



West Virginia University

University Police Department

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U.S. Department of Education
Federal Student Aid
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107
Attention: James L. Moore, III

FEDERAL STUDENT AID

Dear Mr. Moore,

On behalf of West Virginia University and Interim President C. Peter Magrath, I would like to extend our appreciation to you and the team for your efforts and assistance. We have made a number of changes in our collection, classification and reporting of Clery Act statistics since your on-site visit in 2004.

The University Police Department and the University have implemented many programs since your visit to improve campus safety. We have restructured the police department by separating the parking and transportation units; thereby, allowing the Department to focus solely on campus safety and associated programs, including Clery Act compliance. Also, we have increased our staff by adding a Senior Administrative Assistant to the Chief, two new officers, and twelve Student Cadets. Additionally, we are now utilizing a new automated (rather than manual) software system for records management known as the Clery Record Management System.

To foster a safer campus, we have implemented an assessment team, created numerous brochures and posters for safety training, revised our emergency response plans, created and trained a rapid response team that is the State's only team certified to enter hazardous spill areas, and have established a joint training program with the U.S. Attorney's Office to provide active shooter training across the State. Furthermore, we added inter-operable radios that allow for better communication with other law enforcement agencies and first responders.

We have joined E2Campus for our text messaging, and we have developed a first-of-its-kind video message board system that is connected to the text system. When activated, the message board system transmits audible and visual warnings to locations across campus. We are currently exploring the use of siren systems and voice-over internet messages through our telephone system. Furthermore, beginning this semester, the University established a Threat Assessment Coordination Team to address issues in real time.

We were ranked 18th last fall in the Reader's Digest campus safety review, and we were the only University in the top 25 finalists for the International Chiefs of Police Seavey Award program for our work in the emergency planning area this year.

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University Police Department

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Equal Opportunity/Affirmative Action Institution

In closing, we acknowledge that errors occurred in our reporting program, but these were never meant to reduce crime statistics, as they were simply human error. We continue to make a good faith effort to comply with the Act and UCR reporting requirements. Our ultimate goal is, and always has been, to provide a safe campus for our entire community.

Enclosed please find West Virginia University's response to the U.S. Department of Education's preliminary Program Review Report dated July 30, 2008; this response is structured such that it is intended to respond to the Program Review Report point by point.

Sincerely,



Bob Roberts
Chief
West Virginia University
Police Department

cc: President C. Peter Magrath

Prepared for
U.S. Department of Education
Federal Student Aid
School Participation Team – Philadelphia

Prepared by
West Virginia University

Institutional Response to Program Review

October 30, 2008

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Section 1: Internal Review Findings

Internal Review Findings

Conducted by Bob Roberts, Chief
West Virginia University Police Department

Pursuant to the recommendation of the Program Review Report, WVU has conducted an internal review of all policing and campus security policies and procedures that are relevant to Clery Act compliance with specific attention to the requisite areas.

1. Identification of Incidents Reportable Under the Clery Act

Incidents are identified by review of daily crime reports filed by the University Police Department and are entered into our automated Clery Act data base. The report classifications for Clery reporting are currently being determined by the Chief of Police (rather than utilizing the officers' UCR/IBR classification) based upon the definitions provided in the NIBRS manual, his training and his experience. For this purpose, a new field has been added to the University Police Case Report for documentation (see Exhibit 1). Further, training has been conducted for the benefit of those identified as security officials and follow-up training is being planned for the spring of this academic year.

2. Definitions Utilized for Locations

The following definitions were used during the period in question, under the supervision of the Chief of Police:

A. Campus

“Campus” is defined by the Clery Act¹ as:

- (1) any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and
- (2) any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

¹ 34 CFR § 668.46 (a); see also 20 USC § 1092(f) (6) (A) (i)

B. Separate Campus

The Clery Act regulations indicate that an institution must comply with the Clery Act for each separate campus.² Other than the existing Clery definitions for geographic locations, little authority exists to guide determinations on how to categorize certain types of significant University operations that operate relatively independently of traditional campuses. The above described definition of “campus” is found in the regulations administered by the Department of Education’s Office of Post-secondary Education, Part 668, “Student Assistance General Provisions,” subpart D, “Institutional and Financial Assistance Information for Students.” Subpart A of Part 668 contains general rules that apply to all institutions subject to Part 668, and includes the following definition of “branch campus” that provides further guidance in this area:

C. Branch Campus

“Branch Campus: A location of an institution that is geographically apart and independent of the main campus of the institution. The Secretary considers a location of an institution to be independent of the main campus if the location:

- (1) Is permanent in nature;
- (2) Offers courses in educational programs leading to a degree, certificate, or other recognized credential;
- (3) Has its own faculty and administrative or supervisory organization; and
- (4) Has its own budgetary and hiring authority.”

Note: 34 CFR section 668.2(a) refers to 34 CFR section 600.2 definition of “branch campus”

D. Reasonably Contiguous Area

For the purpose of interpreting this provision, campuses should consider all buildings and property within the boundaries of the traditional main campus to be “on campus” locations for purposes of reporting crime. More problematic is interpreting whether campus-owned or controlled property near the main campus is “within the same reasonably contiguous geographic area” so as to be considered “campus” rather than “non-campus property.” The primary distinction is that “public property” immediately adjacent to “campus property” is covered by the crime reporting obligation, but there is no such “public property” reporting obligation for property adjacent to “non-campus property.”

² 34 CFR § 668.46 (d)

Webster's Dictionary defines "contiguous" as "being in actual contact" or "touching along a boundary or at a point." "Reasonably contiguous" for purposes of this "campus" definition should be interpreted as University-controlled property that is touching or nearly touching property of the traditional main campus. Campuses have discretion to more broadly interpret the term "reasonably contiguous" if a determination is made that property thereby included in the definition of campus is commonly recognized as a part of the traditional main campus.

For example, a campus may elect to include within the "campus" definition an entire city block adjacent to campus, but not touching the campus, that is occupied predominantly by University-controlled buildings. Campuses making such an election must also report on crimes occurring on "public property" immediately adjacent to such property.

E. Non-Campus Building or Property

"Non-campus Building or Property" is defined by the regulation³ as follows:

any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Buildings or properties meeting the first definition of "non-campus building or property" are relatively self-defining. However, there is a three-part test for reporting crimes for buildings or properties within the meaning of the second definition of "non-campus building or property." The location must meet all three of the following criteria:

1. The location is not a branch campus;
2. The location "is frequently used by students"; and
3. The location is used "in direct support of or in relation to, the institution's educational purposes."

With regard to interpretation of the "owned or controlled", there has been little guidance from the Department of Education. In addition to buildings or property located off campus actually owned by the University, any buildings or property leased by the University for the purpose of instruction should be considered to meet the criteria of being "owned or controlled by the University." Generally, buildings or property that are rented or leased by the University on an ongoing basis for University events or programs should be considered to be "owned or controlled" by the University.

³ 34 CFR § 668.46 (a)

With regard to the third component of this definition, all buildings or properties that are owned or controlled by the University located “off-campus” should be considered to meet the criterion that a location be “used in direct support of, or in relation to, the institution’s educational purposes.” The important issue in most cases will be assessing whether the location is “frequently used by students.”

No guidance has been provided by the Act or the Department of Education as to the meaning of “frequently used by students.” For purposes of interpreting the Clery Act requirements, the University interprets the phrase “frequently used by students” to mean buildings or properties owned or controlled by the University that are:

1. Used by students enrolled in a campus degree program or programs eligible for student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended (Title IV);
2. Used by such students at least once a week during periods of class instruction and when the location is otherwise open and accessible to students, and
3. Visited by more than 50 such individual students each calendar year.

F. Examples of “Non-Campus Properties”

The following examples of University-affiliated locations may be subject to Clery Act crime reporting requirements if, for each such location, it is determined that the location meets all three criteria described above for “non-campus property.”

a. Greek Organizations

Property that is owned, leased, or controlled by Greek organizations that are recognized by the campus is included within the first part of this definition.

b. Officially-Recognized Organizations

Organizations that are officially recognized according to University-wide and campus policies and procedures (including organizations serving students, faculty, or staff) that own or control any building or property that is not “University” property fall within the first part of this definition.

c. Leased Property Off-Campus

Off-campus property that is owned or leased by the University will always be considered to be “used in direct support of, or in relation to, the institution’s educational purposes,” within the meaning of “non-campus property.” The important issue will be the assessment of whether the building or property “is frequently used by students” and additional criteria required to subject such property to the reporting obligations for “non-campus property.”

Academic or student service officers located in leased space off campus would fall within the definition of a “non-campus” location. University business offices and facility support services would likely not be “frequently used by students,” and, therefore, would not meet this definition.

University offices that are responsible for leases must, when entering into leases, review each lease under the above criteria for determining whether the leased premises should be considered “non-campus” property subject to Clery Act crime reporting. The campus official responsible for Clery Act compliance shall work with authorities responsible for facilities management to ensure that any campus facilities manuals or materials are revised to reflect this review requirement. They shall develop a policy and/or training to ensure that leases are appropriately reviewed under the Clery Act “non-campus” property criteria. A list of leased buildings and property subject to Clery Act crime reporting shall be reported annually by the University to the Clery Compliance Officer. Crimes at the listed leased properties are to be included in the campus Annual Security Report.

d. Field Stations

Most campuses have the responsibility of administering one or more field research sites that are part of the University. These research sites are located distant from the administering campus. All such sites determined to be “frequently used by students” would fall within the definition of “non-campus” location.

e. Cooperative Extension Sites

If the University operates Cooperative Extension offices in the State, unless an office is “frequently used by students,” it would not be considered a “non-campus” location for which crime statistics must be collected.⁴

⁴ 64 Fed. Reg. 43585 (8-10-99)

f. University Extension Sites

Participants in continuing education programs and Extension Center programs would generally not be considered “students” for purposes of the “frequented by students” criterion.

However, if students in degree programs also regularly attend classes at these locations, the facilities would be “frequently used by students,” and therefore should be included in the Annual Security Report. In that event, they should be reported as either “campus” or “non-campus buildings or properties,” depending on their location with reference to the campus’s definition of its boundaries.

g. Study Abroad Programs

Locations in foreign countries used by a University in furtherance of its Education Abroad Program would be subject to the reporting requirements for “non-campus building or property” if the locations are (a) “owned or controlled” by them [the University]; (b) “used in direct support of, or in relation to, the institution’s educational purposes;” (c) “frequented by students;” and (d) “not within the same reasonably contiguous geographic area of the institution.”

h. Public Property

“Public property” is defined by the Clery Act regulations⁵ as “all public property, including thoroughfares, streets, sidewalks, and parking facilities that is within the campus, or the immediately adjacent to and accessible from the campus.”

i. Adjacent to Campus

It should be noted that the requirement for crime reporting on “public property” applies only to public property adjacent to “campus” locations, and does not apply to property adjacent to “non-campus” locations.⁶

The only issue in most cases will be determining whether public property is “immediately adjacent to and accessible from” the campus within the meaning of the definition. To date, the Department of Education has provided only one interpretive example: “The definition would not require an institution to include in its Annual Security Report statistics of crimes committed on, for example, highways that are separated from the campus by a fence or other man-made barrier.”⁷ The Department has indicated that it will address questions concerning the interpretation of these terms on the Department’s Information for Financial Aid Professionals (IFAP) web-site: <http://ifap.ed.gov>.

⁵ 34 CFR § 668.46(a)

⁶ 64 Fed. Reg. 43585 (11-1-99)

⁷ 64 Fed. Reg. 43585 (8-10-99)

j. Map of Locations

Though not required by the Clery Act,⁸ the University may consider it useful to current and prospective students and employees to provide a map that depicts those locations designated by the campus as falling within the definitions of “campus,” “non-campus buildings or property,” and “public property.”

(3) Coding of Incidents

A statistical matrix reflecting the occurrence of reportable crimes to be used in a campus’s Annual Security Report is provided in the Appendices. The model provides a matrix for describing the classification of a reportable crime, the location of the crime, and the entity to which it was reported. The model also provides a matrix for describing those crimes that have also been classified as hate crimes.

The model form provides more detail than is required by the Clery Act by describing subcategories for the crimes of Burglary and Sex Offenses. This additional detail is recommended in order to provide a more accurate summary of the type and magnitude of crime that occurs on campus.

The University is encouraged to include footnotes in the statistical matrix to provide appropriate explanation, clarification, and/or qualification of statistics when needed to address special circumstances.

(4) Collection and Compilation of Statistics

Since 2003, an automated records system has been utilized by WVU, during this Internal Review WVU retroactively entered the data from 2001 and 2002 into this system. In 2001 and 2002 the statistics were collected manually. Lt. Randy Friend and the Chief were responsible, and administrative errors did occur during the manual counting process. For example, some crime reports such as Theft or Destruction of Property reflected liquor law violations which were not tabulated. Another finding involved cases being submitted without an arrest that later resulted in an arrest, but were not submitted back through the system. Both of these instances have been corrected by the utilization of the automated system. Each year’s data and associated documents are maintained in individual binders for ease of access and review. The Chief of Police requests, collects, reviews and compiles data for submission and file.

⁸ 34 CFR § 668.46(c) (8)

(5) Communication and Coordination with Internal and External Offices and Agencies and Incorporation of Reportable Incidents into WVU's Campus Security Report

The Chief of Police is responsible for the communication, collection, reporting, and filing of all program related documentation. Letters and reporting documents are sent from the Chief's Office with follow up when required. The Chief responds to questions and provides advice and resolution to issues.

(6) Issuance of Timely Warnings and Methods of Delivery:

A. Timely Reports

To date, the Department of Education has not provided a definition of “timely reports.” The Department has advised that “timely reporting to the campus community... must be decided on a case-by-case basis in light of all the facts surrounding a crime including factors such as the nature of the crime, the continuing danger to the campus community, and the possible risk of compromising law enforcement efforts.” Campus security authorities who receive reports of crimes are directed to consult with local police agencies for guidance on how and when to release “timely warning” reports to the campus community.⁹

B. Confidentiality Issues

All Clery-reportable crimes are subject to the timely warning requirements if deemed appropriate by the campus, regardless of whether or not the victim or perpetrator is a member of the campus community. However, there are often concerns raised regarding confidentiality if the information disclosed in the timely warning report would personally identify an individual.

With regard to information that would personally identify students, this information may be disclosed if it is determined that disclosure of this information is necessary to protect the health and safety of the student or other individuals. For example, see the Family Education Rights and Privacy Act (“FERPA”)¹⁰ and the FERPA regulations¹¹: personally identifiable information may be disclosed from an education record of a student without the student’s consent “to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of a student or other individual.”

⁹ 59 Fed. Reg. 22316 (4-29-94)

¹⁰ 20 USC § 1232g (b) (1) (I)

¹¹ 34 CFR § 99.31 (a) (10) and 99.36

C. Timely Warning Procedure

The amount and type of information that the campus discloses in a “timely warning” report will vary depending on the circumstances of each case, as noted above in the Department of Education explanation of this provision. In general, whenever a report of a violent crime against a person or a major crime against property on campus is received by the campus police department that is determined by the police department to represent an ongoing threat to the safety of the campus community, the campus police department must issue a Campus Crime Alert. The alerts should be sequentially numbered, beginning January 1 of each year, and should include the following details of the crime, if available:

- A succinct description of the incident.
- A physical description of the suspect, including gender and race.
- Composite drawing of the suspect, if available.
- Apparent connection to previous incidents, if applicable.
- Race of the victim, but only if there was an apparent bias motive.
- Sex of the victim, if relevant.
- Injury sustained by the victim.
- Date and time the Campus Crime Alert was released.

An example of a Campus Crime Alert is provided in Exhibit 2.

Campus Crime Alerts should be distributed as soon as possible after the time the incident is reported, subject to the availability of accurate facts concerning the incidents. The alerts should be widely distributed throughout campus, provided to campus media, posted on a relevant campus web-site or web-sites, electronically mailed to members of the campus community determined to have a need to know of the alert, and posted in appropriate areas.

For all reports of violent crimes against a person or major crimes against property on campus that are received by the campus police/security department, the department should complete a Crime Alert Publication Determination Form that explains the decision on whether or not to distribute a Campus Crime Alert (Exhibit 2).

Current notification systems available include: e2Campus Text Alert System, Automated Text Boards, group emails, website, local media outlets, phone trees and runners. We are exploring sirens and intercom notification via new phone technology.

(7) Means of Documenting Compliance with Each Provision of the Clery Act:

The policy and procedure used in 2001-2002 were provided in the WVU Clery Act Compliance Manual. Lt. Randy Friend and the Chief were responsible for the implementation and documentation for our Clery program. Administrative mistakes were made as related to some classifications and tabulations due to the manual collection of data. The University Police have changed to an automated reporting system and perform monthly audits on cases entered to ensure that case dispositions that are changed to arrests are appropriately entered. A binder system has been put in place to store all associated documents that apply to each individual reporting year for ease of audit and tracking. The University Police has performed two on-site audit visits to review the collection and reporting done by WVU's Campus Security Officials for this year's reporting period. Future audits will be performed annually. Additionally, UPD has trained all Security Officials and, as a result of the Program Review Report, annual training will take place beginning in the spring of the current academic year. The goal of such training is to reaffirm the importance of Clery Act compliance.

Section 2: Institutional Response to Department of Education Findings and Sub-Findings

Response to Findings and Sub-Findings

Prepared by Bob Roberts, Chief
West Virginia University Policy Department

Pursuant to instructions contained within the Program Review Report, WVU submits the following as its official response to each of the Findings and Sub-Findings of the Program Review Report.

WVU acknowledges that the overreaching issue identified by the Department of Education Program Review Report relates to a failure to properly disclose crime statistics in the annual Campus Security Reports for 2001 and 2002. In support of this finding, the Department of Education has further identified these five specific issues, or sub-findings:

- a. Under-reporting and miscoding in selected crime classifications of the Part I Offenses
- b. Under-reporting and miscoding in selected arrest data of the Part II Offenses
- c. Personal Traumatic Event (PTI) Process
- d. Fraternity Incidents
- e. Arson/Intentional Fires

On the following pages, WVU addresses broadly each of these sub-findings and then, specifically addresses the seven particular considerations outlined in the Required Actions section of the Program Review Report.

I. Brief Response to Sub-Findings

a. Under-reporting and miscoding of Part I Offenses

The chart below compares the instances of crimes, being Part I Offenses, initially reported by WVU in 2001 and 2002, the number of crimes the Department of Education determined that should have been reported for the same years, and the number of crimes confirmed during WVU's recent internal review (the shaded column).

Crime Classification	Reporting Year 2001			Reporting Year 2002		
	WVU Reported	DoE Determination	WVU Internal Review	WVU Reported	DoE Determination	WVU Internal Review
Forcible Sex Offenses	3	5	5	2	2	2
Robbery	1	2	2	4	5	4
Aggravated Assault	2	5	5	4	8	5
Burglary	14	39	14	29	57	28
Motor Vehicle Theft	3	3	1	3	4	5
Arson	4	4	3	7	9	9

Note: See Appendices A and B for explanation of the difference between the Department of Education calculations and those confirmed during WVU's Internal Review.

Following WVU's internal review, its statistics for Burglary continue to be significantly lower than the data determined by the Department of Education. In WVU's view, closer analysis of the incident reports reveal that the investigating officer was unable to establish intent because most doors were open or unsecure. Additionally, the facts in most instances could not establish that the offender did not have legal access to the building, i.e. trespassing, a necessary element of the crime. While the Chief of Police is ultimately responsible for crime classification, he must defer to the determination of the investigating officer.¹²

¹² Crime classification determinations are best accomplished by a police department who must make determinations based upon their judgment by using the UCR/NIBR Handbook for guidance, as the circumstances of each case, and law enforcement experience will differ. If in doubt, consult with your local police or prosecutor for clarification. For example, if it is unclear whether or not property taken from a residence hall room was the result of trespassing by a non-resident of the room (burglary) or by a room resident who had legal access to the property (theft), final determination of the appropriate classification will be subject to the judgment of the appropriate policy authority. There is no "default" methodology (i.e., if it cannot be proven whether or not the room access was legal, there is no requirement that the crime be automatically classified as a burglary) listed in the Act, regulations or the UCR manual. (Citations Removed) See WVU's Clery Act Compliance Manual, Pg. 16.

b. Under-reporting and miscoding of Part II Offenses

The chart below compares arrest data for selected Part II Offenses initially reported by WVU in 2001 and 2002, the number of arrests the Department of Education determined that should have been reported the same years, and the number of arrests confirmed during WVU's recent internal review (the shaded column).

Arrests	Reporting Year 2001			Reporting Year 2002		
	WVU Reported	DoE Determination	WVU Internal Review	WVU Reported	DoE Determination	WVU Internal Review
Liquor Law Violation	88	94	98	133	191	195
Drug Law Violations	25	32	32	34	44	50
Note: See Appendices C and D for explanation of the difference between the Department of Education calculations and those confirmed during WVU's Internal Review.						

During the course of WVU's Internal Review, the statistics for Liquor and Drug Law Violations which had been manually collected and calculated in 2001 and 2002, were recalculated using an automated records system. The software, the Clery Record Management System, has been utilized by WVU since 2003.

WVU recognizes that in 2001 and 2002 administrative errors did occur during the manual counting process. For example, some crime reports such as Theft or Destruction of Property reflected Liquor Law violations which were not tabulated. Another finding involved cases being submitted without an arrest that later resulted in an arrest, but were not submitted back through the system. Both of these instances have been corrected by the utilization of the automated system.

With the utilization of the Clery Record Management System, WVU is confident that the issues related to under-reporting and miscoding Liquor & Drug Law Violations has been remedied.

c. PTI Process

First and foremost during the course of its Internal Review, WVU found no evidence that any reportable incident was not properly submitted to the University Police Department (UPD) by the appropriate Campus Security Officials. However, WVU acknowledges the concern expressed by the Department of Education's Program Review Report as it relates to the issuance of Personal Traumatic Event (PTI) Letters generated in the Office of Student Life. As a result of the Report, the University has implemented an annual audit program to review the collection and reporting done by WVU's Campus Security Officials. During the course of WVU's Internal Review, an audit was performed; a similar audit will be performed annually. Additionally, UPD has trained all Security Officials and, as a result of the Report, annual training will take place beginning in the spring of this current academic year. The goal of such training is to reaffirm the importance of Clery Act compliance.

d. Fraternity Incidents

In 2001 and 2002, the Fraternity Houses were not "owned or controlled" by Student Organizations; rather, they were owned by a myriad of House Corporations, Greek Alumni, investors, and other entities, not affiliated with WVU. For this reason, incidents occurring on these properties were under the jurisdiction of the City of Morgantown for Clery Act reporting.

In recent years, however, WVU has begun purchasing Fraternity Houses, or in the alternative, entering into arrangements with the various owners to bring these properties under the control of the University.¹³ As such, incidents occurring at the properties owned or controlled by WVU will be reported directly to the WVU Police Department and entered into the University's Clery Record Management System for appropriate reporting. Incidents occurring at Fraternity Houses still not owned or under control by WVU continue to fall within the jurisdiction of the City of Morgantown.

e. Arson/Intentional Fires

Notwithstanding the statistics cited in the Program Review Report, WVU maintains that it appropriately reports all Arsons as required by the Clery Act. Intentional fires occurring in and around Morgantown rarely occur on WVU property or on public property adjacent to the WVU Campus. Further, WVU can find no reference to "intentional fires" in the code. However, WVU, through a joint effort between area Fire Department(s), the State Fire Marshall's Office, the Morgantown City Police Department, and its own Police Department, have worked to reduce the overall numbers of these fires through increased awareness of penalties, "good neighbor" campaigns, and other strategies. Nevertheless, the local fire department(s) are not contacted for Clery reporting purposes, as there is no such requirement under the Clery Act.

¹³ As of October 15, 2008, WVU owns one Fraternity House, and has lease arrangements with four other properties.

II. Specific Response to the Seven Particular Considerations

a. What was the stated policy or procedure in place during 2001 and 2002?

The following Response is applicable to Sub-Findings #1(a) through #1(e):

Regarding policies and procedures, West Virginia University has operated from its Clery Act Compliance Manual¹⁴ since 2000. This manual is a supplement to "The Handbook for Campus Crime Reporting" issued by the U.S. Department of Education, Office of Postsecondary Education and associated training. The WVU Police Department had two attendees at this training.

WVU's Clery Act Compliance Manual was developed by our Chief of Police and reviewed by the University's General Counsel for statutory compliance in 2000. The manual was developed after the Chief completed the Clery Act Train-the-Trainer course in Boston on June 22, 2000. The manual was in compliance with 34 C.F.R. Part 668.46 and the associated training that was attended. WVU, however, has one caveat that the Police Department was collecting, classifying and reporting our Uniform Crime Reports utilizing the National Incident-Based Reporting System (NIBRS) during this period as permitted in 34 C.F.R. Part 668.46 (c) (7).

b. What was actually done notwithstanding the policy or procedure?

The following Response is applicable to Sub-Findings #1(a):

Incidents were identified by review of daily crime reports filed by the University Police Department and tabulated using Uniformed Crime Monthly Reports. The responding officers entered UCR/IBR classification for Clery reporting according to the definitions provided in the NIBRS manual, their training and experience.

The following Response is applicable to Sub-Findings #1(b):

Incidents of arrest were identified by review of daily crime reports filed by the University Police Department and tabulated using Uniformed Crime Monthly Reports.

¹⁴ The Department of Education received a copy of WVU's Clery Act Compliance Manual during the course of its review in 2004. Additional copies will be provided upon request.

The following Response is applicable to Sub-Findings #1(c) and #1(d):

Security Officials gathered and retained data throughout the year. Annually, the University Police Department requested the crime related data from all the appropriate Security Officials to be submitted by July. (Exhibit 3) The Security Officials then completed the appropriate forms and submitted them to the University's Chief of Police. (Exhibit 4)

The following Response is applicable to Sub-Findings #1(e):

Annually the University Police Department requested (using Exhibit 5) the crime related data from the Morgantown Police Department, a local police agency having jurisdiction as identified in CFR §668.46 (b)(7). The Morgantown Police Department then completed the appropriate forms and submitted them to the University's Chief of Police. (Exhibit 4)

c. Who was responsible for carrying out the function and who was responsible for supervising that function?

The following Response is applicable to Sub-Findings #1(a) through #1(e):

The Chief of Police, the Crime Prevention Officer, and, as it relates to PTIs and Fraternities, the appropriately designated "Security Officials."

d. Why did the violation or internal control weakness occur?

The following Response is applicable to Sub-Findings #1(a):

See generally Appendices A, B, C, and D for specific responses to the specific discrepancies determined by the Program Review Report. WVU found that some reports were being changed by the officers after their initial submission and then were not resubmitted after the crime classification was changed. This fact was discovered in two areas, Aggravated Assaults and Arsons, where they were submitted as Battery and Destruction of Property and then changed later. Additionally, some crime reports such as Theft or Destruction of Property reflected Liquor Law violations which were not tabulated. Another finding involved cases being submitted without an arrest that later resulted in an arrest, but were not submitted back through the system. Moreover, the Clery Report records were maintained manually at this time.

Currently, all supplements to reports are required to be resubmitted for review and with our new records management software that was installed this fall, officer supplements are automatically submitted for review.

The following Response is applicable to Sub-Findings #1(b):

WVU's Internal Review found two weaknesses in our recording of arrests. Incidents involving multiple charges on a single case were recorded only as the titled case report, i.e. Driving-Under the Influence involving a Liquor Law violation was only counted as a DUI. Also, as noted previously, officers would make arrests after the initial submission and they would not be resubmitted and in some cases simple administrative errors were made.

The following Response is applicable to Sub-Findings #1(c), (d), and (e):

WVU's Internal Review did not identify violations or specific weaknesses for PTI, fraternity incidents, or arson/intentional fires.

e. What, if any, policy or procedural changes were/will be implemented to address this condition? Please also address the timing of any such changes.

The following Response is applicable to Sub-Findings #1(a) to (e):

Beginning in 2003, WVU began utilizing an automated system, the Clery Record Management System, to track Clery Report records eliminating a post-incident report submission arrest from not being counted. During the course of the Internal Review, a new field was added to the University Police Case Report (see Exhibit 1) and a new procedure was developed whereby the Chief of Police now reviews monthly arrests and tracks multiple arrests for any case file; in the Chief's absence, this duty will be performed by one of two Captains.

Further, the University Police has performed two on-site audit visits to review the collection and reporting done by WVU's Campus Security Officials for current reporting period. Future audits will be performed annually. Additionally, UPD has trained all Security Officials and, as a result of the Program Review Report, annual training will take place beginning in the spring of the current academic year. The goal of such training is to reaffirm the importance of Clery Act compliance.

The Chief of Police has worked directly with the Morgantown Police Department's Record Section to collect the specific data need for the annual report.

f. How were/will these changes be monitored and by whom?

The following Response is applicable to Sub-Findings #1(a) to (e):

The Chief of Police and the Associate Vice President for Facilities and Services, in consultation with the WVU Legal Affairs, will monitor all procedural changes referenced herein.

g. What organizational changes, such as staffing, budgetary issues, training of reporting relationships, are needed to implement any of the above?

The following Response is applicable to Sub-Findings #1(a) through #1(e):

The Department of Public Safety and Transportation has been restructured by creating a separate Department of Transportation and Parking and renaming Public Safety to University Police. We have also added two officer positions, twelve student cadets, and a Senior Administrative Assistant for the Chief. These changes permit increased focus on crime, safety and reporting issues by the Chief of Police. Use of automated records management systems have been integrated into the Police Department for Clery tracking purposes.