

Response to
Clery Act Complaints Against
The University of California
System and Individual Campuses

University of California
Office of the President

April 12, 2001

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SYSTEMWIDE ISSUES AND RESPONSES

1. **Source** – *Los Angeles times article May 10, 2000 via Security on Campus letter May 11, 2000.*
Detail – *The “secretive systems” (internal campus judicial systems) deprive students and parents of information about misconduct (crimes).*

Response –

Clery-reportable offenses handled through the student judicial system are disclosed in accordance with Clery Act Requirements. However, internal campus judicial systems handle a wide range of offenses, most of which are not crimes. Indeed, the greatest number of offenses involve academic dishonesty. Judiciary offices attempt to educate students who have committed non-criminal offenses by imposing sanctions that include community service, forfeiture of academic credit, suspension, and expulsion. When an offense involves a crime, the judicial affairs office refers it to the campus police for investigation and formal criminal proceedings. Because the interaction between student judiciary offices and police is handled differently on individual campuses, UC has reviewed its processes associated with Clery Act reporting. As a result, processes have been revised so that beginning with the 1999 data reported in October 2000, all campus annual security reports included statistics on Clery-reportable offenses that were reported to campus judicial officers.

With respect to the comment that internal campus judicial systems are secretive, the University is required by federal and state laws to restrict access to disciplinary records in order to protect personal privacy. All campus disciplinary records containing personally identifiable information regarding students are confidential student records subject to the protection of the federal Family Educational Rights and Privacy Act (FERPA), Article I, section 1 of the California Constitution, and the California Information Practices Act (IPA). Even where FERPA permits specified disciplinary records to be disclosed, in most circumstances this information remains protected confidential information pursuant to the California Constitution and the IPA.

2. **Source** – *Los Angeles times article May 10, 2000 via Security on Campus letter May 11, 2000.*
Detail – *There is a gap between the number of sexual assaults reported to campus women’s centers and the number appearing in official university crime or misconduct statistics.*

Response –

For Clery Act purposes, we report sexual assaults that take place on campus or in designated non-campus locations in accordance with Clery Act requirements. As a result, sexual assaults reported to campus officials that occur in areas outside of a campus’ reporting jurisdiction, sometimes in other counties or states, or for time periods prior to the period covered by the pertinent Clery reporting cycle, are not included in annual security reports unless they occurred on University-owned or controlled property. Such incidents are among the total number of assaults reported to women’s centers, counseling centers, and other non-police entities and account for variation in the numbers of assaults reported to women’s centers and other organizations and those contained in Clery Act reports.

3. **Source** – *Los Angeles times article May 10, 2000 via Security on Campus letter May 11, 2000.*

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Detail – *The system of internal discipline at campuses lacks uniformity.*

Response --

There is a standard Code of Student Conduct for the entire university which is implemented locally and, where appropriate, supplemented by additional local guidelines. The Code of Conduct includes an overarching requirement that students comply with the law.

4. **Source** – *Security on Campus letter October 2, 2000.*

Detail – *Two thirds of campuses, including UC Davis omitted sexual assaults reported to university sources other than police. Some campuses didn't gather crimes occurring at off-campus sites such as fraternities.*

Response --

This year UC has strengthened its procedures to ensure that every campus collects crime statistics from all applicable campus security authorities for inclusion in the campus security report. Due to the size and complexity of UC campuses and auxiliary units, prior to 1999, despite good-faith compliance efforts, some campuses did not obtain all data on all Clery-reportable incidents. The 1999 regulations clarified several points of confusion on who is required to report, and this has assisted UC in satisfying its objective to be in full compliance with the Clery Act. The Office of the President is working with campuses to establish one set of procedures for gathering crime statistics from all sources which will help to ensure complete reporting by all relevant campus security authorities.

5. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Reports of rapes and sexual assaults at University of California campuses are seldom included in the campus security report.*

Response –

See Response to Complaint 2.

6. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Prestige-conscious universities historically hide their campus crimes, leaving in the dark those who have a right and need to know: parents, students and employees. “Universities want you to think their campuses are like mom and apple pie—but students are getting raped, mugged and shot and we don’t know about it.” (Rep. Howard “Buck” McKeon, R-Santa Clarita).*

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Response –

We are not aware of evidence to support the contention that University of California campuses intentionally hide the occurrence of campus crime. We believe UC campuses have complied in good faith with applicable crime reporting requirements despite some past procedural inconsistencies. Sexual assaults that are committed on campus or in designated non-campus locations are included in Clery Act statistics. In addition, each campus has a variety of safety programs designed to educate students, staff and faculty about campus crime. The University has never alleged that crime does not happen on UC campuses, but has focused on prevention and on ensuring that adequate and appropriate support services are available. Some specific programs available on each campus are: crime prevention and safety education classes offered at orientation and throughout the school year; self-defense classes; rape/sexual assault programs; email/campus newspaper/residence hall distribution of crime watch alerts; web sites and brochures on safety and crime prevention; night safety shuttles; and special emergency telephones throughout the campuses.

As noted below, in Response to Complaint 10, it is believed that many victims of sexual assault do not report such assaults.

7. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Two thirds of the campuses omitted sexual assaults reported to university sources other than police.*

Source – *UCSD Guardian October 9, 2000 via Security on Campus letter October 13, 2000.*

Detail – *Only sexual assaults that were reported to campus police department were included in the University's Clery reports.*

Response --

See Response to Complaint 4.

8. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Annual crime reports provided to students and parents create a misleading portrayal of safety at UC campuses.*

Response –

The annual security reports published each year by each campus are intended to disclose all offenses reported to campus security authorities that meet Clery Act reporting requirements. As a result, the annual reports do not reflect those crimes that do not meet the Clery Act reporting requirements.

The University has never alleged that crime does not happen on its campuses, but has focused on prevention and on ensuring that adequate and appropriate support services are available. Its message to students has always been one of raising awareness regarding crime on campuses and in surrounding areas. Specific programs on UC campuses include: crime prevention and safety education classes offered at orientation and throughout the school year; self-defense classes; rape/sexual assault programs; email/campus newspaper/residence hall postings of crime watch alerts; websites and brochures on safety and crime prevention; night safety shuttles; and special emergency telephones throughout the campuses.

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9. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *In 1998 UC campuses reported a total of 60 forcible sex offenses including rapes at its nine campuses while the Sacramento Bee “found at least 190 cases of rapes and forcible sex offenses reported to officials other than campus police at those nine campuses.”*

Response –

Not all offenses reported include all the elements of a crime as defined by the Clery Act. See the individual campus responses to this inquiry for detail on the reporting of rapes and forcible sex offenses. Based on this information, we believe that of the 190 cases mentioned, those that met Clery Act requirements were reported.

Campus violence prevention programs give assistance to a variety of individuals for a multitude of issues. These issues include sexual assault, sexual harassment, threat of violence, and emotional abuse. Individuals are provided assistance regardless of whether the underlying incident meets the definition of a crime and regardless of where or when the incident occurred. Students seek assistance for events that happened years ago, or that happened on campus, or off-campus, or miles away in locations not related to the University.

10. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *There are so few victims of sexual assault reporting those crimes that the statistics are “essentially worthless.”*

Response --

The University acknowledges that most victims of sexual assault do not report such assaults. Experts agree that sexual assault on college women is a chronically underreported crime. A study published by the National Institute of Justice and Bureau of Justice Statistics in December 2000 reconfirms what has been reported for decades. This study, “The Sexual Victimization of College Women,” reports that as many as 3% of women college students on campuses nationwide may experience rape or attempted rape, but that less than 5% of such crimes were reported.

UC makes every effort to encourage students to report sexual assaults. Rape counselors and others on UC campuses help create an environment where rape victims are increasingly willing to report sexual assaults through such programs as the campus violence prevention programs, women’s centers and rape prevention and education programs. However, as is the case in other universities, victims are often unwilling to report, especially when the offense is committed by an acquaintance.

11. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The Sacramento Bee found that many universities obscure the sexual assault numbers by ignoring or omitting what little information they do have.*

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Response –

UC cannot comment on what “many universities” report. UC reports sexual assaults committed on its campuses and at designated non-campus locations as required by the Clery Act.

12. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Campus police and rape counselors acknowledge that sexual assaults are underreported on UC Campuses.*

Response —

See Response to Complaint 10.

13. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3.*

Detail – *Real (sexual offense) numbers often aren’t published, by UC campuses because they could tarnish a campus’s image.*

Response –

See Response to Complaint 6.

14. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3.*

Detail – *Administrative decisions have been made to publish crime reports that do not include statistics collected by women’s centers, residence halls and campus judicial affairs offices...because “no one is forcing them to do it.”*

Response --

See Responses to Complaints 4, 10, and 16.

15. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Officials believe that the Clery Act did not require the Campus Security Reports to include crimes from sources other than campus police until this year (2000). These are the same statistics campus police already compile for the FBI.*

Response –

See Response to Complaint 4.

16. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *“...the office of the President should make it clear that the report (campus security report) is a priority.”*

Response –

The Office of the President has undertaken a number of initiatives to reinforce the high priority it places on Clery reporting. These include a high-level task force; an independent report on Clery reporting at three campuses by nationally recognized expert Dolores Stafford; training sessions led by Dolores Stafford and attended by police and student affairs staff in both Northern and Southern California; and preparation of an in-depth handbook to guide Clery reporting.

17. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Only two of the campuses (UC Berkeley and UC Santa Barbara) obtain sexual assault information from local police to determine whether there is information that should be included in their Campus Security Reports. UC officials said it is impossible to persuade local police departments to “compile special statistics” for them.*

Response –

The Clery Act requires that crime statistics, including statistics on sexual assaults, be requested of local police agencies for very specific areas surrounding each campus. Eight campuses request such information. The ninth campus has been granted access to the local agency's crime database and compiles its own report. Where local police forces cannot separate out statistics for specific streets or buildings, it is not possible to report crimes required to be reported under the Clery Act. We are currently assessing the likely usefulness of reporting on larger areas, such as the city or county in which the campus is located. The Department's regulations recognize that campus police may not be able to obtain off-campus statistics from local police agencies.

18. **Source** – *UCSD Guardian October 9, 2000 via Security on Campus letter October 13, 2000.*

Detail – *Campuses deliberately under-report sex crimes in order to maintain an untarnished image.*

Response –

See Response to Complaint 10.

19. **Source** – *Sacramento Bee September 25, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Despite passage of federal law, UC campuses continued to exclude statistics prepared by any campus authority other than campus police. As a result, crime numbers remained artificially low.*

Response –

See Response to Complaint 4.

BERKELEY

1. **Source** – *Los Angeles Times* article May 10, 2000 via *Security on Campus* letter May 11, 2000.

Detail - *A student who raped his ex-girlfriend in 1996 was not punished through the campus internal disciplinary system.*

Response –

This appears to refer to a case brought to Student Judicial Affairs in January 1998, which involved a sexual assault committed in the spring of 1997. The victim had been involved in a dating relationship with the assailant in 1996. The suspect was convicted of domestic violence and was suspended from the University effective May 1998.

2. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000

Detail - *A student was carjacked and raped and the incident was not in the crime statistics included in the Campus Security Report. Moreover, students were not made aware of the incident by including it in the campus security report. Police stated that the incident was not included because in 1996 the law did not specify that areas surrounding campus had to be included.*

Response --

At the time of the incident (1996), the federal law did not require reporting of incidents occurring on public property adjacent to the campus. This incident occurred outside the area defined as “campus” by the 1994 regulations, and was accordingly not reported. It was, however, widely reported on campus at the time it occurred. Since publication of the 1999 Regulations, the Berkeley Campus has expanded the area on which it reports considerably further than required by the federal law.

3. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000

Detail - *Campus police have limited resources so they decide they have little time to spend preparing the Clery Report.*

Response –

This refers to a police officer’s statement during a press interview. Noting that some university police departments do not have any civilian personnel, the officer commented that any individual or organization faced with acutely limited resources must make choices about priorities. The Berkeley Campus has always taken its responsibilities relative to crime reporting very seriously, and its report has been recognized by S. Daniel Carter, the Vice-President of Security on Campus, as a model that others should look to.

4. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000

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Detail - *Berkeley police did not request the 1999 annual statistics from the campus rape crisis center as they had in the past.*

Response –

The Police Department asked for and received statistics for all programs managed by University Health Services in 1999, including the rape crisis center, and these statistics were included in the Clery report.

DAVIS

1. **Source** – *Security on Campus letter October 2, 2000 – Attachment to Complaint dated October 2, 2000 and is titled “Complaint of Non-Compliance With The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Crime Awareness and Campus Security Act of 1990).” Sacramento Bee September 25, 2000 via Security on Campus letters October 2 and 3, 2000.*
 1. **(A) Detail** -- *“Crime statistics were not accurately disclosed. Additional details: The interpretation applied by the administration of the U.C. Davis campus (to justify excluding certain crimes) is in error.”*

Response --

The campus has made a good-faith effort to report in accordance with the Clery Act. The campus has reported as crimes in its past annual security reports only those incidents reported to a non-police campus security authority for which campus law enforcement could verify that all the elements of a crime had been alleged. The Davis campus’ practice has been consistent with Security On Campus’ interpretation of the law. As explained in the Security On Campus October 2, 2000 letter to Director Jim Castress, Department of Education, Region IX office: “Given the guidance provided by the Department we interpret the guidance they cite to mean that a campus law enforcement unit may review information provided by other campus security authorities to determine if the necessary elements of each crime are met...”

With regard to the requirements for including in the annual statistics reports made to non-police campus security authorities, the campus turned first to the Clery Act requirement that the annual security report include “statistics concerning the occurrence on campus ... of [specified] criminal offenses reported to campus security authorities and local police agencies.” 20 U.S.C. 1092(f)(1)(f)(i). The campus also reviewed the Department of Education regulations and related discussion of the regulations provided by the Department. As discussed below, the campus interpreted this guidance to mean that before an incident is reported as a statistic, the campus must have information to indicate that an incident actually occurred and that it met the elements of one of the designated “criminal offenses.” The necessary information is elicited by the police when a report is made to the police department, but often is not elicited by non-police campus security authorities when they receive a report.

The Department of Education regulations effective from April 29, 1994, through June 30, 2000, required that the statistics for the designated crimes be compiled “in accordance with the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting Program as provided in Appendix E to this part.” 34 CFR 668.47(d)(3) (as it appeared prior to the November 1, 1999, amendments). Appendix E to Part 668 describes the definitions to be used for reporting the crimes specified by the Clery Act in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program. The campus viewed the requirement that the crime statistics be compiled in accordance with UCR crime definitions as supporting its views that the campus must

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have information establishing all elements of the defined crimes before including a report in a statistical category.

In its explanation of the 1994 regulations, the Department of Education responded to comments regarding the responsibility of "campus security authorities." The Department noted:

“Several commentors noted that under the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting System, determining the number of crime counts is based on law enforcement investigation and does not include determinations by persons, such as those that might be made by deans and residence directors, who are not law enforcement personnel.”

In pertinent part, the Department responded as follows:

“Section 485(f)(1)(F) of the HEA requires institutions to disclose statistics of certain campus criminal offenses reported to campus security authorities and local police agencies. . . . The function of these administrators [campus security authorities] is not to determine authoritatively whether a crime took place-that is the function of law enforcement professionals working within the criminal justice system-but, with respect to these regulations to report to the appropriate law enforcement personnel, either campus or local police, those allegations of campus crimes that the administrators conclude are made in good faith. . . . If the law enforcement personnel, upon further investigation, conclude that the allegations reported are not substantiated by the facts or do not include the elements defined by law, no campus crime need be disclosed as a statistic.” 59 Fed. Reg. 22315 (April 29, 1994)

The Department also specifically addressed comments that "the statistics disclosed of campus crimes should represent only verifiable crimes or convictions." The Department explained as follows:

“The occurrence of a crime on campus need not be disclosed to students and staff under these regulations unless the appropriate law enforcement officials conclude that the crime did occur with the same degree of certainty they would require for purposes of reporting under the FBI's Uniform Crime Reporting System. 59 Fed. Reg. 22318 (April 29, 1994)

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The UC Davis Police Department records crimes reported to it in a manner that permits it to evaluate whether the elements of a crime have been alleged. This enables the Police Department to appropriately classify the crime for FBI and Clery Act reporting purposes. For example, absent a report that includes pertinent information about a fire that is reported as intentionally set, the police are unable to determine whether or not the report should be classified as an “arson.” Under the UCR definitions, a fire is classified as an arson only if there is information that it was “willful or malicious” and was an attempt to burn “a dwelling house, public building, motor vehicle or aircraft [or] personal property of another”

Thus, the UC Davis Police Department verifies that all elements of a crime have been reported before it reports that crime under the FBI’s Uniform Crime Reporting System. The campus interpreted the foregoing regulations and explanations provided by the Department as requiring the Police Department to follow the same standard when reviewing reports of crime made to non-police campus security authorities. Unless the police could verify that all elements of a crime had been alleged or reported, the incident was not included in the crime statistics in the annual security report.

The campus found additional support for this “crime verification” interpretation in the Department’s explanation of the November 1, 1999, revisions to the regulations. There the Department responded to comments regarding the reporting of statistics and concerns about identifying the victim of a crime by noting “We also agree that although reporting a statistic is not likely, of itself, to identify the victim, the need to verify the occurrence of the crime . . . can lead to identification of the victim.” 64 Fed. Reg. 59063 (November 1, 1999).

1.(A)(I) Detail “U.C. Davis student victims of sexual assault who were treated at hospitals . . . were not counted unless they pursued the matter with campus police.” (Emphasis added)

Response --

For student victims of sexual assault who were treated at the UC Davis Medical Center or the UC Davis Cowell Student Health Center, the crimes were reported to the appropriate law enforcement agency having jurisdiction over the crime. The UC Davis Medical Center and the UC Davis Cowell Student Health Center both comply with California Penal Code provisions which require health practitioners to report to local law enforcement agencies any circumstances where it is suspected a patient is suffering from “assaultive or abusive conduct,” defined to include, among other things, various types of sexual assaults. Both the UC Davis Medical Center and the Cowell Student Health Center have adopted specific policies and procedures to implement these legal requirements.

Reports made by health practitioners to the UC Davis Police Department were included in the Annual Security Report statistics if information was available to show that the elements of a crime had been alleged or reported, and if the crime occurred at a location covered by the reporting requirements. Similarly, reports made by health practitioners to

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other law enforcement agencies were included in the Annual Security Report if the other law enforcement agencies provided the crime information when it was requested, and if the crime occurred at a location covered by the reporting requirements.

1.(A)(I) Detail “U.C. Davis student victims of sexual assault . . . who reported the crime to counselors . . . were not counted unless they pursued the matter with campus police.” (Emphasis added)

Response --

UC Davis had a good faith belief that reports made only to counselors were not subject to statistical reporting requirements. Under this view it was assumed that prior to the effective date of the October 1, 1999 amendments to the Clery Act regulations, campus security authorities with “significant counseling responsibilities” did not have statistical reporting obligations. See Response to Complaint 6(a), below, for further explanation.

1.(A)(I) Detail “U.C. Davis student victims of sexual assault . . . who reported the crime to . . . dorm advisors or coaches were not counted unless they pursued the matter with campus police. Even if the student reported the crime to the campus administration and internal disciplinary action was taken, the crime wasn’t included in the Campus Clery report.” (Emphasis added)

Response --

UC Davis gathers, and consistently has gathered in the past, information regarding crimes from campus security authorities other than the police. In particular, Student Judicial Affairs (SJA) has been surveyed every year to ensure that Clery Act crimes reported to SJA are included in the campus statistics. As part of the survey process, SJA records are reviewed to identify cases that may involve reportable crimes or incidents, which are then reviewed by, and discussed with, the police and the Campus Violence Prevention Program (CVPP).

In addition, the campus has consistently used an informal survey process to gather information regarding crimes from those offices and personnel most likely to receive crime reports (Student Judicial Affairs, CVPP, Campus Police, and Student Housing). As part of this informal survey, representatives of these offices have convened and/or talked by phone to discuss and review statistics and specific cases, in order to ensure reported statistics are accurate and complete, and to avoid multiple reports of the same incident.

Because of confidentiality concerns, UC Davis has not in the past collected this information in writing, nor does the law require written surveys. Nonetheless, as part of the University’s efforts to provide the most complete and accurate information possible, the campus will distribute to campus security authorities a comprehensive written survey to be used in collecting non-confidential information. With support from the recently awarded Violence Against Woman Act (VAWA) grant, UC Davis hopes to implement an extensive training program for a wide range of staff, including athletic coaches, resident advisors for student housing, and others.

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Student disciplinary actions are publicized in annual statistics and in weekly Campus Judicial Reports that are published in the campus newspaper and posted on the Student Judicial Affairs website (over four years of reports are available online at <http://sja.ucdavis.edu>). UC Davis imposes discipline not only for Clery reportable crimes, but also may other incidents not subject to Clery reporting. This public reporting of UC Davis incidents has taken place for many years.

Further, as part of the efforts to provide a safe campus community, the campus adopted in 1995 an off-campus jurisdiction policy that extends SJA jurisdiction to cover student conduct away from campus. This means that several students are disciplined each year for incidents that did not happen on campus or on University controlled property, including some that happened in distant locations, even though neither victims nor witnesses had anything to do with the campus. If a crime subject to student discipline was not included in the campus security report, it is because it occurred in a location for which reporting is not required by the law.

During academic year 1998-1999, SJA dealt with three aggravated assaults on campus that were reported either in the 1998 or 1999 Clery statistics, depending on the year in which they occurred. In addition, SJA dealt with two off-campus aggravated assaults not reportable under Clery, because they did not meet the location requirements of the Clery Act (e.g., they occurred in a private apartment or in a bar). During 1998-99, there were two sexual batteries by students reported to SJA that occurred on campus and were reported in the Clery Act statistics, and two reported sexual assaults by UC Davis students that occurred in distant jurisdictions (one was 150 miles away) not reportable under the Clery Act. Neither incident happened on property owned or controlled by the campus.

Under the law, assaults occurring on property not subject to Clery Act requirements are not reportable. Thus, an aggravated assault at a fraternity house would result in discipline and would be reported under the Clery Act; an aggravated assault at a private apartment might well result in discipline, but would not be reportable under the Clery Act. Similarly, discipline would be imposed for a simple assault, whether it occurred on or off campus, but the incident would not be reported because the Clery Act requires reporting only of aggravated assaults (there were 14 simple assaults in 1998-99).

The “Campus Security, Crime Awareness, and Alcohol and Drug Abuse Prevention” report published in the Fall 1998 Class Schedule and Room Directory documents the practice of collecting statistics from campus personnel other than police. This publication includes statistics “concerning the occurrence of crimes reported to the UC Davis Police and other campus officials, including, if available, crimes committed by UC Davis students at off-campus buildings owned/controlled by the University or student organizations.” This same statement was included in the Fall 1997 and Fall 1999 campus security publications.

The process for collecting statistics provided in the Fall 2000 Class Schedule and Registration Guide, (prepared in February 2000, and published in May 2000) states: “UC

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Davis urges that all crimes be reported to campus police. Incidents which may or may not be crimes may also be reported to 'campus security authorities,' (including . . . staff having significant responsibility for students and/or housing activities). Such staff includes the Campus Violence Prevention Program, SJA, Student Housing, Student Programs and Activities, Inter-Collegiate Athletics, deans, and academic advisers. University staff who receive reports of possible crimes are required to forward information regarding the incidents to the Campus Violence Prevention office. The only exception to this reporting requirement is for mental health and pastoral counselors. Staff reporting incidents to police should include as much specific information as possible (including name of accused, date, location, and nature of offense)."

1. **Detail:** *"Crime statistics were not accurately disclosed." Additional details: (B) "There is no requirement that Campus Security Authorities interview witnesses or that they are required to interview witnesses or otherwise adhere to Uniform Crime Reporting (UCR) standards exclusive to police agencies, to if the necessary elements of each crime are met for inclusion of the crime in the campus Clery report."*

Response --

The Davis campus practice in the past has been to determine whether all elements of a Clery Act specified crime have been alleged or reported in order to properly classify a crime in accordance with UCR standards for reporting purposes. See Response to Complaint 1.(A) above. The campus has not required police interviews with victims or witnesses to a crime. However, some cases of alleged crimes reported to non-police campus security authorities did not include sufficient information to determine if all elements of the crime had been alleged. Where information is lacking in the initial report to a non-police campus security authority, the police need to elicit additional information from the reporting party before they can appropriately classify the report as a Clery Act specified crime. When the name of the party reporting to a non-police campus security authority is unknown or otherwise confidential, the police are not able to conduct this follow-up inquiry.

1. (C) **Detail:** *"The FBI's UCR guidance was used to define and classify crimes, not to determine the standards to be used in determining whether or not to include the crime in the Clery report statistics."*

Response --

The Davis campus believes it has been applying the appropriate standards in determining whether or not to include the report of a crime in the compilation of statistics included in the Annual Security Report. See Responses to Complaints I.A. and I.B. above.

2. **Source** – *Security on Campus letter October 2, 2000 – Attachment to Complaint dated October 2, 200 and is titled "Complaint of Non-Compliance With The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Crime Awareness and Campus Security Act of 1990)."*

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Detail – *“Students are put at unnecessary risk when information about campus crime is kept from them...because they are unable to make informed decisions about precautions that they may choose to take.”*

Response --

UC Davis has a longstanding commitment to educating students, staff and faculty about campus crime, particularly sexual violence. The campus violence/rape prevention program (initiated in 1977) provides educational programs designed to explore the myths and expose the realities of sexual violence and all forms of violence against women. UC Davis has focused on prevention and on ensuring that adequate and appropriate support services are available for survivors. The University has never represented that sexual assault does not happen on the campus or to its students. Rather, it has sought to raise awareness regarding the fact that sexual assault happens at UC Davis, as it does everywhere else in the nation. The campus encourages women not to become complacent about personal safety.

UC Davis has made every effort to provide students with information concerning the occurrence of crimes reported to the UC Davis Police and other campus officials. Since 1994 the UC Davis Annual Security Report (previously entitled “Campus Security, Crime Awareness and Alcohol and Drug Abuse Prevention report”) has been published in the class schedule and directory (used by students to register for classes); a hard copy has been given to all incoming students; and the report has been published in full in “Dateline,” the faculty and staff biweekly paper and on the UC Davis web-site. The campus publishes approximately 30,000 copies of the Class Schedule and Registration Guide each quarter as well as publishing it on the Internet.

In addition, the campus has widely published notices concerning the availability of the full campus security report. Specifically, a paragraph describing the Annual Security Report and its contents (including statistics for the occurrence of crimes reported to the UC Davis Police and other campus officials in the past three years) has been included in packets sent to all students accepted to UC Davis, in the UC Davis General Catalog, the Campus Phone Book, the Class Schedule and Registration Guide, and in other publications provided to students, staff and faculty and prospective students, staff and faculty. This statement includes a contact phone number and email address to be used to request a “hard” copy of the document, as well as the website address for the full report.

3. **Source** – *Security on Campus letter October 3, 2000 and Sacramento Bee article September 25, 2000*

Detail – *Campus crimes reported to officials other than police are reported as “incidences” and not as crimes.*

Response --

See response to Paragraph 1(A), above.

4. **Source** – *Security on Campus letter October 3, 2000 and Sacramento Bee article September 25, 2000*

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Detail – *Campus crimes reported to officials other than police are being “voluntarily” disclosed rather than as part of the required disclosures under the provisions of the federal campus security disclosure law. (20 USC section 1092(f) Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act)*

Response –

See Response to Complaint 3.

5. **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *The attempted rape on campus and eventual rape of a student off campus were not included in the crime statistics of UC Davis campus security report. The Sacramento Bee obtained the information from the city of Davis police department.*

Response --

Pursuant to the Clery Act and Clery Act regulations, the Davis campus annually solicits crime statistics from relevant law enforcement agencies having jurisdiction over campus affiliated property. When requesting these statistics, the campus provides specific addresses for such off-campus locations, including, among others, facilities owned or controlled by student organizations recognized by the institution, and public property immediately adjacent to and easily accessible from the UC Davis campus.

UC Davis believes the case cited in the *Bee* article was not included in the 1999 annual statistics reported to the Davis campus by the City of Davis Police Department. Further, neither the victim nor the City of Davis Police Department reported the crime to the Davis campus at the time it occurred. After the *Bee* article appeared in September 2000, the campus asked the City for an explanation. Lt. Hopkins of the City of Davis Police Department stated that he provided statistics for the required locations and that this specific case was not given to UCD because it was believed that the crime occurred in the City of Davis. The City of Davis Police Department advised that it had no way of “pulling up this case,” and did not consider it a crime that started on the UC Davis campus. Lt. Hopkins can be reached at (530) 756-3740.

To make sure that UCD obtains information about such incidents in a timely manner, the UC Davis Police Department and the City of Davis Police Department have developed cross-jurisdictional reporting forms. In addition the Campus Violence Prevention Program Manager reviews cases monthly with the City of Davis Police Department Detective Unit.

6. (a) **Source** – *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000. Attachment to Complaint dated October 2, 200 and is titled “Complaint of Non-Compliance With The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Crime Awareness and Campus Security Act of 1990).”*

Detail – *A student was raped in her dorm room and even though she went to a rape counselor, the rape was not included in the campus crime statistics “because she never went to the police.” Mr. Stan Nosek, U.C Davis Information Practices Coordinator, “argues that the annual campus crime statistics need not include crimes reported to institutional personnel who have ‘significant counseling responsibilities.’ In justifying the exclusion of incidents reported to campus counselors he cites 34 CFR 668.47(f) which provides in relevant part that the term ‘campus security authority’ includes: An official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.”*

- (I) *“Guidance contained in ‘Dear Colleague’ letter GEN-96-11, however, makes it clear that the Secretary of Education only intended this exception to apply to the ‘timely warning’ requirements and not the annual statistics: Campus official with ‘significant counseling responsibility,’ however, are not subject to the timely warning requirement...This exception to the timely warning requirement does not apply to the institution’s statistical reporting obligations. All officials with significant responsibility for campus and student activities are required to provide information for preparation of the annual statistical report.”*
- (II) *This view has been taken in program reviews undertaken since 1996. For example, in the program review for Minnesota State University, Moorhead (PRCN 199630513007) the department concluded: “For example, occurrences of covered crimes reported to the ‘MSU Counseling Center’ were not included in the annual campus security reports’ statistics. Officials of the institution involved in student counseling are not excluded from the institution’s statistical reporting obligations (counselors are excluded only from the timely warning requirements of 34 CFR 668.47(e)).”*
- (III) *The campus security reporting obligations were amended partly as a result of a “successful” request by the American Psychological Association “to secure an exception for ‘privileged’ information.” “If there had been no obligation for institutions to report statistics known to campus counselors in the past, as the institution (U.C. Davis) argues, there would have been no need for either the statutory or regulatory amendments.”*

Response --

The Davis campus did exclude counselors from the crime reporting obligation prior to July 1, 2000, based on its good faith attempt to determine the legal requirements of the Clery Act and to comply with those requirements. Since its adoption in 1990, the Clery Act provisions governing disclosure of campus crime statistics have required that an annual report include statistics reflecting the occurrence on campus of specified crimes reported to “campus security authorities or local police agencies.” 20 U.S.C. § 1092f. “Campus security authority” has never been defined by the statute. The first regulations adopted by the Department of Education to implement requirements concerning the reporting of crime statistics, adopted on April 29, 1994 (59 Fed. Reg. 22314 et seq.), added a new section 668.47 to Title 34 of the CFR. These 1994 regulations did provide a definition of “campus security authority” (34 CFR section 668.47(f)), which applied for all purposes of section 668.47. This definition included the following components:

- “(1) A campus law enforcement unit.
- (2) An individual or organization specified in an institution’s statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses.
- (3) An official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.” (34 C.F.R. § 668.47(f), prior to its amendment on November 1, 1989.)

The Davis campus relied on this definition of “campus security authority” provided by the regulations in applying the statutory requirement concerning the reporting obligations of “campus security authorities.”

The campus’ interpretation that persons with “significant counseling responsibilities” were exempt from the crime reporting requirements also relied upon the discussion provided by the Department of Education accompanying its adoption of the 1994 regulations. The Department of Education’s discussion of comments concerning the definition of “campus security authority” was interpreted by the Davis campus as an indication that the Department intended the regulatory definition of “campus security authority” to apply specifically to the statistical reporting requirements of the Clery Act. The Department’s discussion of the definition of “campus security authority” makes no reference to a limitation of this definition to “timely warning” requirements. The following discussion of the definition of “campus security authority” is found at 59 Fed. Reg. 22315 (April 29, 1994) (emphasis provided):

“Discussion: Section 485(f)(1)(F) [the statistical reporting requirement of 20 U.S.C. 1082(f)(1)(F)] of the HEA requires institutions to disclose statistics of certain campus criminal offenses reported to campus security authorities and local police agencies. As noted in the preamble to the first NPRM, the proposed definition of campus security authority, which the statute does not define, represented an attempt to strike an appropriate balance between the need of individual crime victims for confidential counseling and the need of the broader campus community for prevention and a complete reporting of campus crime.

The Secretary continues to believe that to achieve this balance, and to ensure consistent reporting of crime statistics, it is necessary to define the term campus security authority and to include within the definition a wider range of campus administrators than those exclusively devoted to criminal or security matters. Therefore, the definition of a

campus security authority includes a campus law enforcement unit, an individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses, and an official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities. The Secretary does not agree that including a broader range of administrators is unethical or unauthorized by the statute; neither is it inappropriate by virtue of their lack of specific training in criminal law, nor is it likely to lead to double-counting. . . .

Changes: The Secretary has revised the definition of campus security authority to include, in addition to those individuals or organizations specified by the institution's statement of campus security policy as those to whom criminal offenses should be reported, other officials of the institution who have significant responsibility for student and campus activities, but only if those officials do not have significant counseling responsibilities. The definition has also been revised expressly to include a campus law enforcement unit.”

The Department's discussion of the “timely warning” requirement in the April 29, 1994, Federal Register takes place in response to a comment separate from the comments concerning “campus security authorities.” See 59 Fed. Reg. 22316.

In addition, the Davis campus had viewed the role of most campus counselors as not having “significant responsibility for student and campus activities” within the meaning of “campus security authority.”

The explanation by the Department of Education accompanying the new Department regulations adopted November 1, 1999 was read by the campus as supporting its interpretation of the original regulations. In explaining the term “Significant Responsibility for Student and Campus Activities” the Department explained:

“A single teaching faculty member is unlikely to have significant responsibility for student and campus activities, except when serving as an adviser to a student group. A physician in a campus health center or a counselor in a counseling center whose only responsibility is to provide care to students are unlikely to have significant responsibility for student and campus activities. Also, clerical staff are unlikely to have significant responsibility

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for student and campus activities.” 64 Fed. Reg. 59063
(November 1, 1999).

6 (a) **Detail:** *“A student was raped in her dorm room and even though she went to a rape counselor, the rape was not included in the campus crime statistics “because she never went to the police.”*

Response --

UC Davis is not aware of such an incident. Between 1995 and 1999 31 forcible sex offenses were reported in the Davis campus Annual Security Report. Based on the sketchy information provided, there is no way of knowing whether this alleged rape was ever reported to the campus, or indeed whether it was or was not included in the forcible sex offenses reported by the campus. It is also unclear who the “rape counselor” referred to is. UC Davis does not have “rape counselors”. The student counseling center employs psychologists and the Campus Violence Prevention Program (CVPP) employs Certified Sexual Assault/Domestic Violence Victim Advocates. The community Sexual Assault and Domestic Violence Center runs the countywide 24-hour crisis line.

There are specific protocols and policies followed when sexual assaults are reported to housing staff. One such protocol is the “Sexual Assault, Relationship Violence, Stalking, Hate or Bias Related Protocol.” Sexual assault survivors are provided with information about their rights and medical attention needed, and a professional staff member from the (CVPP) is available 24 hours per day, 7 days a week. This protocol information is included in the campus security report, published annually in the class schedule and as a stand-alone notice, and is available on the web. The information is further made available to over 6000 students annually through workshops and programs presented by the (CVPP). Even if the victim chooses not to report to the police, housing staff forward a confidential report to the CVPP without the victim’s name, and the incident is included in the Clery Act statistics if it meets the reporting criteria.

(b) **Source** – *email from S. Daniel Carter, Vice President, Security on Campus, Inc. to Mr. Calvin Handy, U.C. Davis: Sunday, September 24, 2000.*

Detail – *Sources at U.C. Davis that were likely to receive reports of campus crimes were not surveyed and that “...UCD’s interpretation was that incidents had to be reported directly to the campus police or they could not be considered a ‘founded’ incident...” “Given the overwhelming body of regulatory guidance from the DOE it seems clear that this was never intended to mean that you had no obligation to at a very minimum survey ‘campus security authorities’ that were likely to receive reports of campus crime such as the student judicial affairs officer.”*

Response --

UC Davis gathers, and consistently has gathered in the past, information regarding crimes from campus security authorities other than the police. In particular, Student Judicial Affairs (SJA) has been surveyed every year to ensure that Clery Act crimes reported to SJA are included in the campus statistics. As part of the survey process, SJA records are

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reviewed to identify cases that may involve reportable crimes or incidents, which are then reviewed by, and discussed with, the police and the CVPP.

As discussed in Response to Complaint 1.(A)(I), above, the campus has also used an informal survey process to gather information regarding crimes from those offices and personnel most likely to receive reports of Clery-reportable incidents.

7. **Source** – *Sacramento Bee* September 24, 2000 via Security on Campus letters October 2 and 3, 2000.

Detail – *The UC Davis website that has attracted students with its assurance of safety does not make crime statistics easy to find and though there was a separate link to the Clery report, it could not be found.*

Response --

The web addresses for the UC Davis Annual Security Report are:

<http://police.ucdavis.edu/crimeReport/CleryCompliance.htm>

<http://police.ucdavis.edu/crimeReport/OverAllUCDStdRigh99.htm>

A search for "crime" on the Davis campus home page yields a list of items which include a news release and link to the most recent Campus Security Report. A search of "Clery" leads directly to the most recent Campus Security Report.

8. **Source** – *Sacramento Bee* September 25, 2000 via Security on Campus letters October 2 and 3, 2000.

Detail – *The University consistently underreported sexual assaults, among the most common crimes on campus.*

Response --

The campus has reported sexual assaults in good faith compliance with Clery Act requirements. A study published by the National Institute of Justice and Bureau of Justice Statistics in December 2000, titled "The Sexual Victimization of College Women," reports that while as many as 3% (2.8%) of women who are college students may experience completed or attempted rape in any academic year, less than 5% of such crimes were reported to law enforcement officials. In about two-thirds of the incidents, the victim did tell another person – but most often this person was a friend, not a family member or college official. Based on the above referenced NIJ/BJIS study, it is possible that as many as 360 UC Davis female students (12,000 x 3%) might have experienced a completed or attempted rape in 1999. If the national average 5% of those women reported such crimes to a law enforcement agency, the total reported cases would be 18 cases (5% of 360). Given that the NIJ/BJIS study found approximately one third of the 3% were assaulted at an on campus location, one could expect that between 5-6 rapes or attempted rapes might be reported to UC Davis Police (1/3 of 18). In 1999, 4 forcible sex offenses on campus were reported to police.

9. **Source** – *Sacramento Bee* September 25, 2000 via Security on Campus letters October 2 and 3, 2000.

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Detail – *Students and parents have not been provided with adequate safety information.*

Response –

See Response to Complaint 2, above.

10. **Source** – *Sacramento Bee September 25, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *Students and a former instructor who worked with sexual assault victims said that, until now, as far as the university was concerned, the truth was not fare for public consumption.*

Response –

The University believes that is has reported in good faith sexual assaults for the Davis campus. In addition to publishing crime statistics, UC Davis has had a rape prevention education program since 1977, providing continuing outreach, awareness, education, prevention, support, and advocacy for students and the campus community at large. The message is always one of raising awareness regarding the fact that sexual assault happens at UC Davis, as it does elsewhere. See also, Response to Complaint 2, above, and Response to Complaint 11, below.

11. **Source** – *Sacramento Bee September 25, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail – *The University of California at Davis (UCD) provided crime statistics showing only one rape from 1995-1998. In 1998 the UCD Campus Violence Prevention Program counseled 186 women, mostly students, who said they were victims of sexual assault, domestic violence, stalking and hate crimes. One person who taught self-defense courses through the campus' rape counseling center responded to the statistics saying that UCD officials have a "lily-white, all-is-well attitude" and that the university "knows better."*

Response --

The Campus Violence Prevention Program (CVPP) has long been recognized as a safe place for students to go for support and assistance. The 186 persons who sought assistance from the CVPP in 1998 did so for a wide variety of issues and reasons. These included sexual assault, sexual harassment, hate or bias-related incidents, domestic violence, dating violence, threats of violence, emotional or verbal abuse, and stalking. These individuals were provided assistance regardless of whether the underlying incident met the definition of a crime, and regardless of where or when the incident occurred. This number also included friends, significant others or family members requesting help for themselves or for information to help their loved ones. The incidents for which students sought assistance may have happened in the current year or five years prior, may have happened on campus, in an off-campus apartment, while on spring break, or at the student's parents' home over the summer, or at any other location. The University believes that of the incidents underlying the 186 counseling contacts, those that met Clery Act requirements were in fact reported.

The claim that UC Davis intentionally under reports sexual assaults seems to be based on the assertion of Karla Grant, a former self defense instructor, who was quoted by the *Bee* as saying she "polled students in her self-defense classes and 50 percent said they had been sexually assaulted in college." In a self-defense class, it is predictable that many women enroll as a result of an assault, but this may not have occurred on campus or in a designated non-campus location subject to reporting.

12. Source – *Sacramento Bee* September 25, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The UC Davis police chief's assertions about campus safety are "misinformation."*

Response --

These statements, published in the September 25, 2000, edition of the *Sacramento Bee*, were subsequently the subject of a correction published by the *Bee*: "As UC Davis maintained, it appears we may have incorrectly paraphrased Jennifer Beeman, Program Manager, Campus Violence Prevention Program, when we wrote that she acknowledged that University Police Chief Calvin Handy's 'public recitation of misleading statistics painted an inaccurate picture.'"

In a tape-recorded interview, Beeman said, that because most victims do not report rapes, statistically "accurate information" leaves an "inaccurate perception." She never "acknowledged," implied or stated that Chief Handy provided misleading statistics.

13. Source – *Sacramento Bee* September 25, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The campus police chief provided misleading crime statistics that paint an inaccurate picture of campus safety.*

Response –

See Response to Complaint 12, above.

14. Source – *Sacramento Bee* September 25, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *Campus officials said they weren't required to collect information from sources other than police. That "without a face-to-face interview with a victim" by police, they "can't determine if an incident has the needed elements to be classified as a crime. 'If we can't talk to the victim, we can't report it as a crime.'"*

Response --

Regarding collection of information from sources other than police, see Response to Complaint 1.(A)(I)(" . . . dorm advisors or coaches . . .), above. Regarding verification of the elements of a crime, see Responses to Complaints 1.(A) and 1(B), above.

IRVINE

1. **Source** – *Los Angeles times article May 10, 2000 via Security on Campus letter May 11, 2000.*

Detail – *Sexual Assaults are underreported based on the gap between the number of sexual assaults reported to the campus women's center (15) and the number appearing in official university crime statistics (0).*

Response --

Only sexual assaults that are committed on campus or designated non-campus locations are required to be included in the Clery Act statistics. Some sexual assaults that were reported to UCI's women's center occurred in areas that are not reportable under the Clery Act.

2. **Source** – *Security on Campus letter October 2, 2000 and Sacramento Bee article September 24, 2000.*

Detail – *The University failed to compile detailed crime statistics required by the Clery act but rather used less-exhaustive FBI statistics. Top campus officials acknowledged they misunderstood the law and did not realize that all of the crime statistics should have been included in the Clery report. They also indicated that they will be changing their procedures.*

Response --

The crime categories that the campus formerly used for reporting were based on the California Penal Code definitions, as required for reporting to the State Department of Justice. This practice was based on a good-faith misunderstanding of Clery Act requirements. In the future, the campus will use Clery Act definitions. The campus has recounted all the affected crimes for 1998, 1999 and 2000.

LOS ANGELES

1. **Source** – *Security on Campus* letter May 11, 2000.
Detail – *The campus keeps no statistics from disciplinary proceedings.*
2. **Source** – *Los Angeles times* article May 10, 2000 via *Security on Campus* letter May 11 2000
Detail – *The institution does not keep statistics from its internal disciplinary system (Student Conduct Office) and chose not to compile those statistics.*

Response --

The Dean of Students keeps internal disciplinary records for a variety of statistical purposes, one of which is Clery Act reporting.

RIVERSIDE

1. **Source** - *Security on Campus* letter May 11, 2000.

Detail - *The campus security report seems to indicate that the campus is not reporting the campus crime statistics using the proper crime categories and may be excluding offenses known to campus officials other than police.*

Response --

With the October 2000 Clery Act report, the required categorization was used and all reportable offenses included. In previous reports the campus unintentionally used the FBI Uniform Crime Reporting standards (UCR) rather than the National Incident Based Reporting System (NIBRS) and did not gather information from all campus security authorities.

2. **Source** - *Los Angeles times* article May 10, 2000 via *Security on Campus* letter May 11, 2000.

Detail - *Sexual Assaults are underreported based on the gap between the number of sexual assaults reported to the student conduct office and the number appearing in official university crime statistics. There were at least 6 alleged rapes that were not included in the campus security report.*

Response --

The *Los Angeles Times* article quoted an interview with Mr. J. Lance Gilmer, UC Riverside Student Conduct Coordinator. Mr. Gilmer was misquoted as having said that he knew of at least six rapes on the campus of the University of California, Riverside, that went unreported. Mr. Gilmer states that there have not been any incidents where a rape was reported to him and not forwarded to the police department. However, as provided under Clery Act regulations, only those sexual assaults that meet the Clery Act definitions of "sex offenses" and occurred in areas subject to Clery Act reporting requirements were included in the campus security report.

3. **Source** - *Security on Campus* letter October 2, 2000 and *Sacramento Bee* article September 24, 2000.

Detail - *Crimes are miscategorized (or mis-classified):*

(a) *The beating and rape of a man was not classified as a sexual assault in the campus security report but rather as an aggravated assault. Campus crimes were miscategorized.*

(b) *Campus police said that men cannot be raped. The crime was miscategorized as "a device the campus is using to get out of reporting a serious crime." S. Daniel Carter, Vice President, Security on Campus.*

Response --

The account in the *Sacramento Bee* is not in accord with the information provided by Jack Chappell, Executive Director, University Relations, UC Riverside. The attack was reported as aggravated assault, which, according to the FBI Uniform Crime Reporting (UCR) standards, is the most serious crime alleged in this incident. The victim reported to police that he had been beaten with a fence post or metal rod, chained to a fence, and forced to commit oral copulation on his assailant, after which a plastic bag was duct-taped over his head. Campus police followed rules contained in the California Penal Code and the FBI's UCR manual to report this attack as an aggravated assault. The FBI's 1998 UCR standards define "forcible rape" as "the carnal knowledge of a female forcibly and against her will. Assaults or attempts to commit rape by force or threat of force are also included;..." The instructions for preparing UCR's state, "By definition, sex attacks on males are excluded and should be classified as assaults or 'other sex offenses'..." The *Bee* reporter paraphrased a campus spokesman's explanation of these definitions as "men cannot be raped."

The California Penal Code definition of rape, which UC police must follow in reporting crime to the State Department of Justice, does not apply to the reporting of this particular assault under the Clery Act. The California Penal Code defines rape as "an act of sexual intercourse accomplished with a person not the spouse of the perpetrator..."

UC Riverside police complied with the FBI's hierarchy rule, which is incorporated in the Clery Act, by reporting the attack as an aggravated assault. The hierarchy rule requires that when a single incident includes more than one crime, the most serious crime must be reported, and aggravated assault is a more serious crime than oral copulation. The Clery Act's mixing of UCR and National Incident Based Reporting System (NIBRS) crime definitions has caused confusion in states such as California that do not use NIBRS, and UCR police were not aware that the Clery Act required reporting of the NIBRS category of "forcible sex offenses" rather than the UCR category of rape.

4. **Source** - *Security on Campus* letter October 2, 2000 and *Sacramento Bee* article September 24, 2000.

Detail - *The university failed to compile detailed crime statistics required by the Clery act but rather, used less-exhaustive FBI statistics. Campus officials have acknowledged that they misunderstood the law and will be changing their procedures.*

Response --

With the October 2000 Clery Act report, statistics are now reported in Clery Act categories. In the past, UC Riverside used the FBI Uniform Crime Reporting categories for reporting.

5. **Source** - *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

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Detail - *The school fails to include in its crime statistics, sexual assaults dealt with through disciplinary proceedings.*

Response --

With the October 2000 Clery Act all crimes, including those reported through the disciplinary system, are now reported according to Clery regulations.

6. **Source** - *Sacramento Bee September 24, 2000 via Security on Campus letters October 2 and 3, 2000.*

Detail - *The student services department, responsible for compiling the campus security report was not aware of all of the components of the report. They indicated that they didn't want to give the appearance that UC Riverside wants to underreport, mislead or hide anything.*

Response --

With the October 2000 campus security report, responsibility has been shifted to the police department and procedures have been revised to strengthen compliance with Clery Act reporting requirements.

SAN DIEGO

1. **Source** – *Security on Campus* letter October 2, 2000 and *Sacramento Bee* article September 24, 2000.

Detail – *The campus classifies sexual assaults under the broad heading of “physical abuse” rather than in the categories identified in the Clery report.*

Source – *Security on Campus* letter October 13, 2000 and *UCSD Guardian* October 9, 2000.

Detail – *Sexual assaults were categorized as physical abuse by campus police and as a result were not included as sexual assaults category on the USCD Clery report.*

Source – *UCSD Guardian* October 9, 2000 via *Security on Campus* letter October 13, 2000.

Detail – *Campus security authorities from whom the campus police obtain information and statistics do not differentiate between sex crimes and physical abuse.*

Response --

The Annual UCSD Campus Crime Report is compiled by the UCSD Police Department and lists the “sexual assaults” category required by the Clery Act. The UCSD Student Conduct Coordinator categorized offenses reported under the student code of conduct according to the classifications contained in that code. “Physical abuse” is an inclusive category that encompasses sexual assaults and all other physical attacks. The Student Conduct Office, acting in good faith, transmitted statistics to the police in the categories recorded in its records.

Starting with the year 2000 Clery report, the UCSD Student Conduct Coordinator will report sexual assaults separately.

2. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The campus security report did not include any of the 45 physical abuse cases reported to the school’s internal discipline body in 1998 because the university judicial affairs office did not separate out sexual assaults from other cases. The judicial affairs office agreed to report sex offenses as a separate category starting with the year 2000 Clery report.*

Response --

Clery Act crimes involving students that were reported directly to the UCSD Police Department were properly classified. In order to eliminate the possibility of inaccurately tracking incidents of reportable crimes under the Clery Act, the UCSD Student Conduct Code has been revised to match the reporting categories required under the Clery Act. See Response to Complaint 1.

3. **Source** – *Security on Campus* letter October 2, 2000 and *Sacramento Bee* article September 24, 2000.

Detail – *Campus police said that sex offenses reported by officials vanish.*

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Response –

The campus does not believe that any reports of sexual offenses are missing.

4. **Source** – *UCSD Guardian October 9, 2000 via Security on Campus letter October 13, 2000.*
Detail – *There were far more than the 11 sex crimes reported by UCSD police and published in the UCSD Clery report. The head of UCSD police said the number of sex crimes reported in the Clery report is “absurd”.*

Response --

The head of detectives used the quoted word to emphasize the police department’s disappointment that not all victims report sexual assault. The reluctance of victims to report incidents of possible crimes in turn prevents UCSD Police Department personnel from effectively pursuing criminal offenders and providing the campus community with an accurate picture of crimes committed at UCSD. The offices of UCSD Police Department, Crime Prevention Office, Student Affairs Office, Campus Residential Life, College Deans Offices, Student Safety Awareness Program, and the Student Judicial Affairs Office all actively participate in a variety of efforts to educate the campus community about the importance of reporting crimes, crime prevention especially sex-related crimes and acts of hate violence. Among these efforts are Sexual Assault Awareness Week, Alcohol Safety Awareness Week, Hate Crimes Forum, Self Defense Instruction, Office Security Surveys, Workplace Violence Training Workshops, Anti-theft presentations, Bicycle Safety and Escort Services.

5. **Source** – *UCSD Guardian October 9, 2000 via Security on Campus letter October 13, 2000.*
Detail – *Even if UCSD combined the 11 sexual assault cases recorded by the campus police with the 33 “physical abuse” cases reported by campus security authorities, and treated them all as sexual abuse, the campus police believe that “students are still left with an inaccurate portrayal of crime on campus.”*

Response --

Like other university administrators, UCSD is concerned that victims do not report sexual assaults, particularly when committed by acquaintances. The offices of UCSD Police Department, Crime Prevention Office, Student Affairs Office, Campus Residential Life, College Deans Offices, Student Safety Awareness Program, and the Student Judicial Affairs Office all actively participate in a variety of efforts to educate the campus community about the importance of reporting crimes, crime prevention especially sex-related crimes and acts of hate violence. Among these efforts are Sexual Assault Awareness Week, Alcohol Safety Awareness Week, Hate Crimes Forum, Self Defense Instruction, Office Security Surveys, Workplace Violence Training Workshops, Anti-theft presentations, Bicycle Safety and Escort Services.

SAN FRANCISCO

1. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The director of the Gender Equity Center at UC San Francisco would have provided sexual assault information to the police. However, the center was not collecting this information.*

Response --

To remedy and address the specific issue outlined above, the San Francisco campus Police Department has revised its procedures and they will engage in a training and education effort for all Security Authorities.

SANTA BARBARA

1. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The campus security report did not include any of the rapes or attempted rapes reported to the County Sheriff's Department in the predominantly student community of Isla Vista next to Santa Barbara.*

Response --

The *Sacramento Bee* article was published on September 24, 2000 and referred to the last UCSB campus security report prepared before implementation of the 1999 regulations, when reporting was not required for areas adjacent to the campus. UCSB's report for calendar year 1999, published in October 2000, included forcible sex offenses reported to the Sheriff's Department in Isla Vista for 1999 (required) and 1998 (not required). The reported statistics include not only the community served by the Isla Vista Foot Patrol, but also statistics for the entire Santa Barbara County Sheriff's Stations and the Santa Barbara Police Department.

2. **Source** – *Sacramento Bee* September 24, 2000 via *Security on Campus* letters October 2 and 3, 2000.

Detail – *The coordinator of the UC Santa Barbara rape prevention education program indicated that the number of sexual assaults reported in the campus security reports "just aren't realistic" and "a drop in the bucket" compared to the actual numbers of sexual assaults.*

Response --

These quotes reflect concern about the larger problem of severe underreporting of sexual assault by victims. Recently, the U.S. Department of Justice released a study titled "The Sexual Victimization of College Women," which concludes that about 3 percent of college women are victims of a rape or attempted rape each school year. The UCSB Police Department works in partnership with the campus Women's Center to sponsor and finance the Rape Prevention and Education Program. This program encourages voluntary reporting of crimes to police and offers an anonymous option. UCSB will conduct a sexual assault study in Spring Quarter, 2001. Surveys will be mailed out to 5,300 students, both men and women.