

Dr. Richard C. Atkinson
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Oakland, California 94607-5200

**FIRST CLASS CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

RE: FINAL PROGRAM REVIEW DETERMINATION LETTER (FPRDL)

OPE ID#s: 00131100

00131200, 00131300, 00131400, 00131500, 00131600,
00131700, 00131900, 00132000, 00132100, 00394700

Program Review Control Numbers (PRCNs):

2002 4 09 20227 (UC-Davis)
2002 4 09 20225 (UC-Los Angeles)
2002 4 09 20226 (UC-San Diego)

Dear Dr. Atkinson:

We have reviewed the responses received from the University of California (UC or University), dated April 12, 2001, May 18, 2001, January 25, 2002, May 13, 2002, and materials received during the Campus Security Program Reviews conducted during the week of July 29, 2002¹. These responses addressed complaints filed by Security on Campus, Inc. (SOC), with the U.S. Department of Education, Federal Student Aid², San Francisco Case Team

¹ Please refer to the *Campus Security Program Reviews Section* below for details.

² On March 6, 2002, Student Financial Assistance (SFA) officially became Federal Student Aid (FSA).

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(SFCT), and included correspondence received during the period May 2000 through November 2001. The complaints covered the University's administration of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The specific complaints were compiled from several original letters of complaint and attachments³.

The San Francisco Case Team has reviewed UC's responses and has made final determinations on all the complaints received from SOC. In making its final determinations regarding the complaints, this office has also taken into consideration the results of the Campus Security Program Reviews that were conducted during the week of July 29, 2002. The purpose of this Final Program Review Determination Letter (FPRDL) is (1) to issue final determinations on those complaints received from SOC, and (2) to close the Campus Security Program Reviews conducted during the week of July 29, 2002.

Based on the findings of this report, all the issues of complaint addressed in this FPRDL have been resolved and/or corrected and we consider this review closed. The University is advised, however, that similar Clery Act violations found in future program reviews and/or audits may lead to an adverse administrative action. An adverse action may include the imposition of a fine⁴, or the limitation, suspension, or termination of the eligibility of the institution, pursuant to 34 Code of Federal Regulations (CFR), Student Assistance General Provisions, Part 668 Subpart G.

Program records relating to the period covered by the complaints and Campus Security Program Reviews are subject to the record retention requirements outlined in program regulations.

If you have any questions, please contact the San Francisco Case Team's Campus Security Liaison, Lisa J. Huynh at (415) 556-4189.

³ The attachments included, but were not limited to, newspaper articles from the Los Angeles Times, Sacramento Bee and UC San Diego Guardian.

⁴ The Department of Education is authorized to impose a fine not to exceed \$27,500 per violation. See 67 Federal Register 69654 (November 18, 2002).

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We appreciate the University's collaborative effort with the Department in bringing these issues to closure. We also appreciate your diligence in resolving the complaints and campus security issues identified to improve and ensure the safety and security of your students and employees.

Sincerely,

James S. Castress
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Enclosure

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INTRODUCTION

This FPRDL is a result of comments and input from the appropriate offices in the Department and the University. As stated in our cover letter, one of the purposes of this FPRDL is to resolve the complaints this office received from SOC. In several of the University's April 12, 2001 (*original*) responses, there were a number of items in which the University stated that the complaint related to past practices. We interpret these comments to mean that the University of California has changed or is changing those practices and procedures addressed by the specific complaint. In this FPRDL, we do not discuss all of the University's original responses but rather only those where the University did not sufficiently address the issue and/or there is a need for comment, and/or clarification. This format categorizes the specific items of complaint and response into three general classifications, *Issue Number 1-Underreporting*, *Issue Number 2-Misreporting*, and *Issue Number 3-Misleading Information*.

This format uses the complaint number sequencing of the list provided to the University in our letter, dated January 12, 2001. The University in their response, dated April 12, 2001, to the Department also used that number sequencing.

We are not addressing the following April 12, 2001 issues as we consider them closed:

- System-wide response Numbers (Nos.) 1 through 8, 10 through 19.
- UC Berkeley all responses.
- UC Davis responses Nos. 5, 7, 9-10, 12 and 13.
- UC Irvine all responses.
- UC Los Angeles all responses.
- UC Riverside response Nos. 1, 4, 5 and 6.
- UC San Diego responses Nos. 1, 2, 4 and 5.
- UC Santa Barbara response No. 1.

In addition, SOC filed subsequent complaints specifically against the UC Davis campus in February 2001, and the UC Los Angeles campus in November 2001, to which the University submitted its written responses on May 18, 2001 and January 25, 2002, respectively. The results of our review of the University's responses are detailed under *Issue Number 4-UC-Davis Additional Complaint Filed* and *Issue Number 5-UC-Los Angeles (UCLA) Additional Complaint Filed*.

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This FPRDL also includes a separate section for the following areas, 1) Campus Security Program Reviews, and 2) Conclusion.

Finally, it is important to mention that, based on the results of the Campus Security Program Reviews during the week of July 29, 2002, the Department believes that the University of California *currently* has implemented policies and procedures that ensure that the requirements of the Clery Act are correctly followed.

DISCLAIMER

Although our review of the information provided by the University and the Campus Security Program Reviews were thorough, they cannot be assumed to be all-inclusive. The absence of statements in this report concerning specific practices and procedures of the University must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve the University of its obligation to comply with all of the statutory or regulatory provisions governing the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

ISSUES OF COMPLAINT

ISSUE NUMBER 1 – UNDERREPORTING

The following complaints allege that UC did not include crimes that were reported to campus security authorities in each campus' annual Clery Act reports. If crimes reported to campus security authorities are not included in a campus' Clery Act report, the users of the reports are not provided with accurate information as required by the law.

These items include:

- System-wide complaint No. 9
- UC Davis complaints Nos. 1, 2, 3, 4, 6, 8, 11 and 14
- UC San Francisco complaint No. 1

A. UNIVERSITY REQUIRED CRIME VERIFICATION BY PROFESSIONALS/CAMPUS POLICE REVIEW

UNIVERSITY'S RESPONSE

In your April 12, 2001 (*original*) response, you stated that you interpret the law and "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.'" UC required a campus police review of complaints reported to non-police campus security authorities, to ensure that the complaints met the formal criminal law definitions of one of the designated "criminal offenses."

Further, the University stated that "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." In its response to the complaints against UC Davis, the University provided additional information regarding its interpretation of the Clery Act, including discussion of a second level of review by campus law enforcement of any incident "reported to non-police campus security authority." The University stated that this review was used to ensure that the incidents in the Clery Act report contained "all the elements of the defined crimes before including a report (incident) in a statistical category."

FINAL DETERMINATION

The Clery Act requires institutions to provide annual statistics regarding criminal offenses. The federal regulations governing Campus Security reporting do not include a requirement that police or any other entity perform a secondary review of a reported criminal offense before it is included in the reported statistics. In fact, the regulations do not require any law enforcement authority to review or make a determination that the incidents met all the elements of a crime as defined by a police agency. Nor do the regulations require that all of the elements of a crime necessary for criminal prosecution be present. Instead, the regulations require that all incidents reported to the mentioned officials should be included in the Clery Act report. The University incorrectly required that, to be included in the Clery Act report, an offense would have to meet the standards that police might use when investigating a crime for referral, arrest or prosecution. This requirement is not consistent with the Clery Act or the Department's regulations.

Contrary to the statement in UC's response to the UC Davis complaint, the Clery Act does not require that, to be included in the statistics, "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'". Further, the Clery Act does not require additional "professional investigation" to determine "authoritatively whether a crime took place... ." before an offense is included in the report. The discussion at 59 Federal Register 22315 (April 29, 1994), on which UC relies, addresses complaints that may already be "within the criminal justice system." In these instances, such a determination may be necessary in order to continue any investigation or to prosecute.

There is nothing in the April 29, 1994, Federal Register or in any of the guidance issued by the Department to suggest that law enforcement professionals must perform an investigation prior to including a reported offense in the statistics. In addition, contrary to UC's earlier statements, there is no requirement that campus police or any police department compile the statistics for Clery Act reporting.

Accordingly, we have determined that UC has previously used an incorrect standard for determining what offenses are to be included in the Clery Act reports. The Clery Act requires institutions to include any incident reported to campus security authorities (not just to law enforcement officials) whether or not the crimes reported included the technical standards used by law enforcement officials. However, based on information provided by the University and the results of the Campus Security Program Reviews conducted

during the week of July 29, 2002, discussed under the *CAMPUS SECURITY PROGRAM REVIEWS* Section below, it has been determined that the University of California *currently* has in place policies and procedures that correctly identify offenses as required by the Clery Act.

B. CAMPUS SECURITY AUTHORITY

UNIVERSITY'S RESPONSE

In its response to the complaint that its reports do not include crimes reported to campus counselors, the University claimed that its approach was consistent with the Department's regulations, which it claims, fail to define the term "campus security authority." In addition, the University's response stated: "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.'" However, the University did not provide a rationale for this decision.

FINAL DETERMINATION

The Department has not identified specific individuals or positions that are considered campus security authorities. The Department explained the logic for this decision in the preamble to the final regulations at 59 Federal Register 22315 (April 29, 1994) (*the same Federal Register cited by the University*): "Because of the wide variety of institutions participating in the Title IV HEA programs, the Secretary acknowledges that it is not appropriate to identify particular administrators such as deans and residence directors, by their titles as being either included or excluded from the definition of campus security authority. Instead, the identifications must be made in terms of the functions of particular administrators. Institutions are expected to determine which officials have significant responsibility for student and campus activities and do not have significant counseling responsibilities for the purpose of this definition and to make this information known to the campus community." In 1999, the Department reaffirmed its position and rejected proposals from commenters who wanted to limit the term "campus security authority" to security professionals. Specifically, the 64 Federal Register 59063 (November 1, 1999) states: "We believe that the new definition and guidance reflect the reality that on college campuses, officials who are not police officials or acting as event security at student or campus events nevertheless are responsible for students' or campus security."

Accordingly, we have determined that UC previously used an incorrect standard for identifying *campus security authorities*. However, based on

information provided by the University and the results of the Campus Security Program Reviews conducted during the week of July 29, 2002, discussed under the *CAMPUS SECURITY PROGRAM REVIEWS* Section below, it has been determined that the University of California *currently* has in place policies and procedures that correctly identify *campus security authorities*, and are reporting crimes as required by the Clery Act.

C. IDENTIFICATION OF THE VICTIM

UNIVERSITY'S RESPONSE

The UC quotes the preamble to the regulations published by the Department at 64 Federal Register 59063 (November 1, 1999), as justification for its "crime verification" interpretation. They suggest "the need to verify the occurrence of the crime...can lead to identification of the victim" as a reason reported incidences were excluded from the UC Davis Clery Act report.

FINAL DETERMINATION

The University's response does not address the issue why UC Davis may not have included particular crimes in reported crime statistics. Instead, UC has taken a quotation from a Federal Register preamble out of context. The Federal Register cited by UC discusses the "decision to exclude professional and pastoral counselors from being required to report crimes discussed with them in their roles as counselors." That discussion concludes: "we believe this regulation strikes the appropriate balance between individuals' need for counseling and the community's need for complete statistics." This discussion does not support UC's practice of only including in its reports crimes in which it can verify the victim's identity.

Also, Clery Act reports do not include names and addresses, only statistics. The preamble to the Department's regulations published on April 29, 1994 states: "Information on crimes reported to (campus security) officials could be included in records classified as protected from non-consensual disclosure under FERPA (the Family Educational Rights and Privacy Act) regulations. However, FERPA does not prohibit the disclosure of statistical, non-personally identifiable information." Suggesting that UC Davis excluded crimes from statistical information that does not include personal information in order to protect this non-discloseable personal information is unreasonable.

Accordingly, we have determined that UC previously used an incorrect standard for determining what crimes are to be included in the Clery Act reports. However, based on the information provided by the University and the results of the Campus Security Program Reviews conducted during the

week of July 29, 2002, discussed under the *CAMPUS SECURITY PROGRAM REVIEWS* Section below, it has been determined that the University of California currently has in place policies and procedures that will ensure that crimes are reported correctly under the Clery Act.

D. DATA FROM OTHER SOURCES

UNIVERSITY'S RESPONSE

In its April 12, 2001 response, at UC San Francisco, the Gender Equity Center appeared to have relevant sexual assault information that was not obtained in the preparation of the campus' Clery Act report. However, the response does not indicate if UC San Francisco included the Gender Equity Center as a campus security authority for the purpose of its Clery Act report.

FINAL DETERMINATION

If it has not already started, the University must start collecting any sexual assault information from the Gender Equity Center, and include those statistics in its Clery Act reports.

**SUMMARY/OVERALL FINAL DETERMINATION
FOR ISSUE NUMBER 1 - UNDERREPORTING**

One of the primary objectives of the Clery Act Report is to provide information that assists the users to help ensure their safety and security. The reports are prepared for the benefit of the individuals who attend and work at the institutions. If crimes reported to campus security authorities are not included in the University's Clery Act reports, the users of the reports are not provided with accurate information or a clear picture of the number of crimes that may have taken place.

That said, a number of UC's April 12, 2001 responses rationalize why incidents were excluded from its Clery Act report. UC indicated that the only incidents that were reported were "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." However, that rationale is contradictory to the intent of the Act itself, which is to provide information that assists the users to help ensure their safety and security.

The University's Clery Act Compliance Manual Dated May 2002 indicates that the University has recently implemented the Department's guidance. The manual states on Page 33: "The Department of Education has clarified that all

allegations of crimes received by a campus security authority and that the CSA⁵ determines are made in good faith, must be disclosed as a statistic in the Annual Security Report, unless law enforcement personnel, upon further investigation, conclude that the allegations reported are not substantiated by the facts or the law. Neither a formal police report nor an investigation is needed in order for a crime report to be included in these statistics.”

Therefore, based on the University’s response and the results of the Campus Security Program Reviews conducted during the week of July 29, 2002, discussed under the *CAMPUS SECURITY PROGRAM REVIEWS* Section below, the Department of Education has determined that crimes reported to *campus security authorities* are accurately reported by the University as required by the Clery Act. This *issue of complaint of underreporting* is closed, and therefore, no further action is required by the University. However, the University must continue to ensure that crimes reported to campus security authorities are included in the campus’s Clery Act reports, so that users of the reports are provided with accurate information and a clear picture of the numbers of crimes that may have taken place.

ISSUE NUMBER 2 – MISREPORTING

This complaint alleges that the campus’ annual Clery Act reports include crimes that were not categorized properly.

This Item Includes:

- UC Riverside complaint No. 3

UNIVERSITY’S RESPONSE

The University’s April 12, 2001 response regarding UC Riverside complaint No. 3 stated the following:

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

⁵ Campus Security Authority

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.

FINAL DETERMINATION

The definitions used to report crimes in the Clery Act for institutions are included in Appendix A to 34 CFR section 668. The definitions and the use of both the UCR Handbook and the NIBRS Edition of the UCR Handbook have been part of the Clery Act reporting since July 1, 1994. The definition of Sex Offenses – Forcible, that are part of Appendix A to 34 CFR 668 include: "Forcible Sodomy – Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity."

The November 1, 1999 amendments provide the exception "that in determining how to report crimes committed in a multiple-offense situation an institution must use the UCR Reporting Handbook." Based on the technical aspects of reporting for multiple offenses and the rules that are followed regarding multiple offenses, the users of the reports are not provided with a clear idea of the nature and number of these crimes. For example, should there be

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situations where there is a kidnap, assault and sexual abuse of an individual, only one of the crimes is reported.

Therefore, based on the University's response and the results of the Campus Security Program Reviews conducted during the week of July 29, 2002, discussed under the *CAMPUS SECURITY ON-SITE REVIEWS* Section below, the Department of Education has determined that UC's treatment of this crime for statistical purposes was correct. This *issue of complaint of misreporting* is closed, and no further action is required by the University. However, as mentioned above the University should ensure that users of the Clery Act reports are provided with the information that best ensures campus safety.

ISSUE NUMBER 3 - MISLEADING INFORMATION

These complaints allege that the annual Clery Act reports create a misleading portrayal of campus safety and that the information provided by the campuses attempted to provide an impression that campus safety is better than reality. In particular, individuals quoted provided the impression that sex crimes such as rape were underreported.

These Items Include:

- UC Riverside No. 2
- UC San Diego No. 3
- UC Santa Barbara No. 2

UNIVERSITY'S RESPONSE

With regard to UC Riverside, the *Sacramento Bee* article cited in the complaint made clear that specific rapes at UC Riverside "were not handled by the office from which the comment at UC Riverside was made" nor does the article state that the rapes were "unreported" but rather that they "did not show up in the campus crime statistics." The University's April 12, 2001 (original) response stated that "only those sexual assaults that met the Clery Act definitions of 'sex offenses' and occurred in areas subject to Clery Act reporting requirements were included in the campus security report."

Another complaint based on one of the *Bee* articles indicated that campus police said that sex offenses reported to officials at UC San Diego "vanished." The University's original response stated that: "the campus does not believe that any reports of sexual offenses are missing."

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In addition, the *Bee* article quoted the coordinator of the UC Santa Barbara rape prevention education program as saying that the number of sexual assaults reported in the campus security reports were “unrealistic.” The University response stated that the quotes reflected a “larger problem” but does not attribute their interpretation to the individual who made the statement. Further, the University indicated that UC Santa Barbara will take actions to collect more accurate data.

FINAL DETERMINATION

We have determined that UC previously used an incorrect standard for determining what crimes are to be included in the Clery Act reports.

We reiterate our guidance regarding what is to be included in the annual Clery Act reports. Complaints that may or may not have been “handled” by the student conduct office should be included in the campus’ Clery Act reports. It is not clear whether or not UC Riverside included the student conduct office as a campus security authority. However, if that office is aware of on campus crimes it should be included it as a campus security authority. Any crimes that come to the attention of campus security authorities must be included in the campus’ Clery Act reports.

Based on the University’s April 12, 2001 response, it is unclear what actions UC San Diego took to determine if there was any evidence to support or refute the statement made by the *Bee*. However, the Campus Security Program Review conducted at UC San Diego during the week of July 29, 2002, found that the University currently has in place a system that will accurately report crime statistics.

Further, we commend the University for taking actions to collect more accurate data for UC Santa Barbara. However, if the coordinator of the UC Santa Barbara rape prevention education program is aware of on-campus rapes that were not included in University’s Clery Act reports, the institution should take steps to ensure that such crimes are included in future Clery Act reports.

Therefore, based on the University’s response and the results of the Campus Security Program Reviews conducted during the week of July 29, 2002, discussed under the *CAMPUS SECURITY PROGRAM REVIEWS* Section below, the Department of Education has determined that the University of California is accurately reporting statistics as required by the Clery Act. This *issue of complaint of underreporting* is closed, and no further action is required by the University. However, the University must continue to ensure the University’s Clery Act reports provide information to users that enable students and

employees to facilitate their awareness of campus safety conditions and to enable them to take actions to ensure their safety.

ISSUE NUMBER 4 – UC-DAVIS ADDITIONAL COMPLAINT FILED

This complaint referenced two different items. The first stated that UC-Davis did not “automatically provide (the UCD Clery Act Report) to current students and employees as the (Clery) Act requires.”⁶

The second item addressed the “Press Report” crime log, which UC-Davis indicated serves as their crime log. The complaint stated that the crime log “contains terms which are unclear and does not fully explain the ‘nature’ of incidents as required by 34 CFR 668.46(f)(1). For example, the ‘disposition’ is only a two-letter code, and terms like ‘Investigation’ and ‘F.I.’ are used (F.I. stands for field interview) without explanation.”

UNIVERSITY’S RESPONSE

The University’s May 18, 2001 response stated in part the following regarding the second item (i.e., crime log) addressed in the complaint:

As discussed below, the University believes the excerpt from the UC Davis Police Department “Press Report” referenced by Mr. Carter complies with the Clery Act’s daily crime log requirements. However, in response to recent media inquiries, the Davis campus has voluntarily reviewed and revised the “Press Report,” which we believe improves upon the prior version...

The new Press Report format developed by the Police Department...provides additional information about the nature of the crime and provides, text, instead of a key, to describe the disposition of the complaint. The status of any crime included in the crime log can be tracked as new log entries concerning a crime use the same incident reference number as the original entry. We believe the new format also fully complies with the Clery Act crime log requirements and that these changes improve the ability of the public to easily understand the crime log.

FINAL DETERMINATION

34 CFR 668.46(f)(1) requires institutions that maintain “a campus police or campus security department must maintain a written, easily understood daily

⁶ This item was closed as noted in our April 19, 2001 letter to the institution.

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crime log...This log must include (i) The nature, date, time and general location of each crime...”

In our letter to the institution dated August 20, 2001, we stated the following:

As you know, one of the objectives of the Clery Act is to help individuals take actions to insure their personal safety and security. In that regard, we believe that the actions UC Davis has taken help to further bring the school in compliance with the Clery Act. We have reviewed the additional materials you provided to us. Based on our review, we believe that the information now provided in the UC Davis crime logs enhance their clarity.

However, some of the acronyms under the column heading “CASE NUMBER, LOCATION, CRIME TYPE” were not clear to us. For example: We interpreted “UCDMC” as University of California, Davis Main Campus. Without explanation though, we were not sure that our interpretation was correct. Similarly, unless a reader had prior knowledge, one may not have known that “FI’d” on the disposition key you provided meant Field Interviewed.

Your letter notes that the Department’s regulations required that the crime log reflect the nature, date, time and general location of each crime and that the University is not aware of any formal guidance concerning implementation of these regulations. Specifically, what is meant, for purposes of crime log entries, by the nature, date, time and general location of each crime. The Department believes that these terms are clear as written.

In addition, during the Campus Security Program Review conducted at UC-Davis from July 29 – July 30, 2002, the reviewers verified that the crime logs were revised, and list texts and descriptions to ensure that the information provided are clear and easily understood.

Therefore, based on the University’s response and the results of the Campus Security Program Review at UC-Davis, the Department of Education has determined that this *issue of complaint regarding UC-Davis’s crime log* is closed. However, the University must continue to ensure the University’s crime logs are easily understood and that they be readily available for review.

ISSUE NUMBER 5 – UC-LOS ANGELES (UCLA)
ADDITIONAL COMPLAINT FILED

This complaint alleges that the practices and procedures of UCLA did not follow the requirements of the Clery Act following an alleged sexual assault and rape. Specifically, in our letter dated November 28, 2001, we stated the following:

...The letter from Security on Campus addresses two issues. The first refers to 34 CFR 668.46(b)(11)(vi)(A), that UCLA denied the victim the right to have others present during questions. The second item addresses the issue that UCLA did not fully cooperate to assist the victim in pursuing criminal prosecution as required by 34 CFR 668.46(b)(11)(iii).

In addition, our review of the complaint provides no indication that the victim was informed that the institution would change her academic and living situation after the alleged sex offense and the options for those changes. Such notification is required by 34 CFR 668.46(b)(11)(v). Further, there is no indication that the victim was notified of existing on- and off-campus counseling, mental health, or other student services for sex offenses as required by 34 CFR 668.46(b)(11)(iv). All of these requirements address the treatment of victims of alleged sexual assaults and rapes.

UNIVERSITY'S RESPONSE

In its January 25, 2002 response, the University provided additional details and an ample amount of documentation regarding this case. Further, the University stated that it believed the information provided showed that the policies and practices of UCLA were in compliance with the Clery Act requirements addressed above.

FINAL DETERMINATION

This office has thoroughly reviewed the University's response, and the results of the Campus Security Program Review conducted at UCLA, and has determined that UCLA did follow its policies and practices and is in compliance with the Clery Act requirements that address the treatment of victims of alleged sexual assaults and rapes. Therefore, this *issue of complaint regarding UCLA not following the requirements of the Clery Act following an alleged sexual assault and rape* is closed.

However, the University must continue to ensure that its practices and procedures follow the Clery Act requirements that address the treatment of victims of alleged sexual assaults and rapes.

CAMPUS SECURITY PROGRAM REVIEWS (CSPRS)

SCOPE OF REVIEW

During the week of July 29, 2002, the U.S. Department of Education, San Francisco Case Team (SFCT) conducted Campus Security Program Reviews at three of the University of California's nine campuses. The campuses reviewed were UC-Davis, UC-Los Angeles (UCLA), and UC-San Diego.⁷ The CSPRS focused on the Campus Security regulations (34 CFR 668.46) and specific complaints⁸ alleging violations of these regulations. We selected the three aforementioned University of California campuses for CSPRS, because we believed that the results of these CSPRS would give us an overall picture of how Campus Security is being administered by the University of California System as a whole.

The Campus Security Program Reviews assessed Campus Security compliance in relation to guidelines given in the *Schools-Consumer Information-Campus Security FSA Assessment Tool*. This useful tool was developed for institutions to utilize to ensure compliance with the Campus Security regulations. Please refer to <http://qaprogram.air.org> for details.

The reviewers examined pertinent forms, policies and procedures, and verified information on the University's *2000 Annual Security Report* with supporting documentation at each institution. In addition, the reviewers conducted numerous interviews with institutional officials regarding Campus Security.

DISCLAIMER

⁷ Specifically, the Campus Security Program Reviews were conducted on the following dates by the Institutional Review Specialist(s) noted in parentheses: UC-Davis – July 29-30, 2002 and UC-Los Angeles – July 31-August 2, 2002 (Erik Fosker and Maryann Hollins), and UC San Diego – July 29-30, 2002 (David Noel Hinojosa). Please refer to the cover page of this FPRDL for the specific Program Review Control Number (PRCN) of each Campus Security Program Review.

⁸ Specifically, the issues noted *above* in the previous sections of this report.

Dr. Richard C. Atkinson
President
University of California System

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The University is reminded that although the Campus Security Program Reviews were thorough, they cannot be assumed to be all-inclusive. The absence of statements in this section concerning specific practices and procedures of the University must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve the University of its obligation to comply with all of the statutory or regulatory provisions governing the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

FINAL DETERMINATION

The results of the Campus Security Program Reviews indicate that the University of California has taken steps and implemented policies and procedures that adhere to the Clery Act. It was evident during the CSPRS that the University has spent a tremendous amount of time, resources, and training to ensure that the University is in compliance with the Clery Act. The individuals who oversee the area of Campus Security are very knowledgeable and care deeply about what they are doing. We commend the University of California for these individuals' diligence and the University's efforts in ensuring compliance with the Clery Act.

Based on the results of the Campus Security Program Reviews, no further action is required by the University, and it may consider the Campus Security Program Reviews conducted during the week of July 29, 2002 closed.

CONCLUSION

The U.S. Department of Education has determined that the University of California's *current* system has policies and procedures that will help to ensure the safety and security of the University's students and employees as required under the Clery Act. As indicated in the *Campus Security Program Reviews'* Section above, we commend the University of California System for the processes and procedures that the University has currently implemented. We believe that the issues of complaints noted above in the previous sections of this report, have all been resolved and/or corrected. Therefore, no further response is required by the University.

However, the University must, on a continual basis, ensure that its policies and procedures are in accordance with the Clery Act. In addition, the University is strongly encouraged to continue to contact the U.S. Department of Education regarding additional questions and/or clarifications it may have regarding the Clery Act.

Dr. Richard C. Atkinson
President
University of California System

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Finally, the University is advised that similar Clery Act violations found in future program reviews and/or audits may lead to an adverse administrative action. An adverse action may include the imposition of a fine⁹, or the limitation, suspension, or termination of the eligibility of the institution, pursuant to 34 Code of Federal Regulations (CFR), Student Assistance General Provisions Regulations, Part 668 Subpart G.

⁹ See Footnote 3 for details.