

Clery Act

Audit Report # 24-102

August 21, 2024



The University of Texas at El Paso
Office of Auditing and Consulting

“Committed to Service, Independence, and Quality”



The University of Texas at El Paso
Office of Auditing and Consulting Services

500 West University Ave
El Paso, Texas 79968
916-747-6191
www.utep.edu

August 21, 2024

Dr. Heather Wilson
President, The University of Texas at El Paso
Administration Building, Suite 500
El Paso, Texas 79968

Dear Dr. Wilson:

The Office of Auditing and Consulting Services has completed a limited-scope audit of the Clery Act. During the audit, we identified opportunities for improvement and offered the corresponding recommendations in the audit report. The recommendations are intended to assist the department in strengthening controls and help ensure that the University's mission, goals, and objectives are achieved.

We appreciate the cooperation and assistance provided by the Police Department, the Vice President for Student Affairs, and the Director/Chief Compliance and Ethics Officer during our audit.

Sincerely,

A handwritten signature in blue ink that reads 'Courtney H. Rios'.

Courtney Rios
Chief Audit Executive

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EXECUTIVE SUMMARY

Background

The Clery Act is a federal law requiring the disclosure of certain crime and safety information by all colleges and universities that participate in federal financial aid programs. With fines of up to \$69,733 for each Clery Act violation, failure to comply with the Clery Act requirements can become very costly.

Audit Objective

The objective of the audit is to determine whether the University has controls to ensure the issuance of a complete and accurate Annual Security Report under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

Scope

The scope of the audit will be limited to crime and geographical statistics and controls during the calendar year 2022 included in the 2023 Annual Security Report.

Strengths

The UTEP Police Department and the Vice President for Student Affairs effectively collaborate to comply with the Clery Act and show their commitment to UTEP's community safety. The team works diligently every year to publish and disseminate the report before the October 1st deadline.

Summary of Audit Results

Issue	Risk Ranking
1. The Annual Security Report does not specifically reference two applicable HOP policies.	Medium
2. The process of identifying all geographical areas should be updated.	Medium
3. Four geographical areas were incorrectly classified.	Medium

Conclusion

Based on the audit procedures performed, we conclude that the University possesses an experienced and committed Clery Act team. The team should continue to enhance procedures as necessary to ensure compliance with Clery Act requirements.

BACKGROUND

The Clery Act is a federal law requiring the disclosure of certain crime and safety information by all colleges and universities that participate in federal financial aid programs. Clery compliance is monitored by the United States Department of Education and is included in Title IV Student Financial Aid reviews. Universities may be subject to fines of up to \$69,733 for each Clery Act violation.

To comply with the Clery Act, universities are required to create and publish an Annual Security Report (ASR), which consists of information regarding campus geography, crime statistics, a listing of campus security authorities, and various campus safety policy statements, per 34 CFR 668.46(b).

UTEP has created a team that consists of members from the Dean of Students Office, Human Resources, the UTEP Police Department, the Office of Community Standards, the Vice President for Student Affairs, the Title IX Program, and Housing and Residence Life, and the Environmental Health and Safety Department. The team meets regularly and develops, reviews, and revises protocols and policies to ensure compliance with Clery Act requirements.

The audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and *Generally Accepted Government Auditing Standards*.

AUDIT RESULTS

1. The Annual Security Report does not specifically reference two applicable HOP policies.

Medium Risk

The Clery Act requires universities that receive federal funding to publish a public annual security report (ASR) to employees and students every October 1st. The Clery Act provides a list of twelve requirements, six of which refer to the University's policies.

All Clery Act requirements are addressed within UTEP's 2023 ASR. The UTEP Handbook of Operating Procedures (HOP) policies exist for two Clery Act requirements, but specific references to these policies are not included in the report.

Detailed descriptions of the specific HOP policy references are included in [Appendix A](#).

Specific references to the applicable policies will provide clear guidance to UTEP students and staff regarding Clery Act crimes and reduce risk to the University.

Recommendation:

Going forward, the Annual Security Report should include references to specific HOP policies where applicable.

Management Response:

UTEP PD will update the Annual Security Report of October 1, 2024.

Responsible Party:

Ray Rodriguez, Assistant Chief of Police

Implementation Date:

October 1, 2024

2. The process of identifying all geographical areas should be updated.

Medium Risk

UTEP Police Department (PD) has a proactive approach to identifying UTEP's properties by working closely with the Facilities Department and reaching out to campus department heads. The Office of Auditing and Consulting Services (OACS) identified one additional out-of-state Clery Act geographical area.

After the property was identified during the audit, UTEP PD verified no crimes occurred during the reporting period.

Noncampus locations, including those out of state, are a new opportunity and challenge for the University as it continues to grow its operations. To meet the geographical area definition, the building or property should be owned or controlled by the University and used in direct support of the institution's educational purposes.

The current process of identifying UTEP's geographical area does not provide a control measure to ensure all properties have been communicated to UTEP PD, therefore increasing the risk of potentially understating crime statistics, misinforming the UTEP community, and putting the University at risk of being fined by federal agencies.

Recommendation:

Implement a process that provides an inventory list to ensure all buildings or properties owned or controlled by UTEP are communicated to the UTEP Police Department.

Management Response:

UTEP PD will coordinate with VPBA to receive updates from VPBA regarding geographic locations which fall within Clery criteria for crime reporting, as changes occur.

Responsible Party:

Cliff Walsh, Chief of Police (in collaboration with Mr. Mark McGurk, Vice President for Business Affairs)

Implementation Date:

October 1, 2024

3. Four geographical areas were incorrectly classified.

Medium Risk

Three categories of locations should be reported in the ASR per [34 CFR 668.46 Institutional security policies and crime statistics](#):

- Buildings and property that are part of the institution's campus;
- The institution's noncampus buildings and property; and
- Public property within or immediately adjacent to and accessible from the campus.

§668.46 (a) Definitions

Campus.

(i) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(ii) Any building or property that is within or reasonably contiguous to the area identified in paragraph (i) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Noncampus building or property.

(i) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(ii) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Public property.

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

Four noncampus UTEP geographical areas were incorrectly classified in the 2023 ASR based on these definitions. UTEP PD is aware of these locations and obtained the crime statistics for the four locations; however, they were included as campus locations. The four misclassified locations are located at a distance between four and 141 miles away from UTEP's main campus.

Clery geography requirements are intended to inform the campus community of crimes so that members of the community are aware of safety issues and may take steps to protect their safety. By not correctly classifying the geographical areas and disclosing their location, statistics can be misleading and the UTEP community may not take appropriate actions to protect their safety.

Recommendation:

Any building or property that meets the Clery Act geographical area definition but is not within the same reasonably contiguous geographic area of the University, should be disclosed as a noncampus location in the Annual Security Report.

Management Response:

UTEP PD will make the necessary correction to the Annual Security Report.

Responsible Party:

Ray Rodriguez, Assistant Chief of Police

Implementation Date:

October 1, 2024

RANKING CRITERIA

Priority	An issue identified by an internal audit that, if not addressed timely, could directly impact achievement of a strategic or important operational objective of a UT institution or the UT System as a whole.
High	A finding identified by internal audit considered to have a medium to high probability of adverse effects to the UT institution either as a whole or to a significant college/school/unit level.
Medium	A finding identified by internal audit considered to have a low to medium probability of adverse effects to the UT institution either as a whole or to a college/school/unit level.
Low	A finding identified by internal audit considered to have minimal probability of adverse effects to the UT institution either as a whole or to a college/school/unit level.

Report Distribution:

University of Texas at El Paso:

Ms. Andrea Cortinas, Vice President and Chief of Staff
Ms. Mary Solis, Director/Chief Compliance and Ethics Officer, Office of Institutional Compliance (OIC)
Dr. Catie McCorry-Andalis, Vice President for Student Affairs
Mr. Clifton Walsh, Chief of Police
Mr. Raymundo Rodriguez, Assistant Chief of Police
Ms. Micki Lintz, Captain, University Police Department

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Auditors Assigned to the Audit:

Jannell Ballin, Sr. Auditor II
Narahay Buendia, Sr. Auditor II

APPENDIX A: ANNUAL SECURITY REPORT (ASR) APPLICABLE HOP POLICIES

Clery Policy Requirement Description	Issue Description
<p>Policies regarding procedures for reporting criminal actions or other emergencies on campus</p>	<p>UTEP HOP policy exists regarding procedures for emergencies on campus. The ASR includes a description of these procedures on pages 63-65 but not a specific reference/link to the UTEP HOP policy.</p> <p><u>UTEP Handbook of Operating Procedures, Section 9: Environmental Health & Safety, Chapter 4: Loss Prevention, Emergency Preparedness, and the Office of Emergency Management</u></p>
<p>Policies on security of and access to campus facilities</p>	<p>UTEP HOP policy exists. The ASR includes a description of security and access to campus facilities on page 75 but not a specific reference/link to the UTEP HOP policy.</p> <p><u>UTEP Handbook of Operating Procedures, Section 8: Facilities Services, Chapter 6: Access Control Policy</u></p> <p><u>UTEP Handbook of Operating Procedures, Section 2: Student Affairs, Chapter 3.4.1: Use of University Facilities - Regulations Applicable to University Buildings and Grounds - Identification Required</u></p>