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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

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# **Compliance With the Clery Act**

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## **State University of New York**

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Report 2013-S-70

August 2014

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# Executive Summary

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## Purpose

To determine whether the State University of New York's (SUNY) 29 State-operated colleges accurately reported crime statistics and published other relevant security and safety-related information required by the Clery Act, and whether SUNY's System Administration provided the colleges with sufficient Clery Act-related guidance and training. The audit covered the crime reporting component for calendar year 2012.

## Background

Security on the college campus has long been an important issue for students and their families. To address this concern, in 1990, Congress enacted the Clery Act, which requires colleges and universities to disclose crime statistics and security policies to help the public make informed decisions when choosing a college for educational or employment purposes.

The Clery Act requires all public and private colleges participating in federal Title IV student financial aid programs to prepare and publish an Annual Security Report (ASR) disclosing information about college safety policies and procedures and crime statistics for the three most recent calendar years, based on definitions from the Federal Bureau of Investigation's Uniform Crime Reporting Handbook. Additionally, colleges are required to submit crime statistics to the U.S. Department of Education (DoE) annually.

SUNY, the largest public university system in the United States, consists of 29 State-operated colleges, 30 community colleges, and five statutory colleges (affiliated with private universities) located throughout the State and a central administrative office located in Albany (System Administration). During the fall 2012 semester, SUNY's 29 State-operated colleges provided higher education to more than 180,000 undergraduate students.

In a 2008 audit (Report 2007-S-121), the Office of the State Comptroller examined SUNY's compliance with the Clery Act.

## Key Findings

- SUNY's System Administration and the 29 State-operated colleges have improved their compliance with the Clery Act since our previous report; however, problems still exist at certain colleges, which could affect the public's ability to accurately assess college safety and security and make valid comparisons among colleges.
- Three of four colleges we visited published inaccurate crime statistics on their ASRs. This included both underreporting and overreporting crime/violation information and disciplinary action referrals.
- Thirteen of SUNY's 29 State-operated colleges improperly reported crime statistics to DoE, and 19 published ASRs with missing and/or incomplete policy and procedure statements. Non-compliance with the reporting requirements could result in DoE-imposed civil fines and suspension from financial aid programs.

## **Key Recommendations**

- Develop strategies to enhance compliance with the Clery Act.
- Investigate and correct errors and discrepancies in the ASR and DoE statistics identified in this report to ensure compliance with the Clery Act.

## **Other Related Audits/Reports of Interest**

[State University of New York: Compliance With the Clery Act \(2007-S-121\)](#)

[State University of New York: Compliance With the Clery Act \(2009-F-46\)](#)

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**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

August 22, 2014

Dr. Nancy L. Zimpher  
Chancellor  
State University of New York  
State University Plaza  
Albany, NY 12246

Dear Chancellor Zimpher:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the State University of New York entitled *Compliance With the Clery Act*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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Security on the college campus has long been an important issue for students and their families. To address this concern, in 1990, Congress enacted the Crime Awareness and Campus Security Act, later renamed the Clery Act, requiring colleges and universities to maintain and disclose crime statistics and security policies. The federal statute is named for Jeanne Clery, a 19-year-old Lehigh University freshman who was raped and murdered in her campus residence hall in 1986. As a result of the Clery Act, information about the safety and security of college communities, including both crime and fire data, is readily available to the public to help people make informed decisions when choosing a college for educational or employment purposes.

The Clery Act requires all public and private colleges participating in federal Title IV student financial aid programs to prepare, publish, and distribute an Annual Security Report (ASR) disclosing information about college safety policies and procedures and crime statistics for the three most recent calendar years, based on definitions from the Federal Bureau of Investigation's Uniform Crime Reporting Handbook. (Note: For Clery Act-reporting purposes, crime statistics can include certain violations of law that are not routinely considered "crimes" for traditional law enforcement purposes, such as violations for possession of marijuana.) These statistics include the following categories: criminal homicide, sexual offenses, robbery, aggravated assault, burglary, arson, motor vehicle theft, liquor law and drug law violations, illegal weapons possession, and hate crimes. The Clery Act mandates that colleges disclose statistics for reported Clery crimes that occur on campus, on public property within or immediately adjacent to the campus, and in or on non-campus buildings or property that the college owns or controls.

Colleges are required to make available to current students and employees a copy of the ASR by October 1 of each year, and inform current and prospective students and employees of the availability of the report and provide them with a copy upon request. Additionally, colleges must maintain and make publicly available a daily crime log and must submit crime statistics to the U.S. Department of Education (DoE) annually. The DoE's Handbook for Campus Safety and Security Reporting (Clery Handbook) assists colleges in complying with Clery Act requirements.

The State University of New York (SUNY), the largest public university system in the United States, consists of 64 autonomous colleges (29 State-operated colleges, 30 community colleges, and five statutory colleges affiliated with private universities) located throughout the State and a central administrative office located in Albany (System Administration). During the fall 2012 semester, SUNY's 29 State-operated colleges provided higher education to more than 180,000 undergraduate students. Our audit focused on compliance with the Clery Act by the 29 State-operated colleges. (We did not include the community and statutory colleges within the scope of our audit, nor did we assess the fire safety component of the Clery Act.)

Each SUNY college is primarily responsible for its compliance with applicable safety and security laws, including the Clery Act, while System Administration provides general oversight of operations and facilitates compliance through university-wide policies and procedures. System Administration's Office of University Police (University Police) coordinates police operations

throughout the SUNY system, and sets training, hiring, and operational standards. Furthermore, University Police, in coordination with the Office of University Life and the Office of University Counsel, must periodically provide guidance and training to campus and System Administration officials charged with compliance with the Clery Act.

Additionally, System Administration's Office of the University Auditor (University Auditor) is responsible for assessing university-wide procedural and policy matters, and the various functions, programs, and control systems of the 29 State-operated colleges. The University Auditor conducts audits of college operations, and has audited Clery Act activities of certain SUNY colleges, including compliance.

In a 2008 audit (Report 2007-S-121), the Office of the State Comptroller examined SUNY's compliance with the Clery Act for calendar year 2006. This audit identified multiple problems with compliance at many SUNY colleges, including inaccurate crime statistics in the ASR and discrepancies in crime statistics reported on the ASR and to DoE. The audit concluded that System Administration needed to improve its formal guidance and training to college personnel to help ensure compliance with the Clery Act. A follow-up report issued in 2010 (Report 2009-F-46) concluded that System Administration had made significant progress in addressing these matters.

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## Audit Findings and Recommendations

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Although System Administration and the 29 State-operated colleges have improved their compliance with the Clery Act since our prior audit, we found problems still exist at certain SUNY colleges, which could affect the public's ability to accurately assess the safety and security of these colleges and to make valid comparisons among colleges.

### Annual Security Report Deficiencies

We found multiple deficiencies in colleges' reporting of crime statistics and in their preparation of the ASR in accordance with Clery Act requirements, which stem from various causes (e.g., misclassification of crime category, software glitches, clerical errors). However, each college administration is ultimately responsible for the accuracy of their published reports, and our findings suggest inadequate oversight and attention to detail.

#### *Inaccurate Crime Statistics*

The Clery Act mandates that colleges participating in federal Title IV student financial aid programs annually prepare, publish, and distribute an ASR disclosing crime statistics for the previous three years to the current and prospective college community no later than October 1. Colleges are accountable for the accuracy of the data, and where statistics are found to substantially misrepresent the actual number, location, or nature of the reported crime, DoE can issue civil fines, up to a maximum of \$35,000 per violation. DoE can also suspend violating colleges from participating in federal Title IV student financial aid programs, including Stafford, Perkins, and Parent (PLUS) loans as well as Pell and Supplemental Education Opportunity Grants. (Note: At the time of our review, no SUNY college had been fined or suspended from financial aid programs for non-compliance with the Clery Act.) In addition, the Clery Act mandates that colleges annually submit their crime statistics to DoE, which posts these crime statistics on its website for public viewing to permit comparisons of crime statistics among colleges.

As part of our review, we conducted on-site audits at four SUNY colleges: the University Centers at Buffalo and Stony Brook and the Colleges at Farmingdale and Morrisville, which account for about 26 percent of the undergraduate student enrollment in SUNY's 29 State-operated colleges. To assess the accuracy of crime statistics, for each college we reviewed the police incident reports for the 2012 calendar year and compared these with statistics reported on the ASR. For Farmingdale, we determined that ASR-reported data was correct. However, the remaining three colleges published inaccurate statistics as a result of either underreporting or overreporting crime/violation information, and two inaccurately reported disciplinary action referrals (incidents that did not result in arrests). Table 1 summarizes the results of our tests by college.



Table 1

Reporting Category	College					
	Morrisville		Stony Brook		Buffalo	
	Under Reported	Over Reported	Under Reported	Over Reported	Under Reported	Over Reported
Sex Offenses						1
Aggravated Assault	1					
Burglary	2					
Drug Arrests		1		1	11	
Liquor Arrests	3					
Weapons Arrests					1	
Hate Crimes		5				
Drug Referrals	2					92
Liquor Referrals	37			9		101
<b>Totals</b>	<b>45</b>	<b>6</b>	<b>0</b>	<b>10</b>	<b>12</b>	<b>194</b>

As Table 1 indicates, some of the discrepancies were significant. For example, Morrisville underreported liquor referrals by 37 instances, and Buffalo underreported drug arrests by 11 instances. Buffalo also overreported drug referrals by 92 instances and liquor referrals by 101 instances. Morrisville officials attributed the inaccurate reporting to human error. Buffalo officials told us their Clery Act coordinator felt it was appropriate to include all reported incidents, even those that were not clear violations of the law (e.g., only the smell of marijuana or the presence of alcohol without additional proof). The Clery Handbook states colleges should not include violations of college policy that result in disciplinary action if there was no violation of the law.

### *Missing or Incomplete Policy and Procedure Statements and Reporting Requirements*

In addition to reporting crime statistics, the Clery Act requires colleges to disclose their policy and procedure statements to provide their communities with important information about crime reporting procedures, access to college facilities and grounds, college security, and rules governing college law enforcement. The Clery Act requires 62 disclosures on the ASR, which we categorized into 14 policy and procedure statements and five reporting requirements.

We examined the most recent ASRs submitted by SUNY's 29 State-operated colleges to determine whether the 14 required statements were properly included and whether the five reporting requirements were met. (Note: Our audit did not include assessments of the programmatic effectiveness of the security policies and procedures submitted.)

We found a total of 49 missing or incomplete policy and procedure statements (of which 3 were missing and 46 were incomplete), including:

- Sexual Assault Prevention Programs and Procedures statement (12 colleges);
- Campus Law Enforcement/Authority statement (9 colleges); and
- Missing Student statement (11 of the 27 colleges that met the “residence hall” requirement).

We found a total of two incomplete reporting requirements, including:

- Crime statistics reporting requirements (2 colleges).

Of the colleges we visited, only Morrisville included all required statements and met all reporting requirements. Farmingdale, Buffalo, and Stony Brook had incomplete statements (seven, two, and one, respectively), but met all reporting requirements. Of the remaining 25 colleges, nine included the required statements and met all reporting requirements, and 14 had missing or incomplete statements but met all reporting requirements. Two had incomplete statements and failed to include all components of the reporting requirement.

See Exhibit A for the number of colleges with missing or partial policy and procedure statements and missing or partial reporting requirements. See Exhibit B for discrepancy figures for all 29 colleges.

## Inconsistent Statistics Reporting

The Clery Act mandates that institutions of higher education annually submit crime statistics compiled in their ASR to DoE. DoE compiles the data and makes it available to the public via the Internet. The public can perform a variety of user-defined searches, such as comparisons among various colleges.

To determine the accuracy of colleges’ published data, we compared statistics reported on the ASR with those submitted to DoE. For each discrepancy, we calculated the total number of violations impacted (the difference between the two amounts) and used this as the basis for our findings. (Note: For the colleges we did not visit, we couldn’t determine whether either the ASR or the DoE-reported statistics were correct. We simply noted the discrepancies between the two sets of data.)

Three of the four colleges we visited properly reported their numbers. However, Morrisville had several discrepancies between their ASR statistics and those that were reported to the DoE. We found that Morrisville did not report one burglary, one liquor arrest, and one drug law violation to DoE. In addition, we found five discrepancies between hate crimes reported on the ASR and to DoE. Morrisville officials told us they received a reporting error when attempting to enter the hate crime statistics on the DoE website. Based on guidance provided by the DoE help desk, college officials determined the five incidents did not meet the requirements of hate crimes and removed them from the DoE website. Morrisville did not, however, remove the five hate crimes

from their ASR, overreporting those crimes by five.

Of the remaining 25 colleges, we found 13 properly reported their numbers to DoE. The other 12 colleges had a range of reporting errors. Particularly, three of the 12 – Fredonia, Canton, and Empire State College – had more significant data discrepancies between their ASR and DoE reports in the categories of sexual offenses, burglaries, and liquor and drug law and weapons violations. Table 2 summarizes the results of our tests by the three colleges. (See Exhibit B for discrepancy figures for all 29 colleges.)

**Table 2**

<b>ASR TO DoE REPORTING DISCREPANCIES</b>			
<b>Reporting Category</b>	<b>College</b>		
	Fredonia	Canton	Empire State
Sexual Offenses			5
Burglary			4
Drug Arrest	59	2	
Liquor Arrest	21	3	3
Liquor Referral	1	5	
Weapons Arrest	5	1	
Weapons Referral		1	
<b>Totals</b>	<b>86</b>	<b>12</b>	<b>12</b>

## **System Administration’s Role in Clery Act Compliance**

### *University Auditor’s Reviews*

SUNY’s University Auditor assesses university-wide procedural and policy matters and the various functions, programs, and control systems, including those of the 29 State-operated SUNY colleges. In fulfillment of its duties, according to SUNY’s Campus Security Policy and Campus Crime Statistics Reporting procedures (#5402), the University Auditor is responsible for periodically performing, as resources permit, an audit of selected colleges’ compliance with the Clery Act.

Most recently, the University Auditor audited six State-operated colleges for their Clery Act compliance during the 2008 calendar year. (Note: None of these colleges were among our four selected colleges.) Specifically, the audit objective was to assess: (1) accuracy and completeness of the ASR, (2) controls and processes used to compile and report crime statistics in the ASR and to DoE, and (3) compliance with Clery Act policy and procedure statement requirements. In its findings issued in 2010, the University Auditor determined that all colleges had problems with the counting, classifying, or reporting (under or over) of crime statistics in their ASR. Additionally, the University Auditor identified opportunities for improvement related to

ASR information, such as including all required policy and procedure statements, notifying current and prospective employees and students of the availability of the ASR, maintaining crime logs, and obtaining and reporting statistics from outside law enforcement agencies. The University Auditor has not audited Clery Act compliance since their 2008 review. Given the significance of the Clery Act and the shortcomings we identified in the current report, we recommend that the University Auditor conduct more frequent audits of college compliance with the Clery Act, using a risk-based approach and as resources permit.

### *Training*

System Administration oversees SUNY operations and, as such, its University Police oversees police and security for the 64 SUNY colleges and acts as liaison with local, State, and federal officials, including local police departments. According to University Police officials, University Police is also responsible for ensuring that college police have Clery Act training, and works with the Office of General Counsel and the Office of Life Activities to develop and make Clery Act training available. System Administration officials supplied us with their Clery Act compliance training materials, including training agendas, attendance rosters, and PowerPoint presentations for trainings held from 2010 through 2013 at various SUNY colleges, which showed that training was provided.

For its part in compliance training, the Office of General Counsel provides legal interpretation of Clery Act compliance requirements and in 2008 began hosting an online forum, which currently provides guidance to 283 members, to answer questions relating to Clery Act reporting. The Office of General Counsel also provides colleges with guidance on crime classification, updates to changes in Clery Act reporting requirements and SUNY policies, and assistive tools for counting drug, alcohol, and weapons violations in residence halls and for properly reporting the geographic location of incidents.

During our site visits to the four SUNY colleges, we determined that officials and key personnel involved with Clery Act compliance receive periodic training and actively seek assistance from System Administration. For example, staff at Farmingdale, Stony Brook, Buffalo, and Morrisville indicated they have attended Clery Act trainings presented by the Office of General Counsel within the past four years, two of which were actually hosted by Morrisville. Stony Brook officials stated they utilize the online forum for questions and guidance. Morrisville provides its officers with a training booklet to assist them in correctly classifying Clery Act reportable crimes on their incident reports.

### *University Police Reviews*

SUNY's Campus Security Policy and Campus Crime Statistics Reporting procedures (#5402) require each State-operated college to submit a digital copy of the published ASR to University Police, and University Police must review them at least every 3 years. University Police officials told us they review the digital copies of the ASR for general topical content and trends and keep these reports on file. However, University Police does not verify the accuracy of crime statistics because they do not receive the supporting documentation from the various college security authorities.

We recommend that System Administration define the extent of the ASR review required by its Campus Security Policy and Campus Crime Statistics Reporting procedures to help ensure that colleges are complying with the Clery Act.

## Recommendations

1. Take steps to enhance compliance with the Clery Act, including but not limited to:
  - Provide a checklist to assist SUNY colleges in preparing ASRs, including all required policy and procedure statements and reporting requirements.
  - Periodically compare statistics between the ASR and the DoE website as priorities and resources allow, and follow up with colleges to correct discrepancies.
  - Have the University Auditor perform more audits of SUNY college compliance with the Clery Act as priorities and resources allow.
  - Revise SUNY Campus Security Policy and Campus Crime Statistics Reporting procedures to define the extent of the required ASR review.
2. Investigate and correct any errors and discrepancies in the ASR and DoE statistics identified in this report to ensure compliance with the Clery Act.

## Audit Scope and Methodology

We audited SUNY System Administration's compliance with the crime reporting component of the Clery Act for the period January 1, 2012 through December 31, 2012. Our objectives were to determine whether SUNY's 29 State-operated colleges accurately reported crime statistics and published other relevant security and safety-related information required by the Clery Act, and whether System Administration provided the colleges with sufficient Clery Act-related guidance and training.

To accomplish our objectives and assess related internal controls, we reviewed the Clery Handbook distributed by DoE to assist colleges in complying with Clery Act requirements, interviewed System Administration officials, and obtained the ASRs for each of SUNY's 29 State-operated colleges. We also reviewed System Administration policies and procedures relevant to compliance with the Clery Act. We visited four SUNY colleges, interviewed key college personnel, and audited the police incident reports and crime logs that supported their crime statistics for the 2012 calendar year. We reviewed relevant crime statistics documentation provided to us by local law enforcement agencies at the four colleges we visited. (Note: For the 25 colleges we did not visit, we could not determine if the local law enforcement statistics were correct. We simply noted the number of crimes reported). Additionally, for the 29 State-operated colleges, we compared the crime statistics listed in their 2013 ASRs with those listed on DoE's Office of Postsecondary Education website, and assessed the completeness and accuracy of the colleges' ASRs.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient,

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members (some of whom have minority voting rights) to certain boards, commissions, and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

## Reporting Requirements

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We provided a draft copy of this report to SUNY officials for their review and formal comment. We considered SUNY's comments in preparing this report and have included them in their entirety at the end of it. In their response, SUNY officials generally agreed with our recommendations and indicated that certain actions have been and will be taken to address them. Our rejoinder to certain SUNY comments is included in the report's State Comptroller's Comments.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the State University of New York shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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## Contributors to This Report

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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

## Exhibit A

<b>Count</b>	<b>Policy and Procedure Statement</b>	<b># Colleges With Missing or Partial Statements</b>
1	Crime Reporting Policy	2
2	Campus Facility Security Policy	1
3	Campus Law Enforcement/Authority Policy	9
4	Program to Inform of Security Procedures & Practices for Students & Employees	4
5	Program on Crime Prevention	5
6	Monitoring & Recording Criminal Activity at Off Campus Locations	1*
7	Alcohol Policy	1
8	Drug Policy	1
9	Drug or Alcohol Abuse Programs	1*
10	Disclosure of Disciplinary Proceeding Results	1*
11	Emergency Response & Evacuation Procedure	0
12	Sexual Assault Prevention Programs & Procedures	12
13	Registered Sex Offender	0
14	Missing Student	11
<b>Count</b>	<b>Reporting Requirement</b>	<b># Colleges With Missing or Partial Reporting Requirements</b>
1	Crime Statistics Reporting	2
2	Crime Location Reporting	0
3	Hate Crimes Reporting	0
4	Disciplinary Referral Reporting	0
5	Annual Security Report	0

\* Missing policy and procedure statement.



## Exhibit B

SUNY State-Operated Colleges Crime Statistics Reporting			
College	ASRs With Missing or Incomplete Clery Act Requirements		ASR to DoE Statistics Discrepancies
	Policy Statements	Reporting Requirements	
University of Albany	0	0	0
University at Binghamton	0	0	2
University at Buffalo*	2	0	0
University at Stony Brook*	1	0	0
Upstate Health Science Center	0	0	2
Downstate Health Science Center	0	0	1
College at Brockport	0	0	0
Buffalo State College	0	0	0
College at Cortland	1	0	0
College at Fredonia	0	0	86
College at Geneseo	0	0	0
College at New Paltz	5 **	0	2
College at Old Westbury	2	1	1
College at Optometry	0	0	0
College at Oneonta	3	0	7
College at Oswego	2	1	1
College at Plattsburgh	3	0	3
College at Potsdam	3	0	0
College at Purchase	3 ***	0	0
Alfred State Technology College	1	0	0
Canton Technology College	2	0	12
Cobleskill Technology College	3	0	0
Delhi Technology College	2	0	0
Empire State College	1	0	12
Environmental Science and Forestry	1	0	1
Farmingdale State College*	7	0	0
Maritime College	4	0	0
Morrisville Technology College*	0	0	8
SUNY Institute of Technology	3	0	0
<b>Totals</b>	<b>49</b>	<b>2</b>	<b>138</b>
*Indicates colleges we visited during our audit.			
**One policy was missing; four policies were incomplete.			
***Two policies were missing; one policy was incomplete.			

# Agency Comments



The State University  
of New York

## Office of University Police

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July 24, 2014

Ms. Andrea Inman  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, New York 12236-0001

Dear Ms. Inman:

In accordance with Section 170 of the Executive Law, we are providing our comments to the draft report “State University of New York Compliance with the Clery Act,” (2013-S-70). The report acknowledges that System Administration and the 29 State-operated campuses have improved their compliance with the Clery Act since the Office of the State Comptroller’s (OSC) previous report. SUNY has worked hard in this area, and continues to do so. The draft report notes that in certain instances, some campuses did not fully comply with the technical requirements of the Clery Act. The campuses cited in the draft report have taken further actions to ensure crime statistics are accurately reported and the required policy and procedure statements are complete.

It is important to note that the Clery Act is a reporting statute. Care must be taken not to confuse reporting with actual safety. Issues raised regarding technical reporting requirements should not be misinterpreted in regard to SUNY’s commitment to having all of its campuses be safe places to live, learn, and work.

On campuses, SUNY students are in relatively very safe environments. We know from Department of Justice studies that college students are generally safer on college campuses than in the jurisdictions surrounding those campuses, and safer still on public campuses than on private campuses.

Student safety is of utmost importance to SUNY and SUNY is committed to ensuring that its campuses are safe, its campus safety policies are effective, and its crime reporting is accurate. To help ensure the safety of SUNY campuses, the Deputy Commissioner of

To Learn  
To Search  
To Serve



Andrea Inman  
 July 24, 2014  
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University Police and I work with SUNY's campus based police departments on policy preparation, identifying trends in crimes across SUNY campuses, and developing and highlighting best practices among our campuses for keeping students safe. SUNY state-operated campus based police departments, which are comprised of over 600 members, provide full-time law enforcement and emergency services to nearly 220,000 students and 63,000 staff members. The SUNY Office of General Counsel has expertise in Clery Act requirements and has delivered more than 50 presentations to groups of SUNY professionals on the Clery Act and related obligations. In addition, the Office of General Counsel works closely with the Offices of University Audit, University Police, University Life, and Environmental Health and Safety to recognize and address trends and to answer questions on issues that arise.

SUNY's comprehensive program of Clery Act compliance compares very favorably with other public systems of higher education across the United States. In fact, some systems across the country that do provide Clery Act training to their campuses use resources developed at SUNY to do so (which they are welcome to do). SUNY engages such a program because SUNY is committed to the safety of its campuses and to compliance with the Clery Act.

Our specific comments to the findings and recommendations follows:

#### Crime Statistics

The draft report cited a number of incidents that were over or under reported for three of the four campuses where on-site reviews were completed. Most of the exceptions noted by OSC related to drug and liquor arrests and referrals and resulted from items such as misclassification of the crime or category, software glitches, clerical errors, and others. The campuses are working to address these discrepancies.

#### Policy and Procedure Statements and Reporting Requirements

As shown in Exhibit B of the draft report, 10 of the 29 campuses had all the required policy and reporting statements. For the remaining 19 campuses, the report noted that 49 required policy statements were missing or incomplete. Upon further review, it appears that of the 49 policy statements cited as missing or incomplete, only 3 policy statements were actually missing. When viewed collectively, SUNY state-operated campuses had 401 of the required 404 policy and reporting statements or 99.3 percent compliance. The draft report should be clarified to show that only three policy statements were missing and that the other 46 policy statements need to be enhanced to ensure all the required components are included. Furthermore, of the remaining 46 policy statements that were cited as incomplete, they were only missing one or more components of a policy statement, such as the following examples:

* Comment 1
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\* See State Comptroller's Comments on Page 22.

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- The draft report states that 12 campuses had a missing or incomplete policy statement for Sexual Assault Programs and Procedures. However, none of these campuses were missing this required policy statement. In fact, 8 of the 12 campuses only had one component of the policy statement missing and the remaining 8 components were satisfactory. When viewed collectively, SUNY campuses satisfactorily addressed 95 percent of the required components regarding Sexual Assault Programs and Procedures.
- The draft report stated that nine campuses had a missing or incomplete policy statement for Campus Law Enforcement and Authority. However, none of these campuses were missing this required policy statement. In fact 5 of the 9 campuses had only one policy statement component that was partially addressed and the remaining 3 were adequately addressed. When viewed collectively, SUNY campuses adequately addressed 92 percent of the required components regarding Campus Law Enforcement and Authority.
- The two campuses cited for missing or incomplete Crime Statistics reporting requirements were only incomplete and not missing.

While the draft report focused on the exceptions, it is also important to note SUNY's overall compliance with the highly technical and specific detailed policy statement requirements. When required components for each policy are viewed collectively, 95 percent (1,693 of 1,780) of the required disclosures for SUNY campuses were adequately addressed. To date, the campuses have made significant progress in making the necessary updates to the required policy statement to fully comply with the Clery Act. SUNY has and will continue to work with SUNY campuses to address the exceptions noted and further improve compliance with the technical requirements of the Clery Act policy statements.

#### Statistical Reporting

As shown in Exhibit B of the draft report, 15 of the 29 campuses accurately reported their numbers to the Department of Education (DoE). For the other campuses, there were some data discrepancies. However, there does not appear to be a pattern or an intentional effort to misrepresent the actual numbers. The campuses are working to address these discrepancies.

* Comment 1
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#### System Administration

SUNY generally agrees with the comments in this section of the draft report. The draft report shows that System Administration has taken a number of measures to help campuses comply with the Clery Act requirements.

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**Recommendations**

SUNY generally agrees with the recommendations and has in place a number of practices to help ensure compliance with the Clery Act. These include training, use of a listserv to issue guidance and answer questions, reviews of the ASR by the Office of the University Police, follow-up on any exceptions noted, and periodic audits by the Office of the University Auditor.

**Recommendation 1** – *Take steps to enhance compliance with the Clery Act, including, but not limited to:*

- *Provide a checklist to assist SUNY colleges in preparing ASRs, including all required policy and procedure statements and reporting requirements.*

**Response:** The Handbook for Campus Crime Reporting issued by the DoE in 2005 and revised in 2011 includes a checklist that outlines all required policy and reporting requirements. The handbook is available electronically through the Internet and the information has been provided to each of the campuses and discussed at various training events. SUNY will periodically remind campuses of the checklist, including the 2011 revisions, and its readily available format.

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Comment  
2

- *Periodically compare statistics between the ASR and the DoE website as priorities and resources allow, and follow up with colleges to correct discrepancies.*

**Response:** While SUNY generally agrees with the recommendation, the Office of the University Police already has a process in place to receive and review the campuses' ASRs. This review may include verifying the consistency of a sample of ASR statistics to those submitted to the DoE, and/or checking for compliance with requirements for a sample of policy statements. These checks may be impacted by each campus' level of conformance as determined by prior reviews, such as this audit. Flexibility is built in to allow the Office of University Police the ability to make the most effective use of its time, while conducting holistic high-level reviews of campus Clery Act compliance. The procedures, as they are, adequately document oversight activities.

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Comment  
3

- *Have the University Auditor perform more audits of SUNY college compliance with the Clery Act as priorities and resources allow.*

**Response:** SUNY generally agrees with the recommendation to the extent resources are available. In addition, University Audit will work with Counsel's Office and University Police to address the compliance issues.

- *Revise SUNY Campus Security Policy and Campus Crime Statistics Reporting procedures to define the extent of the required ASR review.*

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**Response:** As stated in responding to the second bullet, SUNY believes the procedure as written is adequate and provides flexibility to allow the Office of University Police the ability to make the most effective use of its time, while conducting holistic high-level reviews of campus Clery Act compliance.

**Recommendation 2** – *Investigate and correct any errors and discrepancies in the ASR and DoE statistics identified in this report to ensure compliance with the Clery Act.*

**Response:** SUNY agrees with the recommendation and is working with campuses to ensure the errors and discrepancies cited in the draft report are addressed. Campuses have taken action to address most of the discrepancies.

Thank you for the work done by your audit team, which will further improve SUNY's compliance efforts. In closing, SUNY is committed to compliance with the Clery Act and instituting best practices in good faith to ensure the safety of SUNY's many students, faculty, staff and visitors.

Sincerely,



R. Bruce McBride, Ed.D

Commissioner for University Police

Copy: Chancellor Zimpher  
Mr. Abbott  
Ms. Bringsjord  
Ms. Casey  
Mr. Doyle  
Mr. Haelen  
Mr. Howard

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Comment

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## State Comptroller's Comments

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1. Based on SUNY's response, we amended our report to further distinguish the numbers of missing versus incomplete policy and procedure statements. Further, among the changes made, we noted that 16 campuses accurately reported their numbers to DoE.
2. We acknowledge that the DoE's Clery Handbook includes a checklist of certain policy and reporting requirements. However, the Handbook's checklist is missing one reporting requirement (the ASR must be published as a complete document) and only partially addresses another requirement (the ASR must include three years of Clery crime statistics). Therefore, it is not a complete guide for the colleges to follow to achieve full Clery Act compliance. Thus, we maintain that SUNY should provide a checklist which includes all Clery Act policy and reporting requirements.
3. SUNY's comment is misleading. In fact, during our audit, senior officials from the Office of University Police indicated that verifications of ASR and DoE statistics generally are not done. Further, if such verifications were taking place, it is likely that many of the errors we identified would have been detected and prevented. We encourage SUNY officials to implement our recommendation and thereby help ensure ASR statistics are accurate.
4. Lack of well-defined policies and procedures can increase the risk that regulations are not properly carried out. As detailed in our report, 13 of SUNY's 29 State-operated colleges improperly reported crime statistics to DoE. Also, as previously noted, the Office of the University Police generally does not verify ASR statistics against those submitted to DoE. Given the reporting errors identified in our report, we encourage SUNY officials to implement our recommendation and define the extent of the required ASR review.