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November 14, 2007

Dr. Donald Loppnow  
Executive Vice President  
Eastern Michigan University  
202 Welch Hall  
Ypsilanti, MI 48197

Certified Mail  
Return Receipt Requested  
#7006 0100 0005 2545 3376

**RE: Final Program Review Determination (FPRD)**  
OPE ID: 00225900  
PRCN: 200730825904

Dear Dr. Loppnow:

The United States Department of Education (the Department) issued a program review report on June 29, 2007, covering Eastern Michigan University's (EMU's) administration of programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). The program review report contained findings of the Department's review of EMU's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act; the Act). The Department received EMU's response to the program review report on July 30, 2007.

**Purpose:**

Final determinations have been made concerning the findings of the program review report. The program review report, in its entirety, is incorporated by reference into and made part of this FPRD. The purpose of this letter is to: (1) evaluate EMU's response to each finding of non-compliance related to its administration of the Clery Act, (2) close the review, but we expect EMU to take the additional actions identified in this letter, and (3) notify EMU of possible adverse administrative action. Due to the serious nature of the findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Division (AAAD) for its consideration of possible administrative action against EMU. Such action may include a fine, or the limitation, suspension or termination of the eligibility of EMU to participate in the Title IV, HEA programs pursuant to 34 C.F.R. Part 668, Subpart G. If AAAD initiates an action, a separate notification will be provided to EMU which will include information on institutional appeal rights and procedures.

Federal Student Aid, School Participation Team - Denver  
1391 Speer Blvd., Suite 800, Denver, CO 80204-2512  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

Eastern Michigan University

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**Appeal Procedures:**

This constitutes the Department's FPRD with respect to the June 29, 2007 program review report. This program review evaluated EMU's compliance with the Clery Act and not its processing of Title IV funds. Accordingly, the final determinations reflected in this letter do not establish that EMU has any institutional liabilities relating to the misuse of federal funds. Therefore, EMU may not appeal this FPRD letter. If AAAD initiates an administrative action against EMU based on this FPRD, EMU will have the right to appeal that action at that time.

**Record Retention:**

Pertinent program records relating to the period covered by the program review are subject to the normal record retention requirements outlined under 34 C.F.R. § 668.24(e).

We would like to express our appreciation for the courtesy and cooperation extended during the review. If EMU has any questions regarding this letter, please contact Mitch Cary at (303) 844-3677, ext. 115.

Sincerely,



Harry C. Shriver Jr.

Area Case Director

Enclosure

cc: Mr. Kenneth McKanders, General Counsel  
Ms. Janice Stroh, Vice President for Business and Finance  
Ms. Karen Simpkins, Acting Vice President for Student Affairs  
Ms. Bernice Lindke, Interim Vice President for Enrollment Management Division  
Lt. Robert Heighes, Acting Director of Public Safety  
North Central Association of Colleges and Schools  
Michigan Guaranty Agency

Prepared for



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U.S. Department of Education

Federal Student Aid

School Participation Team - Denver

## Final Program Review Determination

November 14, 2007

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Attachment: Program Review Report

Eastern Michigan University

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#### A. Institutional Information

Eastern Michigan University

202 Welch Hall

Ypsilanti, MI 48197-2214

Type: Public

Highest Level of Offering: Master's or Doctorate Degrees

Accrediting Agency: North Central Association of Colleges and Schools

Current Student Enrollment: Approximately 23,000 (2006/07)

% of Students Receiving Title IV: Approximately 62% (2006/07)

Title IV Participation, Per U.S. Department of Education Data Base  
(Postsecondary Education Participants System):

2005/06 Award Year

Federal Family Education Loan Program	\$92,893,011
Federal Pell Grant Program	\$11,436,097
Federal Perkins Loan Program	\$ 2,036,732
Federal Supplemental Education Opportunity Grant Program	\$ 1,042,780
Federal Work-Study Program	\$ 1,127,022

**Default Rate FFEL:**      2004 - 3.4%  
                                        2003 - 2.2%  
                                        2002 - 4.2%

**Default Rate Perkins:**      As of:  
                                        6/30/05 - 9.4%  
                                        6/30/04 - 10.8%  
                                        6/30/03 - 9.6%

## B. Background

On December 15, 2006, a female student was found dead in her dormitory room on EMU's campus in Ypsilanti, MI. Initial reports filed by the County Corner's Office, EMU's police department and other local law enforcement officials clearly indicate that the death was immediately determined to be suspicious in nature. On December 16, 2006, EMU issued a written statement to the campus community and the public regarding the death of the student and stated, "at this point, there is no reason to suspect foul play." EMU also assured the community that its campus was a safe environment, and asserted, "our campus officials will remain vigilant in ensuring safety for all members of our campus community." On February 23, 2007, a suspect was arrested and charged with raping and murdering the female student. Press reports and the Department's interviews indicate that news of the arrest was a surprise to the campus community, since EMU had publicly stated that the student's death was not a case of murder.

In the ten weeks between the time when the student's body was discovered and the suspect was arrested, EMU did not provide any relevant information to the campus community that would have alerted community members of the potential safety threat. EMU remained silent despite the fact that its university police department had identified a suspect and had been engaged in a homicide investigation with other local law enforcement agencies.

The suspect's arrest led to a public outcry about safety on campus at EMU. It also resulted in widespread criticism concerning EMU's failure to provide accurate and complete information to the campus community. Security on Campus, Inc. filed a formal complaint with the Department accusing EMU of violating multiple provisions of the Clery Act and with failing to provide a "timely warning" to community members to alert them of potential safety concerns after the murder. The complaint alleges that EMU compromised the safety of its campus community by withholding pertinent information. In response to the public discontent, EMU's president placed the vice president for student affairs on paid administrative leave pending an internal investigation to determine if information was disseminated properly. EMU's Board of Regents retained a law firm to perform the investigation.

On June 8, 2007, EMU released the report of the independent investigation on the institution's response to the student's death. That report and the accompanying statement from the Chair of EMU's Board of Regents acknowledged that there was a "systematic failure" by EMU to comply with the Clery Act. The report noted that EMU did not have appropriate policies, procedures, oversight, awareness or training related to its Clery Act responsibilities.

Within the scope of its investigation, the conclusions of the independent report were consistent with the findings that were presented in the Department's program review report on June 29, 2007.

On July 16, 2007, EMU's Board of Regents announced that the employment of three EMU administrators (the president, vice president for student affairs, and director of public safety) were being terminated as a result of actions taken in response to the student's death.

### C. Scope of Review

The Department conducted a focused campus security program review at EMU. The Department's review team visited EMU from April 3 - 5, 2007 and continued to review records after the on-site portion of the review. The review team consisted of Mitch Cary, Marcia Clark, Richard Reinhardt, Nan Shepard, and Jannetta Washington. The purpose of the review was to examine EMU's compliance with the Clery Act. One objective of the review was to determine if EMU had complied with the requirements regarding the issuance of a "timely warning," as mandated by 34 C.F.R. § 668.46(e). The review team also evaluated EMU's campus security policies, procedures, disclosures, and reporting of campus crime statistics that are required by the Clery Act.

The review team interviewed EMU administrators that were responsible for the following duties: campus policy determination, campus law enforcement, campus housing, campus communication, student judicial services, and dissemination of information to the public. The review team also interviewed EMU faculty and students and other individuals such as the Washtenaw County Prosecutor and officers from the Michigan State Police (MSP). The review team also conducted interviews with EMU campus security personnel to determine individual responsibilities and evaluate the administrative capability of the office primarily charged with implementing campus security functions.

The review team examined EMU's campus security materials for accuracy and completeness. These materials included EMU's "Safety Awareness Handbook," which contains campus security policy statements and procedures, and the daily crime logs used to document campus crimes and compile crime statistics. The review team compared EMU's publicly reported crime statistics against the original source documents. The review team also examined copies of investigative reports from the various law enforcement agencies involved in the investigation of the student's death along with internal institutional communication memos regarding the matter.

Several findings of noncompliance were discovered during the review which the Department considers to be serious violations of the Clery Act. The findings of the review were presented in a program review report, which was issued on June 29, 2007.

#### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning EMU's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures.

Furthermore, it does not relieve EMU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

## C. FINDINGS AND FINAL DETERMINATIONS

The original program review report findings are listed below in *italics*. At the conclusion of each original program review finding is a summary of EMU's response to the finding, and the Department's final determination for that finding.

### *Finding 1 - Failure to Provide "Timely Warning" in Response to Homicide Investigation of On-Campus Student Death*

Citation: *Under the Clery Act, an institution that participates in any program authorized under Title IV of the HEA "must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes" that were reported to campus security authorities and that are considered to represent a threat to students and employees. 34 C.F.R. § 668.46(e)(1). Crimes that must be reported under this "timely warning" requirement are the crimes that are included in the institution's annual crime statistics: criminal homicide, murder, non-negligent manslaughter, negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft and arson. 34 C.F.R. § 668.46(e)(1)(i). The only crimes exempt from the timely warning requirement are those that are reported to a pastoral or professional counselor. 34 C.F.R. § 668.46(e)(2). There are no other exceptions to this requirement. When an institution has information indicating that a serious crime has been reported to campus security authorities or local police agencies and determines that the crime may represent a threat to students and employees, it must disseminate pertinent information to the entire campus community in a timely manner. Information must be disseminated in accordance with the institution's "timely warning" policy. By timely, it is expected that pertinent information will be provided campus-wide as soon as the information becomes available. An institution may exercise some discretion in what information is disclosed to the community. However, the intent of the warning is to timely alert the campus community of a potential serious threat so that students and campus employees have the opportunity to take any necessary precautions to prevent threats to their safety.*

Noncompliance: *EMU failed to comply with 34 C.F.R. § 668.46(e)(1). In particular, EMU failed to issue a "timely warning" to the campus community that would alert students and employees of a suspicious student death that occurred in a campus residence hall that became the subject of a homicide investigation. EMU did not provide its students and employees with appropriate information as required by the Department's regulations. EMU issued a press release the day after the body was discovered stating, "At this point there is no reason to suspect foul play." This information was disseminated despite significant evidence to the contrary and the preliminary conclusions of the police that the death showed evidence of a crime. EMU did not publicly inform the campus community of the serious nature of the student's death until after a suspect was arrested and charged with raping and murdering the student, more than two months after the student's body was discovered.*

*On December 15, 2006, a female student was found dead in her dormitory room at EMU. Officers from EMU's Department of Public Safety (DPS), the campus police department, were the first law enforcement*

*respondents to the scene. DPS officials subsequently contacted the MSP at the Ypsilanti Post for assistance, and also requested the MSP Crime Lab to be dispatched to the scene. Assistance was also provided by the Washtenaw County Sheriff's Office.*

*According to interviews conducted by the program review team with the DPS and MSP officers, the death appeared suspicious but initially the police could not conclusively determine that the student died as a result of a crime. However, they indicated there were multiple signs that the student had most likely been a victim of a crime. As a result, the student's dorm room and dormitory building were processed as a crime scene. Accordingly, MSP detectives that responded to EMU's request for assistance indicated to the review team that the case was investigated as a homicide from the onset. MSP detectives stated that immediate indicators of sexual assault and homicide prompted EMU officials to seek additional police support when the body was discovered. MSP detectives also indicated that EMU's request for a Crime Lab and assistance from outside law enforcement agencies is not normal protocol unless a crime is suspected.*

*Police incident reports prepared at the scene indicated that the initial impression of responding law enforcement officials was that the student had been the victim of a sexual assault and homicide. The police reports also indicated that the victim's room and car keys could not be located at the scene, although the door to the student's dorm room was locked from the outside. The initial investigation report from the Washtenaw County Medical Examiner's Office lists the circumstances resulting in death as, "Foul play suspected." MSP officials confirmed that EMU's director and assistant director of DPS were both at the scene during the initial investigation and were included in discussions of evidence and the likelihood that the student had been murdered.*

*According to the MSP officials interviewed, in the weeks following the discovery of the body, task force meetings were held on a regular basis to discuss the status of the case. Representatives from DPS participated in the meetings. MSP officials also indicated that the director of DPS was present at the initial task force meeting when all law enforcement officials agreed that the student was most likely raped and murdered and that the investigation would be treated as a homicide. This meeting was held within three days after the student's body was discovered. In March 2007 the Washtenaw County Medical Examiner's Office declared the cause of death to be "probable asphyxiation" (suffocation/strangulation).*

*The MSP indicated that DPS led the homicide investigation and identified a suspect less than two weeks after the student's body was discovered. The suspect, who was a registered EMU student at the time, was identified through the examination of surveillance tapes from cameras in the lobby of the victim's residence hall. Despite EMU having knowledge of a potential suspect who may have been in possession of the victim's residence hall keys and who was also a student attending classes at EMU, no information was disclosed to the campus community to advise it of the possible safety threat. The suspect was arrested on February 23, 2007 and charged with raping and killing the student.*

*EMU did not release any information about the circumstances of the student's death until the suspect was arrested. This happened approximately ten weeks after the student's body was discovered. The student's parents were also not made aware of how their daughter had died until the time of the arrest. EMU has claimed that information was not disclosed to the campus community prior to the arrest of the suspect because there was not enough conclusive evidence to support that a crime had been committed. EMU has also contended that its lack of disclosure resulted from the failure of the office of the medical examiner to determine the cause of death in a timely manner. However, letters sent by the MSP to EMU's president have contradicted these claims. The letters from the MSP officers pointed out that the case was being*

*investigated as a "homicide" from the onset. The MSP detectives also indicated that while the medical examiner's initial report was inconclusive, it did not rule out what police believed to be the cause of death and that the medical examiner's opinion is not solely relied on to determine the cause and manner of death.*

*During the review, EMU officials indicated that the investigation into the student's death was classified as a "Death Investigation," and was not considered to be a homicide investigation. Officials also stated they were not aware of any suspects being identified prior to the February 23, 2007 arrest. However, EMU's claims are in conflict with comments made by MSP detectives who indicated that foul play was suspected immediately by all law enforcement officials on the scene. The actions of EMU's own campus police department also contradict its claim of limited knowledge of the circumstances surrounding the student's death as the DPS was responsible for leading the criminal investigation and identifying the suspect who was eventually arrested.*

*EMU's failure to issue a "timely warning" concerning the death of this student is exacerbated by its issuance of contradictory published statements which publicly claimed that a crime had not occurred. Not only did EMU fail to disclose information that would enable the campus community to make informed decisions and take necessary precautions to protect themselves, but it issued misleading statements from the outset, providing false reassurance that foul play was not suspected, and that it had no knowledge of an ongoing criminal/homicide investigation prior to the arrest of the suspect.*

**Required Action:** *The actions and inactions of EMU discussed above indicate a serious flaw in its procedures for complying with the Clery Act's requirements for disclosure of campus crime information.*

*Based on our evaluation of written campus security policies and interviews of EMU personnel during the review, it is apparent that EMU did not have a published "timely warning" policy. The lack of a "timely warning" policy is itself a violation of the Department's regulations at 34 C.F.R. § 668.46(b)(2)(i) (see Finding Number 3). It is also apparent that administrative roles and responsibilities were not clearly defined and that the "timely warning" requirement was ignored. This represents a lack of administrative capability on the part of EMU (see Finding Number 2).*

*In response to this finding, EMU must develop and implement procedures to ensure that a system is in place to determine if and when a "timely warning" is appropriate, and to ensure that appropriate warnings are provided. The procedures must include the hierarchy in which "timely warning" determinations will be made and detail individual titles and responsibilities for making such decisions. Copies of such procedures must be provided with EMU's response to this report. EMU must also provide an assurance that it will comply with the "timely warning" requirement and all other provisions required by the Act. In correlation with EMU's new "timely warning" procedures, it must modify its Clery Act disclosures to include its policies on "timely warning," as required by 34 C.F.R. § 668.46(b)(2)(i), and provide a copy of the disclosures with its response to this report.*

*In our Final Program Review Determination letter, this office will advise EMU of any additional actions that must be taken as a result of this violation.*

**Response:**

In its response to the program review report, EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU concurs that it failed to issue a

"timely warning" to the campus community based on the circumstances of the student death that was discovered on December 15, 2006.

In its response to this finding, EMU stated that it has developed new procedures for providing "timely warnings." EMU provided the Department with documentation describing the new procedures, a flowchart of the process and its new "Timely Warning" Policy statement. The new policy is now contained in EMU's "Safety Awareness Handbook." The procedures identify the crimes that require consideration for a "timely warning," and the process and responsible parties involved in making the determination. EMU indicated that the director of DPS will have the primary responsibility for ensuring that its new campus security policies are properly implemented, and that appropriate advisories are issued, as required. EMU also identified the hierarchy of personnel responsible for making "timely warning" determinations in case of the absence of the director. The procedures developed by EMU also include an outline of the information that it will convey to the community in a "timely warning," and describes how the warnings will be distributed to the community, and how long they will remain in effect.

EMU also provided copies of letters that it sent to local law enforcement agencies that have jurisdiction over areas served by EMU, both on-campus and off-campus. In these letters, EMU is requesting that it be apprised of any reported crimes that fall under the jurisdiction of the respective agencies that would require EMU to consider issuing a "timely warning" to the campus community.

#### **FINAL DETERMINATION**

EMU failed to issue a "timely warning" to the campus community despite strong evidence that the female student died as a result of a crime that justified a timely warning. In evaluating this issue, the Department also determined that EMU did not have substantive procedures or a written policy in effect regarding the issuance of such warnings to the campus community.

Based on a thorough review of EMU's response to this finding, the Department has determined that EMU's proposed corrective actions to facilitate EMU's compliance with the "timely warning" component of the Clery Act generally address most of the requirements of the Act. However, EMU's "timely warning" procedures do not properly identify all of the types of crimes for which a timely warning may be appropriate. Specifically, EMU's draft procedures list the types of crimes that must be considered for a campus advisory, but the list does not include crimes related to *liquor law violations*, *drug law violations*, and *illegal weapons possession*. These are all crimes that must be included in the campus crime report under 34 C.F.R. § 668.46(c)(1), and therefore, meet the definition of crimes that are subject to "timely warning" consideration as required by the Act. Accordingly, these types of crimes must be included as crimes that may pose a threat to the safety of the campus community, and therefore, "timely warnings" must be considered for these crimes, and issued as appropriate.

In response to this finding, EMU also provided copies of correspondence that it sent to several law enforcement agencies that have jurisdiction over areas that include EMU's campuses. The

purpose of the letters was to request that EMU's DPS be included in the dissemination of any relevant crime alerts that may require EMU to consider issuing a "timely warning" to the campus community. The letters sent by EMU appear to be a reasonable good-faith effort to obtain information on crimes that are reported to local law enforcement agencies, but which are not necessarily reported to the DPS. However, EMU's response to Finding Number Four of the program review report noted that several law enforcement agencies failed to respond to EMU's request for information. In light of this experience, EMU should develop additional procedures that provide an alternative method of gathering data from agencies that do not respond to EMU's request for information. While the Clery Act does not specify how institutions should obtain crime statistics or relevant crime information from local law enforcement agencies, EMU should take appropriate steps to strengthen its process for collecting this data.

EMU's response to this finding demonstrates that it has taken steps to comply with the "timely warning" requirement of the Clery Act. The actions taken by EMU, as detailed in its response, should significantly correct and improve its compliance with the Clery Act, as long as the procedures are fully and correctly implemented. However, these planned corrective actions developed by EMU do not diminish the seriousness of its failure to provide a "timely warning" to the campus community in light of the serious crime that was committed on campus in December 2006.

#### *Finding 2 - Lack of Administrative Capability*

**Citation:** *To begin and to continue to participate in any Title IV, HEA program, an institution must demonstrate to the Department that it is capable of adequately administering the Title IV programs in accordance with all applicable statutory and regulatory provisions. 34 C.F.R. §§ 668.16, 668.16(a) and 668.46.*

**Non-Compliance:** *Based on the results of the program review, as reflected in this report, the reviewers have determined that EMU has not adequately administered regulatory requirements related to the Clery Act, as required by 34 C.F.R. §§ 668.41 and 668.46.*

*The findings in this program review report indicate numerous and systemic violations by EMU of the Clery Act requirements. EMU misreported required statistics, failed to establish and maintain adequate policies, and failed to take action to ensure the safety and well being of the campus community. The findings also demonstrate a lack of adequate institutional training, oversight, and supervision in assuring EMU's compliance with Clery Act requirements.*

*EMU's lack of administrative capability in administering campus security functions is further evidenced by an issue identified during interviews with EMU faculty and staff. Specifically, reviewers learned that a "master" set of keys to EMU's buildings was lost by an EMU contractor that was performing work on the campus in August 2005. The keys apparently would allow access to almost any building and room on campus, including dormitory halls. An alert was quickly sent out to senior EMU administrators, but most of the campus community was never notified of the theft. EMU claims that the locks to all dormitory halls, both inside and outside, were eventually re-keyed. Additionally, EMU indicated that all outdoor building locks were re-keyed. However, not all indoor locks granting access to classrooms and faculty offices were re-keyed. In the alert sent to senior administrators, EMU indicated the keys were reported*

as "lost". However, EMU officials reported the incident to the DPS and classified it as a "larceny of master keys."

**Required Action:** In response to this finding, EMU must develop and implement a plan addressing how it intends to achieve full compliance with all requirements related to the Clery Act. The plan must include the following components, with timelines:

- 1) a training component for institutional management-level personnel assigned responsibility for oversight of Clery Act provisions to help ensure that those individuals are properly trained as to Clery Act requirements,
- 2) a training component for other institutional personnel assigned responsibilities in carrying out Clery Act administrative and reporting requirements to help ensure that those individuals are properly trained as to their responsibilities, and
- 3) an evaluative component that will initially confirm that the institution has made all statistical, policy, and procedural updates in order to bring the institution into full compliance and that will periodically re-confirm that the institution is in compliance.

While the Department's primary concern is that all of the Clery Act requirements and related reporting requirements are being met, it is hoped that EMU's plan will include a component to assure that the institution has in place proper procedures and processes that will help ensure future compliance in all respects. EMU must provide the Department a copy of this plan with its response to this report. Note: In providing this plan, it is acceptable for the institution to include as part of the plan the "Statistical Independent Validation Requirement" related to Finding Number 4.

In addition to the corrective action plan requirements detailed above, EMU must also provide a summary of steps taken to ensure safety on campus as a result of the theft of its master keys in August 2005.

EMU may also provide any additional information for the Department to consider in reaching final resolution of this finding.

**Response:**

In its response to the program review report, EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU concurs that the serious and systemic deficiencies noted in the program review report indicate a lack of administrative capability on its part in complying with the requirements of the Clery Act.

In response to Finding Number Two, EMU proposed several campus security strategies and initiatives to correct and improve its campus security administration, and its compliance with the Clery Act. These strategies include: reassigning responsibility to oversee DPS to a university administrator who can more effectively monitor campus security actions and ensure compliance with the Act; providing responsible administrators with bi-weekly reports regarding campus security; fostering improved communications with outside law enforcement agencies; and organizing campus security training with responsible staff, both from external and internal sources. EMU also indicated that it will review and evaluate its compliance with the Clery Act

on an annual basis to identify areas of weakness, and consider best practices used at other institutions of higher education to ensure continued compliance with the Clery Act.

EMU provided the Department with a comprehensive work plan summarizing the university-wide campus security initiatives and training projects. The work plan identifies the responsible party for completing each initiative, start dates, projected completion dates and the status of each project. As part of its plan to fulfill training requirements, EMU asserted that it has made arrangements with an independent contractor to provide training for DPS personnel and other university administrators responsible for Clery Act compliance.

The Department required EMU to provide an update on steps it has taken to ensure the safety of the campus community as a result of the theft of EMU's master keys in August 2005. EMU provided a summary of actions taken regarding this issue. Specifically, EMU reported that two written advisories were issued to senior administrators shortly after the keys were determined to be missing. The first advisory informed senior administrators of the missing keys and outlined the steps to be taken in response to the situation (e.g., increased presence of security personnel on campus and the possibility of rekeying locks). In the second advisory administrators were updated on EMU's progress in addressing the missing keys issue. EMU also indicated that a committee was established in November 2005 to address security issues created by the missing keys.

Finally, in response to the Department's request for information about the missing master keys, EMU provided copies of internal correspondence from the DPS to senior administrators to substantiate that security operations and awareness of the issue were being increased. EMU also provided an update on the status of the rekeying project. EMU indicated that the *exterior* locks on all academic and administrative buildings were rekeyed by April 5, 2006. EMU indicated that the locks of all residence halls (both inside and outside doors) were fully rekeyed by August 29, 2006. Work order documentation was provided to substantiate EMU's claims of the security enhancements. EMU indicated that it was in the process of rekeying the interior locks on all faculty doors on the main campus and anticipated that the project would be completed sometime in September 2007.

#### FINAL DETERMINATION

Based on the serious and systemic violations noted in the program review report, the Department determined that EMU's capability to comply with the Clery Act and the Department's regulations as required by 34 C.F.R. § 668.46 is impaired.

In its response to this finding, EMU enumerated numerous campus security initiatives to improve its administrative capability and enforcement of the Act. Based on a thorough review of EMU's response, the Department has determined that EMU has taken significant corrective action, and has made strides in curing the deficiencies that led to this finding.

EMU indicated that it engaged an independent contractor to provide campus security training to institutional administrators regarding compliance with the Clery Act. The Department confirmed that this training has been conducted. However, EMU must follow-up on this training and provide additional training as needed, as well as training new administrators who did not attend prior training. According to the work plan EMU provided with its response, additional and continuing training projects are planned, and an ongoing evaluation of the initiatives is proposed. EMU must ensure that these plans are fully implemented to meet EMU's continuing obligation to fully implement the Clery Act requirements.

In its response to the missing master keys issue, EMU indicated that it took "immediate" steps to secure its campus after learning of the missing keys. While it is positive that EMU enhanced its security operations as a result of this issue, it is disconcerting to the Department that written advisories were provided only to *senior administrators* of EMU and not sent to the entire campus community. The Department is also concerned that, as of the date of EMU's response to the program review report, which is approximately two years after the incident occurred, the rekeying project was not totally completed.

EMU must fully implement the initiatives it proposed and continue to monitor its campus security operations on an ongoing basis. This should assist in eliminating the impaired reporting and decision-making processes that resulted in the statutory and regulatory violations identified in the program review report. If EMU fully implements the campus security initiatives outlined in its response, the institution should have improved its compliance with the Clery Act. However, the proposed corrective actions do not diminish the seriousness of EMU's failure to capably and willingly comply with the requirements of the Clery Act.

### *Finding 3 - Lack of a Timely Warning Policy*

**Citation:** *Under the Clery Act and the Department's regulations, an institution must include within its Annual Security Report a statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports. Section 485(f) of the HEA and 34 C.F.R § 668.46(b)(2).*

*Part of this policy statement must include the institution's policies for making timely warning reports to members of the campus community regarding the occurrence of certain crimes on campus that might represent a continuing threat. 34 C.F.R. § 668.46(b)(2)(i).*

**Non-Compliance:** *EMU's Annual Security Report (which it refers to as its "Safety Awareness Handbook") did not include any statement of its policy for making timely warning reports to members of the campus community. During the review, EMU demonstrated that it had issued "timely warnings" in response to some previous criminal activities on or near campus that potentially posed a threat to members of the campus community. However, the lack of a published policy statement means that there is no assurance that EMU is properly or consistently providing these warnings. The evidence suggests that the lack of a policy contributed to the decision not to issue a warning in the murder case discussed above (See Finding Number 1).*

**Required Action:** During the program review, EMU updated its online "Safety Awareness Handbook" to include a "timely warning" policy. Additionally, EMU committed to providing the updated information to any party who requests a written copy of the Handbook. However, as noted in this report, there are additional changes that must be made.

In response to this finding, EMU must provide the detailed process of its "timely warning" policy. This includes its published Clery Act disclosure, as it relates to providing "timely warnings," and any internal policies that ensure compliance with the requirement. EMU may also provide any additional information for the Department to consider in reaching final resolution of this finding.

**Response:**

In its response to the program review report, EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU concurs that it did not have any substantive written procedures or a published policy in effect for the purpose of providing "timely warnings" of threats to the safety and security of the campus community.

In response to this finding, EMU developed comprehensive procedures for the purpose of generating and issuing "timely warnings," when necessary. EMU has also published a "Timely Warning" Policy that will be included in its "Safety Awareness Handbook."

The corrective action required to cure this deficiency is the same action needed to respond to Finding Number One of the program review report (Failure to Provide "Timely Warning" in Response to Homicide Investigation of On-Campus Student Death). EMU addressed the corrective action requirement for this finding with its response to Finding Number One. See Finding Number One of this final determination letter for a more detailed discussion of EMU's response.

**FINAL DETERMINATION**

EMU did not have any substantive written procedures or a published policy for providing "timely warnings" of threats to the safety and security of members of its campus community. The lack of a formal policy regarding the issuance of such warnings undeniably was a factor in EMU's failure to issue required warnings to the campus community regarding the suspicious student death that was discovered on December 15, 2006, and the theft of EMU's master keys that occurred in August 2005.

Based on the Department's thorough review of EMU's response to this finding, as well as its response to Finding Number One of the program review report, it appears that EMU now has procedures in place and a published policy that should substantially improve its ability to make timely warning determinations and issue campus-wide advisories, as needed. EMU must fully implement these new procedures and policies to fulfill the requirements of the Clery Act.

As noted in the Department's final determination for Finding Number One of the program review report, there are still some facets of EMU's "timely warning" procedures that need improvement. Specifically, EMU's new "timely warning" procedures do not properly list all of the crimes that require consideration for a campus advisory. In particular the policy does not include crimes involving *liquor law violations*, *drug law violations*, and *illegal weapons possession*. These are all crimes that must be included in the campus crime reports required by 34 C.F.R. § 668.46(c)(1), and therefore, meet the definition of crimes that may require a "timely warning," as required by the Act. Accordingly, these types of crimes must be included as crimes that pose a threat to the safety of the campus community, and therefore, "timely warnings" must be considered for these crimes, and issued, as appropriate.

In response to the requirement that EMU make a reasonable, good-faith effort to obtain crime statistics and crime related information from local law enforcement agencies, EMU provided copies of correspondence that was sent to several law enforcement agencies that have jurisdiction over areas that include EMU's campuses. The purpose of the letters was to request that EMU's DPS be included in the dissemination of any relevant crime alerts that may require EMU to consider issuing a "timely warning" to the campus community. It is recommended that EMU enhance its process for ensuring the collection of this data. These letters are a positive step toward collecting the required information; however, EMU should consider alternate methods of gathering information from these agencies if they do not respond to EMU's request for information.

Based on EMU's response to this finding, it is clear that it has taken some steps to comply with the "timely warning" requirement of the Clery Act. The actions taken by EMU should significantly correct and improve its compliance with the Clery Act, as long as these changes are fully implemented. However, the proposed corrective action developed by EMU does not diminish the seriousness of its prior failure to have an established process for providing a "timely warning" or a published policy detailing such a process in place at the time of the serious events noted above, that required that a "timely warning" be issued to the campus community.

#### *Finding 4 - Failure to Properly Disclose Crime Statistics*

**Citation:** Under the Clery Act, an institution must make available statistical information related to certain reported crimes, and arrests/campus disciplinary referrals for Alcohol, Drug, and Illegal Weapons Possession violations. The statistical information must be disclosed by location -- on campus (including a breakdown of those which occurred in dormitories/residential facilities), in or on noncampus buildings or property, and on public property -- and must be provided for the three most recent calendar years. 34 C.F.R. §§ 668.46(a), 668.46(c)(1)-(c)(4).

*In addition to the statistical reporting that must be disclosed and made available as part of the institution's Annual Security Report by October 1 of each year, the statistical information must also be electronically submitted to the Department for inclusion in the Department's Campus Crime and Security Web Site. The electronic submission of each year's updated information to the Department must be provided within timeframes specified by the Department. 34 C.F.R. § 668.41(e)(1)-(e)(5). Note: This year's submission window will run from August 20 through October 12; during this period, normal*

*submission of statistics will be accepted. At other times, access to the system for the purpose of an institution submitting corrections can be granted by contacting the Clery Help Desk at 1-800-435-5985.*

**Non-Compliance:** *EMU did not comply with these Clery Act reporting requirements for the 2003, 2004 and 2005 calendar years as follows:*

- A. *In its Annual Security reporting to students and employees, EMU did not accurately report the numbers of Forcible and Non-Forcible sex offenses. The Department reviewed the reports on all reported sex offenses and determined that all of the offenses included in the statistics under the Criminal Sexual Conduct category should have been reported as Forcible; there were no Non-Forcible crimes. Accordingly, four Non-Forcible sex offenses, one Non-Forcible sex offense, and three Non-Forcible sex offenses reported for calendar years 2003, 2004, and 2005, respectively, met the definition of and should have been reported as Forcible Criminal Sexual Conduct incidents. It is noted that these referenced incidents were properly reported as Forcible Criminal Sexual Conduct incidents in the electronic crime statistic information submitted to the Department.*
- B. *In its Annual Security reporting, EMU did not properly report arrest statistics related to Alcohol, Drug, and Illegal Weapons Possession violations. The institution did report arrest related statistics, but did not report the statistics by location, as required by the Department's regulations. Additionally, the statistics included in the Annual Security Report for students and employees reported in these categories were different than the statistics for the same categories that were electronically reported to the Department. For example, the Annual Security Report for students and employees illustrate Drug and Liquor arrests for 2005, regardless of location, as 12 and 15, respectively; however, EMU reported the comparable number of campus reported incidents for 2005 as 35 (17 on campus/18 public property) and 106 (101 on campus/5 public property), respectively.*
- C. *In its Annual Security reporting to students and employees, EMU did not properly report campus judiciary referrals for Liquor, Drug and Illegal Weapons Possession violations. Those statistics were reported on an academic year basis, rather than on a calendar year basis as required by the regulations. Additionally, in the category of judicial referrals, the Annual Security Report does not include the number of violations that occurred in dormitories or residential housing as required. Statistics for these same campus judiciary referral categories that were electronically reported to the Department appear to have been provided on the required calendar year reporting structure, but the total numbers are not similar in the two reporting systems and it is not possible to reconcile statistical discrepancies because of the different reporting structures (e.g. calendar year vs. academic year reporting).*

**Required Action:** *EMU is required to take corrective actions as noted:*

- A. *In reviewing EMU's crime reports and statistics related to Forcible and Non-Forcible Sexual Offenses, it is apparent that the offenses included in the statistics as Non-Forcible were neither statutory rape nor incest and therefore all of the offenses should have been reported as Forcible. EMU has two employees in the DPS – one of whom records information that is eventually reported as part of the annual security statistical reports for students and employees and the other who reports the campus crime statistics to the Department. The employee compiling the annual security reporting statistics was improperly classifying some sexual offenses while the other employee who should have been reporting the same crimes was submitting properly categorized information to the Department. The reviewers noted that the adjustments related to these specific sexual offenses have already been*

*made in the online annual security statistics reporting and those statistics should now be consistent with the numbers of sexual offense incidents reported to the Department over the same time period.*

*In response to this component of the finding, EMU is required to meet a Statistical Independent Validation Requirement related to its statistical reporting (See "Statistical Independent Validation Requirement" later in this finding). Additionally, EMU must develop and implement procedures to ensure that crimes are consistently and correctly categorized, and employees must receive consistent and clear training on statistical reporting. EMU must provide a copy of such procedures as well as a training plan for responsible employees.*

- B. *Prior to completion of the program review EMU reviewed its data and corrected its online Annual Security statistical reporting information on arrests for Alcohol, Drug, and Illegal Weapons Possession violations. The institution adjusted the reported statistics and classified the violations by location. However, the revised statistics still conflict with the data reported to the Department. For example, the revised 2005 drug law arrests are reported as 26 on campus (with 12 of the 26 classified as in campus dormitory/residential facilities) and nine on public property. However, the latest 2005 drug law arrests reported by the institution to the Department indicate 17 on campus (with 12 of the 17 classified as in campus dormitory/residential facilities) and 18 on public property. In addition, the revised 2005 liquor law arrests are 101 (with 32 of the 101 classified as in campus dormitory/residential facilities) and five on public property.*

*Since there are continuing significant statistical reporting problems, we are requiring a Statistical Independent Validation that must be completed by the institution before this finding can be considered as resolved. (See "Statistical Independent Validation Requirement" later in this finding).*

- C. *Prior to completion of the program review EMU reviewed the data and corrected its Annual Security statistical reporting information on campus judiciary referrals for Liquor, Drug, and Illegal Weapons Possession violations. The revised information was corrected to properly report the data by calendar year. However, the revised information does not include the required location breakdowns. Specifically, the campus dormitory/residential facilities subset of on campus statistics is not reported, as required by the Department's regulations. In addition, the reviewers were informed there were some campus judiciary referrals that might have previously been misreported to the Department's Campus Crime and Security Website. Since there are significant documented statistical reporting problems, we are requiring a Statistical Independent Validation that must be completed by the institution before this finding can be considered as resolved. (See "Statistical Independent Validation Requirement" below).*

#### **Statistical Independent Validation Requirement**

*It has been noted that there are several documented instances where information previously disclosed by EMU in its Annual Security Reports to students and employees conflicts with the information separately reported by the institution to the Department for inclusion on the Campus Crime and Security Website. In addition, the Department found that EMU's campus crime information has not been accurately reported to one system or the other, is not categorized by required location, or is not reported using the required time frames. Additionally, it appears that EMU's Crime Log, which is maintained by its DPS, and which should normally serve as a basis for many of the reported statistics, may not always be updated to properly support the reported statistical information.*

*As a result of the reporting discrepancies, EMU is required to provide the Department with a statistically independent validation to verify the accuracy of all data for the 2004, 2005 and 2006 calendar years. This certification (validation) must be performed in a manner that is acceptable to the Department. As such, EMU must provide the Department with its methodology for accomplishing this requirement prior to completing the task. Note: the Department is not requiring confirmation of 2003 statistical information since that information is now dated and would no longer be included as part of the three-year reporting requirement effective with the issuance of the 2007 Annual Security reporting.*

*This validation requirement must be performed by an entity that is independent of EMU. The independent auditor must review 100% of all statistical information reported and must compare the information reported to all original source documentation. This process may be completed in conjunction with other activities or processes that EMU would initiate to resolve other findings in the program review (e.g. the activity could be part of the overall "plan" that must be provided in response to Finding Number 2).*

*The purpose of the Independent Statistical Validation Requirement is to ensure that the information reported by EMU in its Annual Security Reports for students and employees and the data provided to the Department for the Campus Crime and Security Website disclosures is consistent and accurate and complies with the requirements of the Clery Act and the Department's regulations. Once the proper statistics have been confirmed or determined, the process must also establish that any required updates have been made to both reporting systems.*

*In its initial response to this finding, EMU must describe the steps it has taken to expeditiously arrange for the completion of the independent evaluation, provide the timeframe for completing the evaluation, and indicate the independent entity it has chosen to complete the effort (subject to Departmental approval). Additionally, EMU must confirm at the appropriate time that both reporting systems have been updated with the appropriate statistics and provide those statistics to the reviewers.*

*In addition to the responses required under this finding, EMU may also provide any additional information for the Department to consider in reaching final resolution of this finding.*

**Response:**

In its response to the program review report EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU acknowledges that it did not properly disclose campus crime statistics in the 2003, 2004 and 2005 calendar years.

In response to this finding, EMU recalculated all of the campus crime statistics for the 2004 and 2005 calendar years and provided the Department with corrected totals, that are categorized by the appropriate crime classification, location of the crime, and by the required *calendar year* reporting periods. EMU also provided crime statistics for the 2006 calendar year. The updated statistics are now included in EMU's revised "Safety Awareness Handbook." The Department did not require EMU to recalculate the 2003 calendar year statistics since the information is now outdated and would not be included in the three calendar year reporting requirement under the Clery Act.

In response to the Department's request that EMU develop appropriate procedures for reporting of campus crimes, EMU developed and provided written procedures that detail how its crime reporting practices will be coordinated. The new procedures include: 1) a step-by-step description of the process for compiling and reporting crime data relevant to the Clery Act; 2) steps for counting and reporting referrals for disciplinary action for illegal weapons possession, drug law violations, and liquor law violations from Student Judicial Services; and 3) defining how information and data regarding student conduct are shared between the University Housing Department and the Office of Student Judicial Services. EMU also indicated that it has revised its former dual reporting process for campus crimes and has designated a single staff member to handle the tasks of compiling the data for its Annual Security Report and reporting it to the Department's Campus Crime and Security Web Site.

Finally, in response to this finding, EMU provided the Department with documentation to substantiate the completion of the Statistical Independent Validation Requirement, for the purpose of confirming the integrity of its Clery Act related crime statistics. The documentation includes corrected crime statistics reported by EMU. The crimes are now categorized by location category (i.e., on-campus, dorm/apartments, off-campus and public property) and by calendar year. EMU also provided the auditor's attestation of the accuracy of the statistics in the form of a letter from the auditor to EMU dated July 27, 2007. In the letter the auditor acknowledges the validation requirement and lists the source documents that were analyzed to complete the validation. The auditor indicated that 100% of all statistical information reported to the Department for 2004, 2005, and 2006 was evaluated. The auditor also stated that, "all errors discovered through this validation process were corrected by EMU." However, the auditor did not provide additional information to detail corrections made by EMU. The auditor also did not verify whether or not the statistical information that EMU previously reported to the Department's Campus Crime and Security Web Site had been updated to reflect the corrections.

#### **FINAL DETERMINATION**

EMU did not properly disclose campus crime statistics for the 2003, 2004 and 2005 calendar years. For example, EMU's campus crime statistics did not reflect the proper classification of crimes and EMU reported different crime statistics in different places. EMU's lack of administrative capability, as discussed in Finding Number Two of the program review report, clearly contributed to the reporting deficiencies identified in this finding.

EMU's response to this finding included an attestation from its independent auditor affirming that revised crime statistics for the required reporting periods have been validated, and that all errors noted have been corrected. However, the auditor did not specify what data had been corrected or what reporting sources had been updated. As a result, the Department requested that the auditor provide more detailed information regarding the discrepancies noted, and the resulting corrections. In response, the auditor provided the Department with a listing of the original incorrect data and the resulting changes to EMU's Annual Security Reports for the 2004,

2005 and 2006 calendar years. These corrections resulted in minor changes in the number of incidents reported in several crime categories for the 2004, 2005 and 2006 calendar years.

The new "Safety Awareness Handbook" submitted with EMU's response to the program review report confirms that the institution has revised its published crime statistics for the calendar years 2004, 2005 and 2006 based on the data validated by the auditor. EMU has also corrected the data that appears on the Department's Campus Crime and Security Web Site. However, EMU did not make corrections to the Web Site until September 7, 2007, after the Department brought it to EMU's attention that the Web Site had not been corrected.

EMU fulfilled the Statistical Validation Requirement for this finding by having an independent auditor validate the integrity of its crime statistics for the required calendar years. Since the auditor attested to the accuracy of the data, and it is now published in EMU's revised "Safety Awareness Handbook," the Department assumes that the data is now accurate and valid. However, the Department is concerned about EMU's failure to timely correct the inaccurate statistics it originally reported on the Department's campus crime web site. This web site is accessible to the public and used by prospective students and their families. EMU has an obligation to ensure the integrity of this information and must ensure that the data included on the web site is accurate.

EMU's action to ensure that it reports accurate and correct crime statistics is a positive step from this point forward. However, EMU's failure to make timely corrections to all reporting sources, as instructed by the Department's program review report, represents a possible flaw in EMU's new procedures. Specifically, in response to the program review report, EMU corrected the data it was providing directly to students and employees, but did not make corrections to the data it was reporting to the Department and the general public until it was once again instructed to do so by the Department.

The corrective measures taken by EMU to correct and disclose its crime statistics do not diminish the seriousness of its prior failure to properly disclose crime statistics to current and prospective students and current and prospective employees.

#### *Finding 5 - Lack of Adequate Policy Statements*

**Citation:** *Under the Clery Act, an institution must include within its Annual Security Report a statement of current campus policies that include, but are not limited to, the following:*

- 1) *how the institution prepares the annual disclosure of crime statistics,*
- 2) *the availability of campus sexual assault programs to assist in preventing sex offenses and steps that should be followed or are available when a sex offense occurs, including the availability of institutional personnel to assist sexual assault victims in notifying on or off campus law enforcement, and the rights available to the victim and the accused in a campus disciplinary hearing process, and*

- 3) *the availability of and process for obtaining information regarding registered sex offenders on campus. 34 C.F.R. § 668.46(a), §§ 668.46(b), (b)(2), (b)(11), and (b)(12).*

**Non-Compliance:** *EMU's' required campus crime policy statements as contained in its Safety Awareness Handbook did not include all of the required elements, as follows:*

- 1) *The policy statement disclosing how EMU compiles and prepares campus crime statistics is inaccurate/incomplete because –*
  - *a statement is not included that addresses EMU's reporting of calendar year crime statistics to the Department via a website that is generally accessible by the public,*
  - *while EMU might elect or be required to provide crime statistical information to the MSP, it inaccurately states that it is required to do so under provisions of the Clery Act,*
  - *there is no discussion of the roles of other institutional offices/officials/campus security authorities as defined in 34 C.F.R. § 668.46(a) in the process of providing and compiling crime/disciplinary statistics.*
- 2) *The policy statement related to sexual assault procedures is incomplete because it does not state that EMU personnel will be available to assist victims in notifying on or off campus law enforcement authorities and it does not specify that in campus disciplinary proceedings the accuser and accused will have the same rights in regard to any campus disciplinary proceeding.*
- 3) *There is no statement instructing how information can be obtained regarding registered sex offenders.*

**Required Action:** *EMU updated several parts of its online "Safety Awareness Handbook" before the completion of the program review. EMU also confirmed that it would provide the updated information to any party who requested a written copy of the handbook.*

*While the Department's initial review indicates that most of the referenced items have been corrected, it does not appear that all of the necessary revisions to the policy regarding the reporting process have been made. Specifically, the handbook still does not include a discussion of how other campus security authorities contribute to the crime/judiciary action reporting processes and does not disclose the procedure by which EMU, as part of its handling of the statistics, also reports to the Department. Note: A clear statement about the dual statistical reporting process by EMU via its Annual Security Reporting and the Department is vital since it is became clear during the program review that institutional staff members handling the two reporting responsibilities were not aware the processes were linked.*

*EMU must respond to this finding by providing an assurance that its "Safety Awareness Handbook" contains all policies and provisions specified in the Department's regulations. The response must also provide the most updated version of EMU's "Safety Awareness Handbook," including all the required updates. EMU may provide these assurances as part of the evaluative component of the plan outlined in the "Required Action" for Finding Number 2.*

*In addition to the responses required under this finding, EMU may also provide any additional information for the Department to consider in reaching final resolution of this finding.*

**Response:**

In its response to the program review report, EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU acknowledges that it failed to include certain required policy statements in its Annual Security Reports.

In response to this finding, EMU revised the current edition of its "Safety Awareness Handbook" to include the following required references and/or corrections to its campus security policies:

- a policy statement that crime statistics will be reported by calendar year, and that the data may be viewed on the Department's web site;
- a policy statement regarding the roles of campus security authorities at EMU;
- a policy statement regarding sexual assault procedures, including EMU's willingness to assist victims in reporting incidents to law enforcement;
- a policy statement regarding sexual assault procedures, including campus disciplinary procedures and the rights of both the accuser and the accused;
- a policy statement regarding the Michigan Sex Offender Registry, including instructions on how to obtain information on registered sex offenders; and
- removal of the inaccurate reference to EMU being required to provide crime statistics to the MSP by the Clery Act.

In its response, EMU also indicated that it has changed its procedures for compiling required crime statistics for its Annual Security Report and subsequently reporting those statistics to the Department. EMU reports that it has abolished its prior dual crime statistic reporting system, and has designated a single staff member as responsible for compiling the data.

**FINAL DETERMINATION**

EMU published campus security reports for 2003, 2004 and 2005 containing inaccurate information, and without required Clery Act policy statements.

As a result of this finding, EMU revised its "Safety Awareness Handbook." Based on the Department's review of the updated handbook, it appears that EMU has appropriately addressed all of the policy statements required by the Clery Act and made the required corrections.

In response to this finding, EMU also addressed its procedures for compiling statistical information in its Annual Security Report, and subsequently reporting this information to the Department. EMU's modification of these reporting processes to ensure that the same individual is responsible for both tasks is designed to help correct the inconsistent information that was observed in EMU's reporting processes. However, as noted in the final determination for Finding Number Four of this letter, inconsistencies still exist. Specifically, crime statistics reported by EMU on the Department's Web Site were not originally corrected at the same time EMU made corrections to the data that is made available directly to students and employees.

The measures taken by EMU to correct and improve its reporting of crime statistic data and campus security policy statements do not diminish the seriousness of its prior failure to provide accurate and complete campus crime information to current and prospective students, and to current and prospective employees of EMU.

***Finding 6 - Failure to Report All Required Statistics Occurring on Public Property and in Non-Campus Buildings or Property***

**Citation:** Under the Clery Act, an institution must include within its Annual Security Report reportable crime statistics that occur in areas defined as "Public Property" and "Noncampus Buildings or Property". 34 C.F.R. §§ 668.46(a), 668.46(c), (c)(4) and 668.46(c)(8).

*In complying with this requirement, an institution is required to make a "reasonable, good faith effort" to obtain the required statistics from other police agencies that might have immediate jurisdiction over these areas. If an institution is unable to obtain the required statistics after making a "reasonable, good faith effort," the institution is not responsible for a police agency's inability or refusal to provide the information. Additionally, if a police agency does provide the information, the institution may rely on such information in compiling its campus crime statistics. 34 C.F.R. § 668.46(c)(9).*

**Non-Compliance:** EMU did not include in its "Safety Awareness Handbook" reportable "Public Property" and "Noncampus Buildings or Property" crime statistics obtained from other police agencies.

EMU did report a limited number of crime statistics under the "Public Property" category. However these were incidents in which EMU's police department (DPS), which also has legal jurisdiction in the City of Ypsilanti, was involved. In addition, EMU confirmed that some student organizations control certain off-campus buildings that would be included under the definition of "Non-campus Buildings and Property," which would specifically fall under the jurisdiction of the Ypsilanti City Police Department.

The reviewers were informed by EMU that its DPS has historically been unable to obtain and report the required "Public Property" and "Noncampus Buildings or Property" statistics from the Ypsilanti City Police Department. However, DPS officials did not provide any evidence demonstrating that it tried to obtain the required information or demonstrating that the Ypsilanti City Police Department failed or refused to provide the information.

The reviewers were informed that the DPS, the Ypsilanti City Police Department and other area law enforcement agencies have recently combined their criminal reporting databases. This change should make it possible for the DPS to access/query the combined data in order to obtain the required

*information for Clery Act reporting purposes. It is anticipated that the information will be available for calendar year 2006, and later statistical reporting.*

**Required Action:** *Prior to the issuance of its 2007 "Safety Awareness Handbook" EMU must ensure that the crime statistics for calendar year 2006 and subsequent calendar years include required information related to "Public Property" and "Noncampus Buildings or Property", including incidents from the Ypsilanti City Police Department or any other police agency with relevant jurisdiction. Additionally, accurate statistics for these categories must also be reported to the Department for calendar year 2006 and subsequent calendar years.*

*EMU is required to confirm that it will complete the "Required Action" as outlined. Additionally, EMU may also provide any additional information for the Department to consider in reaching final resolution of this finding.*

**Response:**

In its response to the program review report, EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU concurs that it failed to include statistics for reportable crimes that occurred in areas defined as "Public Property" and "Non-Campus Buildings or Property."

In response to this finding, EMU provided the Department with a copy of its new procedures for compiling and reporting Clery Act crime statistics. The new procedures include a process for attempting to collect crime statistics from local law enforcement agencies for university controlled buildings whose locations may fall under the category of "Public Property" or "Non-Campus Buildings." As part of this process, EMU sent letters to the local law enforcement agencies that have responsibility for areas in which EMU is located and requested relevant crime statistics for those areas. EMU provided the Department with copies of the letters sent to each law enforcement agency, as well as the responses received from the respective agencies. EMU also provided the Department with campus location maps indicating EMU's off-campus locations and detailing the law enforcement jurisdictions over those locations.

EMU's new procedures dictate that its director of DPS will request relevant crime statistics from local law enforcement agencies in March of each year. The requests will be made in written communications and will solicit calendar year crime statistics for the reportable area served by EMU, as well as the public property contiguous to the respective campuses.

As a result of responses received from local law enforcement agencies to its request for crime statistics, EMU has updated its crime statistic disclosures for each of its locations to include relevant crime statistics for the defined areas of "Public Property" and "Non-Campus Buildings or Property." The Department notes that not all law enforcement agencies responded to EMU's request for information. Therefore, EMU was not able to provide updated crime statistics for all of its locations.

### FINAL DETERMINATION

In its 2003, 2004 and 2005 Annual Security Reports, EMU failed to disclose the required statistics for crimes occurring in areas defined as "Public Property" and "Non-Campus Buildings or Property." As a result, EMU published campus security reports that did not contain all of the statistical information required by the law.

EMU was able to obtain some statistics related to the occurrence of Clery reportable crimes in areas defined as public property and non-campus buildings or property from cooperating law enforcement agencies, and has subsequently updated its "Safety Awareness Handbook" to include the required information.

Since not all law enforcement agencies contacted by EMU honored its request for information, the Department expects EMU to develop a mechanism to follow-up on requests for information that are not fulfilled by local law enforcement offices, and possibly to develop an alternative method for collecting the required data.

The actions taken by EMU to update its Annual Security Reports to include all required categories of crime statistics do not diminish the seriousness of its prior failure to disclose the required information to current and prospective students, and to current and prospective employees of EMU.

#### *Finding 7 - Failure to Properly Maintain the Crime Log*

**Citation:** *EMU, as an institution with a campus police department, is required by the Clery Act to maintain a daily Crime Log. The Crime Log must include, by date, all reported crimes occurring on campus, on a noncampus building or property, on public property, or within the patrol jurisdiction of the campus police department.*

*In addition to the nature, date, time, and general location of each crime, each listing must be updated, as appropriate, to include the ultimate disposition of the incident. Entries and updates must be completed within two business days unless an institution determines, among other things, that an update would jeopardize the confidentiality of a victim or jeopardize an on-going criminal investigation or the safety of an individual.*

*The Crime Log must be maintained and available for public inspection. 34 C.F.R. § 668.46(j).*

**Non-Compliance:** *EMU did not properly update its Crime Log to report a disposition. Specifically, related to an entry on December 15, 2006 (the date the student was found dead in her dorm room), the crime log entry was reported as "Medical Assist." On February 23, 2007, it was finally confirmed that the individual involved was the victim of a homicide. Upon the Department's inspection of the Crime Log, the reviewers determined that EMU had not updated the Crime Log entry with the disposition, and it was well beyond the required timeframe.*

**Required Action:** EMU's failure to update Crime Log entries could result in a reportable crime statistic not being properly categorized or disclosed in its criminal statistical reports.

*In the particular incident noted, which involved an initially non-reportable ("Medical Assist") incident that later was officially recognized as a Homicide, a reportable incident, DPS staff indicated that the incident was updated to the Homicide designation in a separately maintained "monthly log" and that would have assured that the updated statistic was properly reported/disclosed. DPS staff indicated that this "update" procedure involving a separate monthly record was a general practice. This practice is not consistent with the Clery Act, which requires that the Crime Log itself be updated to ensure that correct information is available to the Department, the public and institutional employees with campus crime reporting responsibilities.*

*In response to this finding, EMU is required to confirm that it will make all required disposition updates associated with an incident in the Crime Log, as required by regulation, so that the Crime Log entries will properly support the associated statistics disclosed as part of the Clery Act reporting processes.*

*It is the Department's intent that the required Statistical Independent Validation Requirement (See finding Number 4) will assure that any reported incidents that were previously included in the Crime Log, and which may not have been properly updated, were properly reclassified and reported based on any updated dispositions related to the incident.*

*The institution may provide any additional information that it feels the Department should consider in reaching final resolution of this finding.*

**Response:**

In its response to the program review report, EMU specifically stated that it "accepts the findings of the [Department's] Program Review Report." Therefore, EMU concurs that it failed to properly update its Crime Log to reflect an accurate record of the crime that was discovered by EMU's DPS on December 15, 2006.

In response to this finding, EMU developed new procedures for updating its Crime Log when an event or crime should be reclassified. Copies of the procedures were provided to the Department with EMU's response. The new procedures designate the lieutenant/assistant director of DPS or his/her designee as the responsible individual for updating the Crime Log when new or corrected information becomes available.

In its response, EMU also referenced the Statistical Independent Validation Requirement for Finding Number Four of the program review report for confirmation that required Crime Log updates have been accomplished and validated by the independent auditor.

**FINAL DETERMINATION**

EMU failed to maintain an accurate and complete Crime Log, as required by the Clery Act. Based on the new procedures provided by EMU with its response to this finding, it now appears

that EMU has taken the appropriate steps to provide for updates/corrections to the Crime Log, when necessary, and ensure that the log is complete and accurate.

The action taken by EMU to improve the documentation of the disposition of reported crimes does not diminish the seriousness of its previous failure to properly classify crimes and maintain an accurate Crime Log.