October 5, 2020

U.S. Department of Education
Office of Inspector General
400 Maryland Avenue, S.W.
Washington, DC 20202-1510

Via EMAIL

Re: Response to the Office of Inspector General University of Texas at San Antonio's Controls Over Reporting Clery Act Crime Statistics Draft Report (Dated August 19, 2020, *ED-OIG/A09T0008*)

Dear Inspector Frazier and Director Nekrasz,

I am writing in response to the August 19, 2020 draft audit Report, "University of Texas at San Antonio's Controls Over Reporting Clery Act Crime Statistics (the "draft Report")."

Let me start by affirming our commitment to addressing the findings and recommendations outlined in the report. In keeping with the University of Texas at San Antonio's (UTSA or the University) commitment to the safety and security of our students, faculty, staff, and visitors to campus, we have sought, at all times, to implement the Clery Act consistently and in alignment with our collective understanding of its requirements.

I appreciate the time the U.S. Department of Education Office of Inspector General (OIG or the Office) has taken to evaluate UTSA's processes for collecting, analyzing, and reporting Clery Act crime statistics. We acknowledge and accept the OIG's position that the University's "processes were not effectively designed or consistently performed during the audit period,"[1] and have embraced this review as an opportunity to further enhance our Clery Act compliance program.

As noted throughout this Response, we have, and will continue, to invest in a series of coordinated actions to build a model Clery Act compliance program.

---

[1] See University of Texas at San Antonio's Controls Over Reporting Clery Act Crime Statistics draft Report, page 2.

I appreciate the Office's recognition of our recent efforts to "begin improving its Clery Act crime reporting processes in part by identifying properties that it owned or leased, developing Clery Act geography maps, and enhancing its tracking and review of Clery Act crime statistics."[2]

As a result of this review and the efforts of numerous individuals in our campus community, our approach to collecting crime statistics has improved markedly in the last three years through a robust structure to identify, notify, and certify training for our Campus Security Authorities (CSAs).

Moreover, we plan to implement additional enhancements, including training additional qualified staff, developing and/or revising our policies and procedures, and establishing a Clery Act data integrity working group that will report directly to our newly formed Clery Compliance Committee. Not only do these efforts indicate our responsiveness to the findings and recommendations in this Report, they reflect our commitment to meet and exceed the requirements of the Clery Act. We summarize these initiatives in the Overview section of this Response.

As noted in the draft Report, the Office found that UTSA did not have effective processes to:

1. Identify critical information sources for Clery Act reporting;

2. Collect, record, and track the information;

3. Analyze, report, and document the crime statistics; or,

4. Provide management oversight and quality assurance over the Clery Act crime reporting process during the audit period.

Several factors contributed to these gaps in our Clery Act crime reporting processes. The two most significant factors were the lack of internal expertise in certain aspects of Clery Act compliance, and frequent turnover in departments charged with Clery Act compliance.

We have, and will, continue to address these pressing issues by providing training across the institution and building depth within the appropriate stakeholder offices. We have also retained Margolis Healy and Associates, LLC (Margolis Healy), a national consulting practice with vast Clery Act expertise, to assist with our ongoing efforts analyzing the UTSA's 2015 Campus Safety and Security Data Analysis Cutting Tool (CSSDACT) submission, as well as conducting a comprehensive review of records for calendar years 2016 – 2018.

---

[2] See University of Texas at San Antonio's Controls Over Reporting Clery Act Crime Statistics draft Report, pages 2 - 3.

## OVERVIEW

We have undertaken significant efforts to improve our Clery Act compliance program, with a particular focus on the processes for collecting, classifying, and counting Clery Act crimes.

**1. Initial and Ongoing Efforts to Enhance the Clery Act Compliance Program**

Before the OIG initiated this review in late 2019, the University had recognized gaps in our processes for collecting, classifying, and counting Clery Act crime statistics. Shortly after we hired Associate Vice President of Public Safety and Chief of University Police, Gerald Lewis (Chief Lewis), in August 2016, he quickly identified opportunities for improvement in the processes and protocols in both our Clery Act and Title IX programs.

Towards that end, during the University's 2016 comprehensive enterprise risk management audit, we identified "Campus Safety and Security" as a risk that required attention. Specifically, the Enterprise Risk Assessment identified "Failure to Comply with Clery Act Requirements" as a high-risk category. This assessment highlighted the need for training, and the University quickly acted on this recommendation. Processes were put into place to ensure the Clery Compliance Coordinator and others charged with Clery Act compliance responsibilities received initial training and periodic refresher trainings through annual conferences and webinars.

In September 2017, when I arrived at UTSA, I placed Clery Act/Title IX on the top of my priority list. I regularly communicate my direction and vision to the offices charged with compliance and with the University community as a whole. UTSA's [Safe Campus website](#) was developed to provide the UTSA community with clarity and awareness regarding the processes UTSA has in place to prevent and report sexual violence and misconduct. The website includes a step-by-step guide for reporting sexual violence or harassment, resources available to students in need, and educational resources for faculty and staff, and links to our [Clery Compliance page](#). In addition, the Safe Campus website includes links to reports mentioned throughout this report.

While we still have more work to do, we have been diligent in our efforts to ensure the proper resources, personnel, and information processing platforms are in place. I'd like to highlight the significant progress we have made through these recent efforts.

*(a)* ***Developing a Campus Security Authority Program***

Chief Lewis, as noted in your draft Report, recognized the opportunities to update the policies and infrastructure for the University's CSA program. In March 2017, Chief Lewis distributed a memo[3] (attached at Exhibit 1) to members of the President's Cabinet, highlighting the importance of CSA identification and soliciting support with updating the CSA list. In June 2017, Chief Lewis followed up his initial letter to Cabinet members by emailing all identified CSAs, informing them that the University has formally designated them as CSAs, and asking them to take the online CSA training program (attached at Exhibit 2).[4] By mid-2017, the University had identified over 800 CSAs and trained 553, all while implementing a process to maintain a continuously updated list of CSAs and provide them with ongoing training. The brief turnaround between the March and June 2017 memos highlight the fact that the University fully supported the efforts to improve our CSA processes and associated infrastructure. By the end of 2018, UTSA had trained 642 CSAs, and by the time of the OIG Audit, all identified CSAs had completed their training.

We believe it is important to note that our CSA list and training efforts are not static. As noted in the Handbook for Campus Safety and Security Reporting (2016 Edition) (the Handbook), page 4-5, "Institutions are advised to reevaluate the CSA status of all employees (including student employees) on at least an annual basis and document the rationale of the determinations."[5] While UTSA engages in this reevaluation process on a regular basis, we are continually hiring new staff, changing roles, and expanding programs. This can create gaps between the time someone is hired or changes roles, notification of their designation as a CSA, *and* the requisite training. Given this reality, there is rarely a point in time where the University is 100% up-to-date with to identifying, notifying, and training all our CSAs. We continue to explore ways to automate this process and provide near real-time training.

Chief Lewis also recognized the need for an experienced subject matter expert to manage the University's Clery Act program. In late 2016, Ms. Annette Parker was hired as the Executive Director of Strategic Initiatives within UTSA Public Safety. Ms. Parker joined the University in January 2017 and immediately undertook efforts to improve policies and practices in the Clery Act area.

---

[3] See Exhibit 1 [March 14, 2017 CSA memo]
[4] See Exhibit 2 [June 5, 2017 CSA memo]
[5] See the Handbook for Campus Safety and Security Reporting – 2016 Edition, page 4.5.

*(b)* **Improving CSA Reporting**

The University utilized a PDF CSA Reporting Form that was available on the UTSA Public Safety website for CSAs to submit information on Clery Act reportable crimes. There was a submit button on the bottom of the form that routed the CSA reports to UTSA Public Safety. The University updated the form when it determined that the "SUBMIT" button no longer worked. In spite of the issues with this form, the University had established checks and balances by requiring CSAs to also email the form to the Clery Compliance Coordinator. In tandem with the University's full implementation of Maxient (see 2A below), we launched an embedded CSA Reporting Form in March 2019. In addition, in an effort to increase awareness and access to UTSA Clery Act information, a link to the Clery Act Information web page was added to the global footer of UTSA's website.

*(c)* **Data Management**

The University invested in improvements in UTSA Public Safety by upgrading its Computer Aided Dispatch and integrated Records Management System. In 2016, UTSA Public Safety was using a product named Report Exec (now, Omnigo), but elected to switch to a new system that resolved concerns over support for data management challenges and provided a more robust integration of the National Incident Based Report System (NIBRS) required by the State of Texas. As of December 2019, UTSA Public Safety had fully implemented ARMS as its records management system. ARMS provides UTSA with administrative functions that enhance Clery Act compliance; including pin mapping of crime locations to provide officials with the ability to identify the precise Clery Act geography of a crime . We are confident this system will improve our internal controls.

Since 2016, the University has initiated other programmatic changes to bring our program in line with best and promising practices in Clery Act compliance. These include:

*(d)* **Supporting the Clery Compliance Coordinator**

Chief Lewis recognized the need to reassign responsibilities for Clery Act compliance from the Assistant Chief to a Clery Compliance Coordinator. Accordingly, in December of 2016, the University reclassified an administrative analyst position to Clery Compliance Coordinator. The Clery Compliance Coordinator received training from a nationally recognized Clery Act trainer. Unfortunately, the incumbent left the university in late July 2018. The Executive Director of Strategic Initiatives assumed Clery Act compliance responsibilities until the university filled the position in October 2018.

The current Clery Compliance Coordinator has received extensive training, including  The Clery Center Online CATS Training and D. Stafford and Associates Clery Act Compliance Training Academy. In addition,   the Coordinator attended the NACCOP Conference in July 2019 and the Comprehensive Clery Act Training Seminar   in March 2020. The Clery Compliance Coordinator, working with the Executive Director of Strategic Initiatives, is responsible for our Clery Compliance Committee.

*(e)*  ***Clery Compliance Committee***

In January of 2020, the University formally established its Clery Compliance Committee, with representatives from Business Affairs (Administration and Operations, Human Resources, Public Safety, Risk and Emergency Management); Student Affairs (Dean of Students, Student Activities, Student Conduct and Community Standards, Student Health, Residence Life); Academic Affairs (International/Study Abroad Services,  Enrollment Services); Inclusive Excellence (PEACE Center); President's Office (Institutional Compliance and Risk Services, Auditing and Consulting Services, Legal Affairs); and Athletics.

Prior to the formation of the committee, the Clery Compliance Coordinator attended weekly meetings with Student Conduct and Community Standards to discuss daily enforcement activities.  This group continues to meet on a weekly basis to ensure all members are mutually informed of enforcement activities. The group discusses cases and assigns follow up to appropriate members. This can include counselling, advocacy, judicial action and other services. The Executive Director of Strategic Initiatives also began attending these meeting once she started in her role. Participants in these meetings includes representatives from Public Safety, Student Conduct and Community Standards, EOS/Title IX, Counseling, PEACE Center, Behavioral Intervention, Residence Life, and Campus Living Villages.

*(f)*  ***Daily Crime Log***

UTSA Public Safety has had a policy governing the production of the daily crime log dating back to 2013 (please see at Exhibit 5). In 2016, UTSA Public Safety revised the daily crime log and separated it by campus (Main and Downtown).

Beginning in 2017, as part of the University's comprehensive actions to enhance compliance with the Clery Act, UTSA Public Safety began adding CSA reports to the daily crime log via the Report Exec records management system. However, we encountered several challenges with some of the information, necessitating a manual review. Because of this, and other concerns about Report Exec noted earlier in this response, UTSA Public Safety transitioned to the ARMS records management system in December 2019. ARMS includes an automated daily crime log.

UTSA's daily crime logs have always been based on Texas Penal Code to ensure they mirror reports written. The new software allowed us to match Texas Penal Code to Clery Act crimes based on UCR crime codes, thus aiding in capturing Clery Act crimes for annual disclosure.

UTSA Public Safety is currently revising General Order 300-10 "Campus Safety and Security" to better document policies and procedures for maintaining the daily crime log in alignment with the requirements in the Handbook. The current policy requires that, for every incident, the daily crime log shall state (1) the nature of the crime, (2) the date the crime was reported, (3) the date and time the crime occurred, (4) the general location of the crime, and (5) the disposition of the complaint, if known., The policy also requires that new entries or any changes be recorded within two business days of reporting to UTSA Public Safety. The policy describes the limited situations when UTSA Public Safety may temporarily omit information for the log and requires the department to document the reason for any exclusion.

The revised General Order 300-10 will create checks and balances by requiring the Clery Compliance Coordinator, the Executive Director of Strategic Initiatives, or other appropriately trained UTSA official to review and approve all incidents for inclusion in the logs, including the types of reported incidents highlighted in the draft Report, such as reports from CSAs and those from local law enforcement agencies.

## 2. Title IX Program Office and Alignment with Clery Act Goals

While we recognize that the OIG Audit did not specifically address the University's Title IX program, the university has likewise embraced the need for respectful, unbiased, and transparent policies and practices for  preventing and responding to incidents of sexual and gender-based harassment, including sexual violence.

We understand that the Clery Act requires the university to publish information about its policies and procedures regarding what is generally referred to as "VAWA" crimes[6]. Furthermore, we acknowledge that accurate and timely information about sexual and gender-based violence incidents – in annual statistical disclosures, timely warnings, emergency notifications, and in some cases, information in our daily crime logs--empowers our community. The following summarizes our recent actions with respect to our Title IX program as it intersects with our Clery Act responsibilities.

In December 2018, UTSA selected a new EOS Director & Title IX Coordinator. The Director came to UTSA with experience as a Title IX Coordinator and Compliance Officer at another higher education institution, having worked with her former institution's campus safety department on Clery Act compliance and the Annual Security Report.

---

[6] The Violence Against Women Reauthorization Act ("VAWA Amendments") in 2013 amended the Clery Act, and required an update to the Handbook for Campus Safety and Security Reporting. Please see
https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act

Our EOS Director & Title IX Coordinator has received Title IX training through the NACUA[7] Title IX Coordinator Course, and Clery Act training through the Clery Center. The Director has enhanced the office's case tracking database to include tracking of Clery Act crimes. Once more, she ensures staff receive training and utilize an internal process outline to verify the intricate steps of each case meet Federal and State regulations and Clery Act reporting requirements.

The EOS/Title IX Office works with various offices around campus to ensure the University meets Title IX and the Clery Act requirements. This includes ongoing communication with key officials in UTSA Public Safety, Dean of Student's Office, and others. The Director receives daily shift reports from the UTSA PD and is a member of the Behavioral Intervention Team (BIT). Additionally, a member of the EOS/Title IX Office attends the weekly Student Conduct meeting. The EOS/Title IX Office submits a weekly summary report of cases to the President, Provost, Chief Legal Officer, Dean of Students, and Chief of Staff. Quarterly, the EOS/Title IX Office submits a summary report of cases to the President, Chief Legal Officer, Chief of Staff and Executive Director of Institutional Compliance and Risk Services.

In 2019, the EOS/Title IX Office issued UTSA's first Title IX Annual report[8] to increase approachability and transparency. The overall goal of the EOS/Title IX Office is to offer all constituents with a fair, impartial and safe experience.

*(a)* ***External Reviews***

To ensure our Title IX program was exceeding requirements and to compare our program with best and promising practices, the University retained Baker Tilly Virchow Krause, LLP (BakerTilly) in 2018 to "perform a comprehensive review of the University's Title IX policies and process, as well as any proposed revisions, for investigating and resolving all Title IX complaints, including the sanctioning process for faculty, staff, and students." The BakerTilly report noted "several opportunities to strengthen the processes and infrastructure related to Title IX compliance at UTSA."[9]

BakerTilly recommended the University procure a dedicated software case management system to improve tracking and documentation of Title IX complaints. In response to this recommendation, UTSA purchased the Maxient records management system and fully implemented the system in 2019, just before the OIG Audit.

---

[7] National Association of College and University Attorneys and https://www.nacua.org/program-events/online-courses/title-ix-coordinator-training/home
[8] https://www.utsa.edu/eos/PRES08_TitleIXandEOS-report.pdf

[9] See Baker Tilly Report.

Not only is Maxient enhancing our record keeping for Title IX related cases (many of which comprise Clery Act reportable incidents), it also leads to improvements in Clery Act crime statistical management, especially as it relates to data collected in Student Conduct and Residential Life. Using Maxient, we are working to create a seamless flow and transfer of data to support Clery Act statistical reporting systems.

Finally, BakerTilly recommended the University implement a series of "automated controls"[10] to ensure proper coordination between the UTSA Public Safety and the Title IX Coordinator. The University likewise implemented these recommendations to improve complainant and respondent support, enhance internal coordination, and, as an organic outcome, increase the accuracy of our record keeping.

In late 2018, the University engaged Ice Miller to conduct an inquiry into concerns raised about the University's handling of certain complaints regarding sexual and gender-based violence. UTSA retained Ice Miller to "conduct a factual investigation to better understand directly from the individuals involved the incidents, experiences, and details that underlie their clear passion and desire to improve the UTSA culture."[11] Ultimately Ice Miller was unable to "ascertain any specific details from the individuals who participated in the November 2018 events that gave rise to this investigation."[12] Nevertheless, we used this incident as an opportunity to elevate our work in this area. In 2018, UTSA joined the third cohort of the nationally recognized *Cultures of Respect: Ending Campus Sexual Violence* initiative. UTSA leaders completed a campus self-assessment to identify policy revisions, implement bystander intervention enhancements, and create campus-wide "partnerships that address sexual violence, raise awareness of these issues, and encourage and support sexual assault survivors in speaking out about their experiences."[13]

Finally, and as we have highlighted earlier in this response, the University retained Margolis Healy, one of the nation's leading professional services firms specializing in campus safety, security, and regulatory compliance for higher education, in August 2020. Margolis Healy is assisting with a suite of Clery Act services, including conducting the data audit required by the draft Report, and recommending additional changes to our processes and procedures to meet and exceed the requirements of the Clery Act. In particular, Margolis Healy is working with the University to develop an overarching Clery Act Compliance Policy and is specifically recommending process enhancements to address Clery Act crime statistics data integrity. In the near term, we anticipate establishing a process for monthly data reconciliation, an initiative that the Data Integrity sub-committee will manage.

---

[10] EOS/Title IX runs the Clery Crosscheck report through Maxient that checks EOS/Title IX cases to determine if they fall under a charge in the system that may be classified as a Clery crime.

[11] See Ice Miller Report of Investigation.

[12] See Ice Miller Report of Investigation.

[13] Ditto, page 12.

*(b)* ***EOS/Title IX Office and Athletics***

The EOS/Title IX Office works closely with Athletics to ensure Title IX compliance and reporting of sexual harassment and sexual misconduct, including incidents that may be Clery Act crimes.

In September of 2019, UTSA created a groundbreaking partnership to strengthen its zero-tolerance policy for its campus community in regards to sexual misconduct. UTSA worked with Brenda Tracy, a sexual assault survivor, public speaker and founder of the national campaign and nonprofit, *#SetTheExpectation* to establish the Tracy Rule.[14] UTSA was the first university in the nation to implement the Tracy Rule, the most comprehensive Serious Misconduct rule in the NCAA attaching student-athlete eligibility to behavior.

The rule ensures the following:

*A current or prospective student-athlete who has been convicted of, pleaded guilty or no contest to a felony or misdemeanor involving Serious Misconduct, has been found a delinquent in relationship to a juvenile code equivalent, or has been disciplined by the university or athletic department at any time during enrollment at any collegiate institution (excluding temporary disciplinary action during an investigation) due to Serious Misconduct shall not be eligible for athletically related financial aid, practice or competition at The University of Texas at San Antonio.*

During the initiative's kick-off in the fall of 2019, every new student-athlete signed the Tracy Rule pledge. That practice will continue to be the case for every new student-athlete joining UTSA's program moving forward. Additionally, the EOS/Title IX office set up information stations at *#SetTheExpectation* basketball and football games to help raise awareness regarding the importance of reporting and addressing sexual misconduct on campus.

The Title IX Coordinator serves on the Athletic Council and the Athletic Conduct committee, working closely with the Athletic Department to train employees on reporting and their responsibility as employees. Additionally, the Title IX Coordinator, in conjunction with Athletic Compliance, ensures UTSA staff and students involved in Athletics take annual training about sexual harassment and sexual misconduct. The Title IX Coordinator certifies to the NCAA that all student-athletes and Athletics staff take the training and that there is 100% compliance.

---

[14] https://www.utsa.edu/eos/documents/title-ix-cares.pdfhttps://www.utsa.edu/today/2019/09/story/BrendyTracyRule.html#:~:text=The%20UTSA%20Tracy%20Rule%2C%20effective,The%20rule%20ensures%20that%3A&text=%E2%80%9CSexual%20assault%20and%20misconduct%20are,Vice%20President%20for%20Intercollegiate%20Athletics

**3. Data Audit to Ensure Accurate Crime Statistics**

In order to effectively respond to this draft Report, the University retained Margolis Healy to provide, in addition to other services, a Clery Act data analysis for 2015 and a full Clery Act data audit for the years 2016 to 2018. To complete this task, the auditors are reviewing every police report, every Title IX file, and every student conduct file, including residential life incident reports, and have identified and examined other offices and locations that hold relevant Clery Act records for the responsive years.

As I am sure you understand, this is an enormous undertaking, covering approximately 3,257 police reports, 184,935 UTSA PD computer-aided dispatch entries, 3,393 conduct records, 1,091 Title IX files, and 99 other files from various sources. During this process, we have taken advantage of Margolis Healy expertise by dedicating over 20 UTSA employees to assist with the data audit. This experiential learning opportunity provides the University with internal expertise on maintaining data integrity following the conclusion of this audit.

This data audit has included a thorough review of the following records:

- **All UTSA Public Safety case files from 2016 – 2017**: Margolis Healy is conducting a hands-on review of each Police Report generated by UTSA Public Safety during the specified period of review. For 2015, they analyzed the statistics reported to the CSSDACT, and are verifying their accuracy. Where auditors discovered, to a reasonable degree of professional certainty, a misclassification, this determination is noted in the data audit database. Once the auditors have completed their review of the applicable files, this information will be reconciled with the statistics that were previously disclosed to the U.S. Department of Education and the campus community, and those reviewed by OIG. This portion of the data audit will be complete on October 11, 2020. The auditors will begin the reconciliation phase of the audit the week of October 12, 2020. We are confident that the full audit will be completed in time for the University to accurately disclose and/or update its Clery Act crime statistics in the 2020 combined Annual Security and Fire Safety Report, which will be published by no later than December 31, 2020.

- **All Equal Opportunity Services and Title IX (EOS) case files from 2016 – 2018**: similar to the process outlined above, the auditors are in the process of reviewing all case files related to incidents that were reported to the University's EOS/Title IX Office. For 2015, the team reviewed submitted data to determine accuracy. This portion of the data audit is 100% complete as of October 1, 2020. As noted in the above section, we are confident that the full audit and reconciliation will be completed in time for the University to accurately disclose and update its Clery Act crime statistics in the 2020 combined ASR/AFSR, which will be published before December 31, 2020.

- **All Student Conduct and Community Standards records from 2016-2018**: identical to the process outlined above, the audit includes an in-depth review of each record generated by Student Conduct and Community Standards. For 2015, the team reviewed submitted data to determine its accuracy. This review is underway and will be completed in time for the University to accurately disclose and update its Clery Act crime statistics in the 2020 combined ASR/AFSR, which will be published by December 31, 2020.

- **Additional Review of Incidents Initially Reported to Other Offices:** In addition to the audit components noted above, the team met with representatives from Human Resources and Athletics to determine if those offices maintain files related to reported incidents. Margolis Healy determined that all incidents that were reported to Human Resources and Athletics were subsequently reported to one of the offices noted above.

I am certain the OIG can appreciate the significant time and resources UTSA is investing to conduct this comprehensive audit, implement each of the OIG's recommendations, and enact other policies and procedures to reflect best practices and evolving guidance. We recognize this work as vital to our efforts to continually enhance our processes and exceed the requirements put forth by the Clery Act.

## RESPONSE TO FINDINGS & RECOMMENDATIONS

We want to again emphasize that UTSA has, at all times, endeavored to collect and accurately report crime statistics, maintain a daily crime log consistent with Department guidance, and accurately disclose its campus safety and security policies. Nevertheless, we recognize that our Clery Act reporting was not perfect. We appreciate the OIG's constructive dialogue, and will continue to take significant measures to correct and address errors. I am personally committed to implementing processes, increasing staffing, as needed, and requiring additional education and training to improve compliance going forward.

As required by the Cover Letter, dated August 19, 2020, please find below our written responses to each finding and recommendation in the draft Report.

I. **Finding.** San Antonio Did Not Have Effective Controls to Ensure that it Reported Complete and Accurate Clery Act Crime Statistics

**Response**: We *generally agree* with this finding and acknowledge that to properly respond to the demands of Clery Act compliance, more staffing, coordination, and training over the course of 2015 - 2017 could have minimized opportunities for errors in our reporting. Since 2016, as noted in the Overview section above, we have invested in additional staff, including the hiring of the Executive Director of Strategic Initiatives, the promotion of a Clery Compliance Coordinator.

Additionally, we have facilitated more robust and regular training, and purchased software systems that leverage the power of technology to eliminate manual controls. The University is also in the process of a comprehensive review of and revisions to its policies and procedures to closely follow all available guidance from the Department and to ensure collaboration and cooperation across campus offices.

I wish to underscore that we have worked to steadily improve the accuracy of our Clery Act crime statistics, and build significant capacity in many offices that are responsible for collecting, classifying, and counting Clery Act data. For example, prior to 2017, UTSA Public Safety, which had primary responsibility for reconciling data from supporting offices, did not have a process for ensuring data integrity and providing the requisite managerial oversight and quality assurance to ensure accuracy in the University's disclosed statistics. UTSA's new processes, currently in development, will involve a Clery Compliance Committee, a data integrity working group, and a network of highly trained Clery liaisons in the appropriate departments. It is our intent that these programmatic adjustments, including a rigorous process of monthly data reconciliation, will rectify identified shortcomings.

As noted elsewhere in the report, UTSA has also undertaken a comprehensive audit of its crime statistics, as required by the draft Report, and plans to identify and correct any errors in its crime statistics for calendar years 2015 to 2017.

a. **Finding**: Reported Statistics Were Not Complete and Accurate

The OIG noted that it "…reviewed crime incident records and other documentation supporting the crime statistics that San Antonio reported for calendar years 2015–2017 and found errors in the completeness and accuracy of the reported crime statistics."[15]

The draft Report also noted "…55 criminal incidents that San Antonio should have reported but did not. San Antonio reported 119 criminal incidents at its campuses during the audit period. However, San Antonio should have reported at least 173 criminal incidents (119 incidents that San Antonio reported, less 1 incident it reported in error, plus 55 additional incidents that we identified)."[16]

**Response**: While we again agree that UTSA failed to disclose complete data due to challenges in compiling, reconciling and disclosing crime statistics, we believe the steps outlined in this Response will resolve this area of non-compliance. With respect to the 55 incidents noted in the draft Report, below we highlight the results of our ongoing independent review, which differs significantly from OIG's determinations in several of the disputed incidents.

---

[15] See draft Report, page 10.
[16] Ditto

The examination included a review of all the documents related to each matter.  Please find the determinations in the following table.[17]

**Disputed Determinations**

| Crime Type | # of Disputes | Reference # | % of 55 OIG Records in Dispute |
|---|---|---|---|
| Stalking | 15 | C-4, C-12, C-14, C-15, C-20, C-28, C-31, C-33, C-41, C-49, C-52, C-57, C-70, I-20, I-31 | 27.2% |
| Dating Violence | 5 | C-34, C-46, C-47, C-52, C-71 | 9% |
| Fondling | 4 | C-44, C-45, C-58, C-76 | 7.2% |
| Sexual Assault | 1 | C-77 | 1.8% |
| Total | 25 | | 45.2% |

We disagree with the OIG's findings in the following incidents (limited to the 55 OIG cases previously described):

1. C-4 where it is our opinion that the report does not describe the elements of stalking, as it does not include fear or substantial emotional distress;

2. C-12 where it is our opinion that the report does not describe the elements of stalking; geography is not clear; and there is lack of "course of conduct";

3. C-14 where it is our opinion that the report does not describe the elements of stalking;

4. C-15 where it is our opinion that the report does not describe the elements of stalking;

5. C-20 where it is our opinion that the report does not describe the elements of stalking;

6. C-28 where it is our opinion that the report does not describe the elements of stalking; no course of conduct; however, err on the side of counting;

---

[17] The independent reviewer applied the standards and definitions contained in the Handbook, Chapter 3, cross-referenced with the UCR, NIBRS, and the VAWA Amendments.

7. C-31 where it is our opinion that the report does not describe the elements of stalking;

8. C-33 where it is our opinion that the report does not describe the elements of stalking with a lack of "course of conduct";

9. C-34 where it is our opinion that the report does not describe the elements of dating violence;

10. C-41 where it is our opinion that the report does not describe the elements of stalking;

11. C-44 where it is our opinion that the number of fondling incidents in the report is 1, not 2.

12. C-45 where it is our opinion that the number of fondling incidents in the report is 1 not 2.

13. C-46 where it is our opinion that the report does not describe the elements of dating violence;

14. C-47 where it is our opinion that the report does not describe the elements of dating violence;

15. C-49 where it is our opinion that the report does not describe the elements of stalking;

16. C-52 where it is our opinion that the report does not describe the elements of dating violence;

17. C-55 where it is our opinion that the report does not describe the elements of stalking;

18. C-57 where it is our opinion that the report does not describe the elements of stalking;

19. C-58 where it is our opinion that the report does not describe the elements of fondling;

20. C-70 where it is our opinion that the report does not describe the elements of stalking, and lacks course of conduct;

21. C-71 where it is our opinion that the report does not describe the elements of dating violence;

22. C-76 where it is our opinion that the report does not describe the elements of fondling;

23. C-77 where it is our opinion that the report does not describe Clery Act geography; "(does not live at Chilsom)" suggesting confusion over geography. Unable to determine where victim lives;

24. I-20 where it is our opinion that the report does not describe the elements of stalking;

25. I-31 where it is our opinion that the report does not describe the elements of stalking.

Please find an attached table at Exhibit 3. In this table, we classified each file strictly based on the documents in the associated file. There were likely duplicates in files, necessitating further analysis during the data audit reconciliation step.

b. **Finding**: Weaknesses in Internal Control Over Reporting of Clery Act Crime Statistics

The OIG determined that "San Antonio had not designed and implemented internal controls necessary to provide reasonable assurance that its reported crime statistics would be complete and accurate. Further, we found that San Antonio's processes for reporting Clery Act crime statistics did not follow all applicable requirements and guidance in the Department's Clery Act Handbook which, if followed, would help support the completeness and accuracy of the reported crime statistics."[18]

**Response**: We agree with this finding. Specifically, we concur that during the early years of the Review Period—from 2015 to 2017—UTSA lacked the administrative capability and resources to comply satisfactorily with the Clery Act. However, beginning in 2016, concurrent with the arrival of Chief Lewis, the University recognized these shortcomings and began to take a proactive, good faith effort to improve processes. Over the course of 2016 - 2017, we significantly enhanced our CSA program, going from 40 identified CSA to over 800 trained CSAs. Again, we note that CSA identification and training is not a static activity, as we are constantly adding new staff and changing roles for others.

The University has developed a CSA training guide and enhanced the CSA reporting infrastructure by deploying a new CSA reporting form, and offered training both in-person and on-line. We are currently reviewing early recommendations from Margolis Healy, which include a dedicated Clery Compliance Coordinator position. We are also reviewing organizational structure so the position reports to appropriate UTSA officials who have responsibility for Clery Act compliance. In the very near future, UTSA senior administrators will receive a comprehensive Clery Act orientation that will clearly articulate the roles and responsibilities across the institution, emphasizing collective ownership and responsibility for our institutional compliance with the Clery Act.

Our ongoing efforts will also include a more robust and formalized Clery Compliance Committee with special attention on data integrity and a coordinated system of check

---

[18] See draft Report, page 13.

and balances. Please see Exhibit 4 for a full list of the Clery Compliance Committee members as of January 2020.

- **Supporting Observations**

    **1. Identifying Information Sources**

    The OIG identified three overlapping concerns with the University's ability to identify "all relevant information sources to use when preparing its annual Clery Act crime statistics."

    - Identifying CSAs;

    - Communicating CSA Roles and Responsibilities; and,

    - Identifying Other Sources of Information.

    **Response**: The University agrees that during a portion of the time leading up to the OIG Audit, UTSA did not satisfactorily identify CSAs and train these CSAs regarding their Clery reporting responsibilities.  As noted in the draft Report, the University: "did not maintain records of when the CSA listing was last updated…" and "did not have effective processes to communicate CSA roles and responsibilities…"[19] As noted in the draft Report, by the end of 2017, the University had identified 845 CSAs; however, the "late timing of the update" precluded these officials from significantly contributing to the data collection process. We believe we have sufficiently highlighted the initiatives underway to address this deficiency, including adopting the best practices of denoting CSA responsibilities in our Human Resource personnel management system.

    With respect to identifying "Other Sources of Information," we are confident that our newly formed Clery Compliance Committee, combined with the appointment of a dedicated, fulltime Clery Compliance Coordinator, will resolve this issue. The breadth and collective experience of these individuals will ensure UTSA is casting the widest possible net to guarantee we are including all applicable local law enforcement agencies in our canvas, for all identified Clery Act buildings and properties, regardless of where these facilities are located.

---

[19] See draft Report, page 14.

## 2. Collecting, Recording, and Tracking Information

The OIG identified two overlapping concerns with the University processes to collect, record, and track reported allegations of crimes that should have been including in its Clery Act crime statistics. These are:

- Collecting Crime Reports from CSAs

- Recording and Tracking Crime Incidents

Specifically, the OIG noted that UTSA "did not design and implement effective processes to collect, record, and track reported allegations of crime that should have been included in its Clery Act crime statistics."

**Response**: We agree that during a portion of the period leading up to the OIG Audit, UTSA did not satisfactorily collect, record, and track reports from CSAs that were likely Clery reportable.

Although there is more work to do, we believe that the actions regarding our enhanced CSA program, which began in earnest in 2017, have allowed to make significant progress toward addressing some of the issues that led to this observation.

## 3. Analyzing, Reporting, and Documenting Crime Statistics

The OIG stated that "San Antonio did not have effective controls over its processes for analyzing crime information to identify and compile the annual Clery Act crime statistics."[20] The OIG offered two supporting observations:

- Analyzing Information and Compiling Reportable Crime Statistics

- Retaining Supporting Documentation for Reported Crime Statistics

**Response**: We agree that we relied on manual, and in some cases antiquated processes for analyzing information for our annual crime statistics disclosure. We attribute this deficient process to a lack of knowledge of Clery Act processes, a challenge we are addressing through our additional investments. As noted in the draft Report, these manual processes increased the risk of significant omissions. We are addressing this gap through a multi-pronged approach that begins with the creation of a dedicated Clery Compliance Coordinator position. We are committed to hiring a highly experienced and skilled administrator for this position, and ensuring the position resides within the appropriate office.

---

[20] See draft Report, page 22

Key to these efforts are robust and ongoing training, investments in appropriate infrastructure, and a formalized committee with reporting obligations and vice president level direct oversight.

### 4. Management Oversight and Quality Assurance

The draft Report states that UTSA "did not have effective internal controls for management oversight and quality assurance over its Clery Act crime reporting process."[21] OIG highlighted the following areas as contributing to the lack of effective internal controls:

- Written Policies and Procedures

- Review Processes for the Crime Statistics

- Monitoring

- Preventable Errors in the Crime Statistics

**Response**: We agree that we failed to provide the oversight and quality assurance necessary to comply with the complex realities of the Clery Act. I again with to emphasize that at all times, we sought to implement the Department's regulations in good faith. As noted throughout this response, we are continuing to implement significant steps to ensure our program is: (1) defined by an adequate system of internal controls that has appropriate checks and balances; (2) administered on a daily basis by a more-than-adequate number of qualified individuals; and (3) overseen and governed by several members of senior management, including employees responsible for campus safety, student and employee conduct, and the delivery of other safety- and security-related services.

Specifically, we are embracing OIG's recommendations regarding ongoing compliance activities by implementing the following:[22]

1. Verifying that UTSA has correctly identified its Clery Act geography;

    **ACTIONS:**

    The Assistant Vice President of Business Affairs for Administration and Operations maintains and updates the UTSA Campus Land and Lease Records. She notifies the Clery Compliance Coordinator of any revisions to the list and periodically confirms when no changes have occurred. We are including this responsibility in our new Clery Act Compliance Policy.

---

[21] Please see draft Report, page 23.
[22] Please see draft Report, page 24, items 1 – 6.

2. Verifying that the University has requested crime statistics from local law enforcement agencies with jurisdiction over institutional Clery Act geography and identified any reportable crimes in the statistics it received;

   **ACTIONS:**

   The Clery Compliance Coordinator sends requests annually for Clery Act crime statistics that have occurred within the UTSA Clery Act geography. The latest version of the UTSA Land and Lease Records are used to compile a list of agencies with jurisdiction in these locations, to include local police, sheriff or other law enforcement for a particular location. In addition, the Clery Compliance Coordinator tracks all UTSA sponsored short stay-away trips taken by students and employees. We then send a letter to the local law enforcement agency to request statistics for the specific dates of the trip. The Clery Compliance Coordinator makes a good faith effort by following up with these agencies on any outstanding requests.

3. Confirming that our CSA listing is complete and current and that CSAs are notified and trained;

   **ACTIONS**:

   We have previously addressed the initiatives UTSA has underway to continue building a robust CSA program.

4. Reviewing supporting crime records to confirm accurate reporting of the specific crime incidents included in the crime statistics;

   **ACTIONS**:

   We have previously described our initiatives regarding data integrity and monthly reconciliation.

5. Verifying the completeness of the crime statistics by identifying reportable crimes in UTSA's underlying records and confirming that they are included in the crime statistics;

   **ACTIONS**: Please see above.

6. Screening for data entry errors in the crime statistics that the school reports in the annual Department crime survey and the annual security report before finalizing the reported data;

ACTIONS:

As part of our updated procedures for collecting, classifying, and counting Clery Act crime statistics, we will include a process that requires a minimum of two University employees to verify the data entered into the CSSDACT.

## II. Other Matter: San Antonio's Daily Crime Log Did Not Meet Requirements

The draft OIG Report states that "San Antonio's daily crime log generally included only incidents that were directly report to Public Safety and recorded in the Public Safety records system. San Antonio did not consistently enter crime reports from other sources into the crime log, such as Clery Act crimes that CSAs reported."[23]

**Response**: As we have stated and demonstrated throughout this response, we are committed to the accurate and fully transparent disclosure of Clery Act data, including crimes that must be included in the daily crime log and the annual statistical disclosure.

We note that the requirement to include "…crimes that are reported directly to the campus police or security department, as well as crime that are initially reported to another campus security authority or to a local law enforcement agency, which subsequently reports them to the campus police or security department,"[24] is a highly nuanced and complex requirement outlined in sub-regulatory guidance in the Handbook. This is not to dispute the OIG's observations, but to highlight the complexities with the requirement.

At the present time, UTSA Public Safety does not routinely receive reports of crimes that occur in Clery Act geography or within its patrol jurisdiction from the San Antonio Police or Bexar County Sheriff's Department. This is a process we intend to pursue, but it is not currently the practice. Generally, UTSA Public Safety only receives crime reports from the local agencies when we canvas for additional Clery Act reportable incidents. We will initiate conversations with the local agencies to consider establishing a real-time exchange of crime information.

Second, UTSA Public Safety inaccurately interpreted the requirement as it applies to CSA reports that are, at some point, shared with our Public Safety Department. Beginning in 2017, as part of the University's comprehensive actions to enhance Clery compliance, UTSA Public Safety began adding CSA reports to the daily crime log by entering them into the Records Management Software for better tracking. We attribute this misunderstanding to lack of subject matter expertise, which has already been addressed with the hiring of a new Clery Compliance Coordinator who has attended several Clery trainings conducted by national experts. Frequent staff turnover also contributed to this misunderstanding, a challenge we hope to address through a thoughtful and well-planned succession planning. We are in the process of developing a procedure to ensure that CSA

---

[23] See draft Report, page 31.
[24] The Handbook for Campus Safety and Security Reporting, 2016 Edition, page 5-3.

reports that contain Clery Act-reportable incidents are included in the daily crime log within the proscribed two business days after UTSA Public Safety receives them.

While we acknowledge that UTSA applied an inaccurate interpretation of the technical requirements related to CSA and local agency reports, we again emphasize that this deficiency was the direct result of a simple misunderstanding regarding daily crime log requirements and in no way a purposeful omission.

## III. Recommendations

1.1 Allocate sufficient personnel with appropriate internal control, information management, and Federal education compliance knowledge to timely design and implement the internal controls described in Recommendation 1.2.

**RESPONSE**: UTSA is committed to creating a new position to manage Clery Act compliance full time. We are currently having internal discussions regarding the reporting structure for this new position. Additionally, we are moving forward with formally designated "Clery Act Liaisons" in several critical offices such as Student Conduct and Community Standards; EOS; Residence Life; and Human Resources. These liaisons will act as "deputy" Clery Compliance Coordinators and will have primary responsibility for data integrity and internal controls within their operating units. Finally, we are committed to investing in appropriate training for these officials to be provided initially by Margolis Healy.



1.2 Define objectives specific to reporting complete and accurate Clery Act crime statistics in accordance with the requirements of the Clery Act and the standards of effective internal control, identify risks to meeting those objectives, and design and implement internal controls to mitigate those risks and address the control weaknesses included in this finding.

**RESPONSE**: As addressed in this report, we have recognized gaps in our processes for collecting, classifying, and counting Clery Act crime statistics and began to make changes to the process prior to the audit. Utilizing the tools and guidance provided by Margolis Healy and the results of the OIG's audit, we will expand on the institutional efforts to comply with our Clery Act reporting responsibilities. The UTSA PD and Business Affairs will perform a thorough assessment to strengthen our internal control environment in order to mitigate these risks. The Office of Institutional Compliance

and Risk Services will facilitate the risk assessment, and the Office of Auditing and Consulting Services will provide independent assurance and validate that the critical controls identified are working as intended.

1.3 Establish written policies and procedures covering all significant aspects of the internal controls described in Recommendation 1.2 and at a sufficient level of detail to ensure the performance of related activities, including the continuity of operations, personnel, and records specific to reporting complete and accurate Clery Act statistics.

**RESPONSE**: UTSA is committed to continuing to address gaps in our Clery Act program. While the UTSA Public Safety has long had a policy governing Clery Act compliance,[25] we recognize that we must expand this policy, develop accompanying procedures, and transition the policy so that it is a university-wide policy. As noted throughout our response, we are in the process of reviewing the new draft policy.

1.4 Review school records for calendar years 2015–2017 to identify all incidents of reportable Clery Act crimes that should be included in San Antonio's Clery Act crime statistics. Amend the reported crime statistics to correct any errors in the reported Clery Act crime statistics. Corrections should include, but are not limited to, the specific reporting errors identified in this report.

**RESPONSE**: As addressed throughout this response, we have retained Margolis Healy to conduct the "review of school records." The scope of work for Margolis Healy includes validating the accuracy of the 2015 data submitted to the CSSDACT, and conducting a comprehensive data audit of all University records that may contain a Clery Act reportable incident from 2016-2018. As noted, we expect this audit to be completed during the week of October 14, 2020.

---

[25] Please see Policy on CAMPUS SAFETY AND SECURITY REPORTING, EMERGENCY NOTIFICATIONS AND TIMELY WARNINGS, dated Oct. 11, 2013, at Exhibit 5

**SUMMARY**

Thank you for this opportunity to collaborate with the OIG during this review and to respond to the draft audit Report. With the exception of our disagreement regarding several of the OIG's 55 determinations for which we respectfully contest, we acknowledge that there are opportunities to further improve our processes.

I trust that the information included in this response provides a compelling summary of our progress to address the identified issues in our Clery Act reporting procedures since the timeframe of the audit report, as well as a clear articulation of our plans for further quality assurance enhancements.

Once more, in a broader sense, I hope this conveys our focused, institutional commitment to the safety and security of all our constituencies.

Sincerely,

Taylor Eighmy