defined by the Clery Act.

27. The gap at 126 relates to the lack of "simultaneous" in the written notification.

UTSA's Response: UTSA agrees with this recommendation and has updated the 2020 Annual Security and Fire Safety Report to include information about all notification requirements, including simultaneous notification to both the accuser and the accused of any change in results and the final results. Additionally, the Department of Public Safety Executive Director of Strategic Initiatives has requested the Associate Dean of Students prepare a document covering simultaneous notification when a decision has changed by the person hearing the appeal.

28. In items 129 and 130, in addition to simultaneous written notification of the outcome of hearings for policy violations of sexual assault or VAWA crimes as defined by the Clery Act the same notice process is required for changes to the result and when the result becomes final (i.e. appeals)

UTSA's Response: UTSA agrees with this recommendation and has updated the 2020 Annual Security and Fire Safety Report to include information about all notification requirements, including simultaneous notification to both the accuser and the accused of any change in results and the final results. Additionally, the Department of Public Safety Executive Director of Strategic Initiatives has requested the Associate Dean of Students prepare a document covering simultaneous notification when a decision has changed by the person hearing the appeal.