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March 24, 2000

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #Z445703876
PRCN: 199940716575
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Dear Dr. Ross:

Thank you for your institution's responses dated September 30, 1999, and January 14, 2000, in response to the August 31, 1999 program review report. That report covered Mount St. Clare College's (MSC) administration of the Campus Security Act of 1990 from June 1996 to the present.

The Kansas City Case Management Team has made final determinations for all of the findings in the program review report. The purpose of this Final Program Review Determination (FPRD) is to close the review. However, please note that, as part of the final determination for Findings 1, 2, and 3, our Case Management Team is referring this FPRD to the Administrative Actions and Appeals Division (AAAD) for its consideration of possible adverse administrative action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution pursuant to 34 CFR, Part 668, Subpart G of the Student Financial Assistance General Provisions. If AAAD initiates any action, its notification will include information on institutional appeal rights and procedures on how to file an appeal.

Mount St. Clare College has taken corrective actions to resolve Findings 1 through 4, and these findings may be considered closed. ***However, MSC should heed the guidance, instructions, and consequences of Findings 1, 2 and 3 discussed below.*** A copy of the program review report is attached to this FPRD as Attachment A.

1. Crime Statistics Not Accurately Disclosed – Annual Campus Security Reports

The original program review report included the following finding, reference, and requirement for this item:

FINDING: The review team examined MSC’s annual campus security reports for each of the years 1994 through 1998 to determine whether the College made all of the required disclosures and whether the disclosed information was accurate. The reviewers also reviewed a 1999 report of crime statistics provided to the State of Iowa and a draft of a campus security report being prepared for distribution to students for the Fall 1999 semester. Because the Department received a complaint about the accuracy of the reported statistics, the reviewers examined the source documents used to prepare the crime statistics. Additionally, the individuals responsible for gathering the statistics and preparing the reports were interviewed. The reviewers also requested statistics from the Clinton Police Department concerning incidents of the specified crimes in the Campus Security Act, for calendar years 1993 to present, which were reported to the police and occurred on the MSC campus. While the institution did publish an annual report for each of the years examined, detailed examination revealed areas where the institution failed to properly report required information.

a. All crime incidents not reported

Based on review and comparison of Clinton police statistics, Mount St. Clare incident reports, Mount St. Clare judicial board/administrative action decisions, and interviews with MSC officials, it appears the institution failed to properly gather/coordinate/report the required crime statistics from all pertinent sources. Institutional officials indicated they do not have a regular process established to obtain required statistics from the Clinton Police Department. This lack of any formalized arrangement prevents MSC from ensuring it is including all crime statistics in its annual campus security report, including incidents reported to the police of which MSC officials may be unaware. The specific discrepancies reviewers discovered are outlined below.

The College was unable to provide any campus incident reports for 1993-94 academic year. For the 1994-95 academic year, only a detailed incident report summary for August/September 1994 was provided. Reviewers had access to a summary of administrative action cases and judicial board cases from Fall 1996 to Spring 1999. The College provided judicial/administrative action files from 1993 to 1996, but only sketchy information was available for this time period. College officials were unable to provide any type of summary to support the statistics reported before 1996. Except for the 1998-99 statistics, reviewers were unable to determine which **specific** incidents were included on the reports.

At the time of the on-site visit, record retention requirements required school to have the 1996, 1997 and 1998 report available. Statistics in 1996 report were to contain incidents from the calendar years 1993 to 1995.

1993-94

The July 31, 1994 MSC campus security report listed one burglary in 1993-94. Clinton Police reported a burglary on December 25, 1993 (Incident report #93009399). This burglary was listed on the 1994 campus security report MSC officials gave to reviewers. However, this burglary was not listed on the 1995 or the 1996 report. MSC officials must explain this inconsistency.

1994-95

The July 31, 1995 campus security report lists two aggravated assaults and one weapons arrest in 1994-95. No other crimes or arrests were listed on the report.

The Clinton Police Department reported the following incidents:

- Weapons incident on September 2, 1994 (#940006364)
- Burglary in the residence hall on December 17, 1994 (#95000298)
- Burglary in the MSC business office on February 22, 1995 (#95001165)

The burglaries were not included in the report. Reviewers cannot determine if the September 2, 1994 weapons incident is the weapons arrest referred to in the report. This weapons incident also included a threat of harm, so it might also have been reportable as an aggravated assault.

The judicial board records for this academic year included information regarding a domestic violence incident that occurred on January 20, 1995. There was not an incident report and few details could be located about the nature of the incident. Perhaps this incident would have been classified as an aggravated assault. Reviewers cannot determine if this domestic violence incident was included in the campus security report statistics.

The residence hall incident report summary for August/September 1994 lists the following incidents:

- An incident on September 1, 1994 that appears to be the same incident involving the same parties as those included in September 2, 1994 Clinton police weapons incident report.
- A report of a sexual assault on September 18, 1994

It appears the institution failed to report two burglaries and one sexual assault in its annual campus security report. It is unclear if any of the incidents listed above were the two aggravated assaults and one weapons arrest that were reported.

1995-96

The July 31, 1996 MSC campus security report did not list any crimes or arrests for the 1995-96 academic year. The report did list two aggravated assaults and one weapons possessions arrest for the 1994-95 academic year.

The Clinton Police Department reported the following incidents:

- A forcible sexual offense on September 9, 1995 (#95007900)
- A weapons incident on November 1, 1995. This incident also included a threat of harm to other individuals, so it may also be an aggravated assault (#95008834)
- A burglary in the residence hall on February 8, 1996 (#96000981)

The judicial board/administrative action file indicates an aggravated assault took place on July 26, 1996. One residence hall resident grabbed another resident and threatened him with a knife.

None of these incidents were reported on the annual campus security report. The institution appears to have failed to report one forcible sex offense, one burglary, one weapons arrest, and one (or possibly two) aggravated assaults.

1996-97

The July 31, 1997 and the June 1, 1998 MSC campus security reports listed one motor vehicle theft as the only crime for 1996-97. However, the draft 1999 report lists two aggravated assaults for 1996-97 in addition to the motor vehicle theft. These aggravated assaults were listed on the report subsequent to the institution's April 1, 1999 correspondence with the Department. In the College's November 3, 1998 letter to the Department, the Dean of Students indicated that a sexual assault occurred at MSC in 1997. According to the Dean, this was the only incident reported to the College that should have been on the report.

The July 31, 1997 MSC campus security report also listed no crimes or arrests for the 1995-96 academic year. The report listed two aggravated assaults and one weapons arrest for the 1994-95 academic year.

The Clinton Police Department reported the following incidents:

- "Other" incident occurred on October 19, 1996. This appears to be the motor vehicle theft reported on the campus security report. (#960008247)
- An aggravated assault on April 17, 1997 (#97002838)
- A theft on May 22, 1997 (#97003901) Unless the incident can be classified as a burglary, it would not be required to be reported on the campus security report.

The judicial board records indicate two incidents (involving the same or partially similar parties) occurred on October 16, 1996. A memo from the judicial board to the Dean of Students on October 25, 1996 indicates that the first incident on October 16, 1996 may have involved an aggravated assault. The second incident may also have been an aggravated assault.

The Dean of Students indicated in interviews during the on-site visit that the student involved in the October 16, 1996 incident was also involved in another incident where he "beat up his girlfriend" or may have "only twisted her arm." However, reviewers could find no incident report or other documentation of that incident. The Dean of Students indicated no incident report was filed because the victim did not want to press charges with the police.

Because of the absence of complete school records, the reviewers could not determine if any of the above incidents are the two aggravated assaults reported on the 1999 report for 1996-97.

For 1996-97, it appears the institution did not timely report two aggravated assaults. The institution may have failed to report two additional aggravated assaults.

1997-98

In the June 1, 1998 MSC campus security report the College initially reported no offenses for 1997-98. In the 1999 draft report, the institution reported one sexual offense and one arrest for liquor law violation for the 1997-98 academic year. The only crime or arrest listed on the 1998 report is one motor vehicle theft for the 1996-97 academic year.

The Clinton Police reported no incidents during this time period.

The judicial board summary indicates a sexual harassment incident occurred on December 9, 1997. The charged party was found guilty. However, the files lacked

sufficient documentation to determine whether or not the sexual harassment involved a reportable sexual offense.

The administrative action cases indicate a physical assault occurred on September 12, 1997. The assailant was dismissed from MSC because the September 12 incident violated conduct probation imposed as a result of an earlier June 13, 1997 assault on another student. In that June 13 incident, the charged student threatened to hit another student with a broomstick (and may, in fact, have hit him), and tried to attack the other student with a fire extinguisher and a pipe. The charged student was also involved in the October 16, 1996 incident described above. Neither of these aggravated assaults was listed on the campus security report.

Also, the administrative action summary indicates that police arrested a student on February 24, 1998 for public intoxication.

The Department became aware of a forcible sex offense that occurred on campus in September 1997. In its November 3, 1998 correspondence, MSC acknowledged that a sexual assault did occur and provided supporting documentation. The accused student in this case was charged with third degree sexual abuse. The student was scheduled to go on trial in December 1997, but the victim asked the state's attorney to drop the charges. MSC hired the alleged assailant as a resident assistant for the 1998-99 school year.

It appears that the institution initially failed to report at least one sexual offense, two aggravated assaults and one arrest for a liquor law violation for the 1997-98 academic year.

1998-99

In the June 1, 1999 **DRAFT** MSC campus security report the institution lists one sexual offense, 23 room burglaries, four auto burglaries, two liquor law arrests and two drug law arrests for the 1998-99 academic year. The draft report lists two aggravated assaults and one motor vehicle theft for the 1996-97 academic year. The report also lists one sexual offense and one liquor law arrest for the 1997-98 academic year.

The Clinton Police Department reported the following incidents:

- A sexual assault on September 13, 1998. (#98006647)
- A theft on September 28, 1998. It may be classified as a burglary. This incident was likely included among the burglary incidents reported in the campus security report (#98007170)
- A report of a sexual assault on October 10, 1998. However, it appears this incident took place in Davenport, Iowa. As a result, it is not required to be listed in the statistics in the campus security report. (#98007372)
- A report of a nonforcible sexual offense on November 7, 1998. (#98008127)
- A report of an aggravated assault on November 12, 1998 (#98008148)
- A report of a burglary on February 1, 1999. It appears this was included among the burglary incidents reported in the campus security report. (#99002397)

It appears the institution failed to report one sexual offense and an aggravated assault from the calendar year 1998 that should have been reported in the 1999 campus security report.

b. Wrong standard and wrong reporting period used in report

The College reports its crime statistics using an academic year rather than a calendar year. The Act requires crime statistics to be reported for crimes in 668.47(a)(6) that occurred in the three most recent calendar years preceding the year the report is issued. So, the report due by September 1, 1999 would include crime statistics for the 1996, 1997 and 1998 **calendar** years. Statistics for arrests of the specified crimes in 668.47(a)(8) should be reported for the most recent calendar year preceding the year the report is issued. The report due by September 1, 1999 would include arrests for the 1998 **calendar** year.

Until the institution's 1999 **DRAFT** campus security report, the standard employed by MSC for reporting occurrences of the specified crimes in the statistical portion of its annual campus security brochure was incorrect. The standard employed before 1999 was that a crime was not considered "reported" unless (1) the Clinton Police Department investigated an incident and determined a crime occurred; or (2) the Clinton Police Department notified the College that it documented a report of a criminal offense which occurred "on campus" as defined by the Act. Further, in the institution's November 3, 1998 correspondence, the Dean of Students indicated the College "only reported crimes where **perpetrator was found guilty**." In interviews during the on-site visit, the Dean indicated that unless a student went to the police and pressed charges, an otherwise reportable incident would not appear in the campus security report statistics.

As discussed during the on-site visit, this standard of reporting violates the Campus Security Act requirements. As noted in 34 CFR 668.47(a)(6)(i), the annual campus security report must contain "statistics concerning the occurrence on campus of the [specified] criminal offenses reported to local police agencies **or to any official of the institution who has significant responsibility for student and campus activities.**" (Emphasis added). Furthermore, Dear Colleague Letter GEN 96-11 indicates that "*an institution is not relieved of compliance with the reporting requirements of the campus security regulations when the institution refers a matter to a disciplinary committee, rather than to the institution's law enforcement unit or directly to the local authorities.*"

College officials indicated, during the on-site visit, they were relying upon unspecified older information when they applied the stricter standard for reporting campus crime incidents. The Dean of Students indicated he first received training on Campus Security in March 1999. The Dean claims that in preparing the annual campus security report he was not familiar with the regulation containing the report requirements nor did he ask the Department for technical assistance in preparing the annual campus security report.

c. Hate crimes

The institution's publications did not address the requirement to disclose whether any reported crimes manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, as prescribed by the Hate Crimes Statistics Act (28 U.S. C. 534). The College is required to make such disclosures under the requirements of 34 CFR 668.47 (a)(6)(ii).

REFERENCE: 34 CFR 668.14 (c)(2) (1995)
34 CFR 668.16 (1995)
34 CFR 668.47 (1995)
Section 485(f) of the Higher Education Act, as amended

REQUIRED ACTIONS: Failure to accurately report occurrences of the Act's specified crimes results in the underreporting of occurrence of crimes and denies students and employees the opportunity to make informed judgments about the relative security of the campus environment and to make personal security decisions. The College must review the requirements of 34 CFR 668.47. It should develop a system for collecting information from all pertinent sources (including the Clinton Police Department)

about all occurrences (reports/arrests) of those crimes covered in 34 CFR 668.47(a)(6) and (a)(8). The College must use the proper reporting periods and standard for reporting. Further, the College must also ensure that any reportable crimes that manifest evidence of prejudice as prescribed by the Hate Crimes Statistics Act (28 U.S. C. 534) are properly reported.

In its response to this report, the College is required to describe how it will bring its campus security statistical disclosures into compliance with the law and regulations. The institution's response should address each of the deficiencies noted above and explain how it will take corrective actions to ensure complete reporting in the next annual campus security report. In particular, the institution should review each omitted incident discussed above and state its position as to whether the incident should have been reported. Finally, the institution must review previously disclosed statistics and report corrected statistics in light of the noted deficiencies. The Department will review the response to determine the institution's commitment to take corrective action and ensure future compliance."

FINAL DETERMINATION

The institution failed to accurately disclose the crime statistics it is required to report under the Campus Security Act of 1990. This inaccurate disclosure included: (1) the failure to report all crime incidents; (2) the use of the wrong standard and wrong reporting period in determining which crimes were to have been reported; and (3) the failure to include a determination as to whether any of the reported crimes manifested evidence of prejudice, as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534). The failure to accurately disclose the crime statistics denies students and employees the opportunity to make informed judgments about the relative security of the campus environment and to make personal security decisions.

a. All crime incidents not reported

The institution's September 30, 1999 response indicated that MSC officials had "omitted" ten incidents from previous campus security reports, but that MSC would include them in its revised statistics. These "omitted" incidents included four burglaries (12-25-93, 12-17-94, 2-22-95, and 2-8-96), three aggravated assaults (11-1-95, 10-16-96 (the judicial board summary date was 10-25-96), and 4-17-97), two forcible sex offenses (9-18-94 and 8-28-97), and one arrest for liquor law violations (2-24-98). **The Department concurs that these ten incidents are required to be included in MSC's revised crime statistics.**

The Department's correspondence of December 14, 1999, indicated that it accepted MSC's explanation for three other incidents outlined in the program review report. Those incidents were: (1) the possible weapons arrest on November 1, 1995; (2) the possible second aggravated assault on October 16, 1996 (the judicial board summary listed as 10-25-96); and (3) the possible aggravated assault on November 12, 1998. However, in the December 14, 1999 letter, the department informed MSC that it needed to clarify the circumstances surrounding seven incidents discussed in the program review report; the Department outlined the specific information MSC needed to provide regarding these seven incidents.

The institution discussed the seven incidents requiring clarification in its response of January 14, 2000. School officials indicated MSC would include three of these seven incidents (*1-20-95, 9-9-95, and 6-13-97*) in its revised crime statistics, in addition to the ten “omitted” incidents previously mentioned. The institution claimed it did not have to report four of these seven incidents. However, the Department finds inconsistency in MSC’s discussion of two of these incidents (*7-26-96 and 9-12-97*). As a result, these incidents must be included in MSC’s revised crime statistics. The Department agrees with MSC that the remaining two incidents (*1996-97 “Girlfriend Incident” and 11-7-98*) do not have to be reported. In the future, though, MSC must keep better records to ensure the institution will be able to accurately disclose crime statistics. Each of these seven incidents is discussed below.

1. Domestic Violence Incident on January 20, 1995

The institution’s July 31, 1995 campus security report listed two aggravated assaults for the 1994-95 academic year. The program review report speculated that these two incidents occurred on September 2, 1994 and January 20, 1995. Reviewers could not determine which incidents were included on the campus security report and asked the institution for clarification.

In its response of September 30, 1999, MSC confirmed the September 2, 1994 incident was listed on the campus security report as an aggravated assault. MSC determined that the January 20, 1995 incident was an aggravated assault and indicated the institution would revise its statistics to include this incident.

The institution’s response was unclear as to whether the January 20, 1995 was included in the two aggravated assaults reported for the 1994-95 academic year. The school’s response seemed to indicate that the January 20, 1995 incident had not previously been reported and would be added to the report as a result of the program review finding. However, MSC did not explain what incident was represented by the second reported aggravated assault in 1994-95.

The Department’s correspondence of December 14, 1999 asked MSC to clarify the situation. In its January 14, 2000 correspondence, MSC indicated that three aggravated assaults would be reported in its revised statistics. However, the school never clearly explained what comprised the third aggravated assault.

The Department accepts MSC’s revised statistics of three aggravated assaults in 1994-95, but notes that the institution never explained what incident represented the third aggravated assault. Thus, in future years, MSC must keep a more accurate accounting of incidents and keep track of which incidents comprise the reported statistics.

2. Forcible Sex Offense on September 9, 1995

The Clinton Police had a report of a forcible sex offense on September 9, 1995, but the July 31, 1996 campus security report listed no crimes for the 1995-96 academic year. In its September 30, 1999 response, MSC claimed that the information available was insufficient to determine whether this was a reportable offense. Thus, the school did not report the incident.

The Department's December 14, 1999 correspondence found that the incident was described in the police incident report as "SEX OFF F." Given that designation, MSC was asked to provide an explanation as to why the incident should not be reported. In its January 14, 2000 response, MSC indicated that the police incident case summary provided no facts regarding this incident other than the name of the alleged victim. Also, an investigation by the Clinton Police supposedly did not reveal any further information or facts regarding this report. MSC stated this incident was listed as a non-forcible sexual offense in its revised statistics.

The Department is unable to determine the correct classification of this incident due to the lack of details surrounding the circumstances of this case. However, the Federal Bureau of Investigation's Uniform Crime Reporting Program (UCR) defines non-forcible sexual offenses as incest or statutory rape. The institution has presented no evidence that this incident involved either incest or statutory rape. The institution has not denied that this incident occurred on MSC's campus. Furthermore, school officials did not provide an explanation as to why the incident should be classified as a non-forcible sexual offense when Clinton Police did not classify that way.

The Department accepts MSC's inclusion of this incident in the revised crime statistics, but, lacking evidence to the contrary, the incident should be listed as a forcible sex offense.

3. Aggravated Assault on June 13, 1997

An aggravated assault on June 13, 1997 was included in a summary of MSC's administrative action cases but was not listed on the campus security report. In its September 30, 1999 response, MSC indicated that this incident was reported on the 1996-97 campus security report.

The Department's December 14, 1999 correspondence instructed the school to explain where this incident was reported or, if unable, to revise its statistics. The July 31, 1997 and June 1, 1998 campus security reports listed NO aggravated assaults for 1996-97. The June 1, 1999 campus security report listed two aggravated assaults for 1996-97, but

MSC had previously accounted for these two aggravated assaults (October 16, 1996 and April 17, 1997).

In its January 14, 2000 response, MSC indicated this aggravated assault is now included in the revised statistics. The Department concurs that MSC should include this incident in its report of crime statistics.

4. Aggravated Assault on July 26, 1996

The school listed an aggravated assault, occurring on July 26, 1996, in its judicial board/administrative action summary. In its September 30, 1999 response, MSC stated that institutional officials determined this incident to be a simple assault. However, the September 30, 1999 response did indicate that the Judicial Board listed one incident of aggravated assault in 1996-97. In the September 30th letter, MSC officials claimed this incident was included in the revised crime statistics. However, no date or information concerning this incident was provided.

The Department's December 14, 1999 correspondence asked MSC to explain why the July 26, 1996 incident would be a simple assault when school officials originally classified the incident as an aggravated assault. MSC explained in its January 14, 2000 correspondence that the institution used an incorrect designation in its summary of administrative action cases. MSC officials contend that this incident did not involve injury, threat of injury or attempted injury; rather, it was simply an argument and disagreement between two MSC students. As a result, MSC classified this incident as a simple assault.

The summary of corrections to the crime statistics submitted with MSC's January 14, 2000 response indicated that the school should have reported two aggravated assaults for the period of August 1, 1995 and July 31, 1996. The summary indicates these two assaults occurred on November 1, 1995 and on July 2, 1996. The source of the July 2, 1996 incident is listed as the A-board. The program review report did not discuss any incidents occurring on July 2, 1996 and neither the judicial nor administrative board summaries listed an incident occurring on July 2, 1996. Thus, the Department assumes that MSC meant to report the aggravated assault that occurred on *July 26, 1996*.

The revised crime statistics submitted with the institution's January 14, 2000 response show two aggravated assaults should be reported in the 1995-96 academic year. The Department concurs with MSC's addition of one aggravated assault to the 1995-96 statistics. Although MSC lists this incident as July 2, 1996, the Department presumes the incident occurred on July 26, 1996.

5. Aggravated Assault on September 12, 1997

The administrative action case summary indicated that a physical assault occurred on September 12, 1997, but reviewers could not locate supporting/explanatory information for this incident. In its September 30, 1999 response, MSC indicated that institutional officials were not provided with sufficient information to determine whether the incident was an aggravated assault. In its January 14, 2000 response, MSC stated that this incident was classified as a simple assault. The perpetrator allegedly grabbed the arm of the victim, but there were no visible marks of injury, bruises or indications of an assault on the alleged victim. The limited information available indicated to MSC officials that this incident was primarily a verbal altercation with possible slight physical contact. Thus, MSC considered the incident to be a simple assault.

However, the summary of corrections to the crime statistics that MSC submitted with its January 14, 2000 response indicated one aggravated assault should have been reported for the period of August 1, 1997 and July 31, 1998. The summary indicates this assault occurred on September 12, 1997. **The revised crime statistics submitted with the institution's January 14, 2000 list one aggravated assault for 1997-98. Reviewers did not obtain any information nor did MSC provide any explanation of any other aggravated assault occurring during this time period. As a result, the Department believes this incident should be included in MSC's revised crime statistics.**

6. 1996-97 "Girlfriend" Incident

A 1996-97 "Girlfriend" incident was discovered in an interview during the program review. There was no incident report or other documentation of the incident. The Dean of Students indicated that the student involved in an incident on October 16, 1996, was also involved in an incident where he "beat up his girlfriend" or may have "only twisted her arm." The Dean of Students indicated no incident report was filed because the victim did not want to press charges with the police. In its response of September 30, 1999, MSC indicated that no information was presented to the Dean of Students in this case to determine if the incident should be classified as an aggravated assault.

The Department's December 14, 1999 correspondence requested that MSC explain the lack of an incident report in this case and the basis for not including the incident in campus security reports. MSC indicated, in its January 14, 2000, response that the Dean of Student's description of the incident was a "figure of speech." MSC conceded that an incident report should have been filed, but claimed the incident was not reported because there were no witnesses to the incident and neither party would talk about the incident. In this case, according to MSC officials, there were no visible marks of injury, bruises or indications of an assault on the alleged victim and no evidence that a physical assault had taken place. Thus, MSC considered the incident to be a simple assault.

Because reviewers do not have any information to contradict the institution's classification of these events, the Department will accept MSC's explanation of

the incident as a simple assault. As a result, the regulations do not require this incident to be reported in the crime statistics.

7. Sex offense, Non Forcible on 11-7-98

A non-forcible, sex offense was reported to the Clinton Police Department, but there was no documentation concerning the incident in the MSC documentation. The police incident summary listed the incident type as “SEX OFF NONF.” The incident summary comments stated that the “complainant reported sexual abuse to subject.” In its response of January 14, 2000, MSC stated that the police incident summary did not provide facts regarding this incident or details about the victim or alleged perpetrator. Clinton Police told MSC that the father of the alleged victim filed this complaint. The daughter (victim) never spoke to the police, so the police were unable to obtain further information to substantiate the allegations. Because of these limited facts, MSC was unable to determine if a reportable sexual offense occurred. As a result, the incident was not included in the security report.

Because of the limited facts of this case and the fact that reviewers do not have any information to contradict the institution’s classification of these events, the Department will accept MSC’s explanation of the incident. The institution does not have to report this incident in the revised crime statistics.

To summarize, over the review period, the institution failed to timely report **15** incidents of crime. These include:

- 7 aggravated assaults (Unknown, 11-1-95, 7-26-96, 10-16-96, 4-17-97, 6-13-97, and 9-12-97)
- 3 Sex offenses, forcible (9-18-94, 9-9-95 and 8-28-97 – *Incident is reported in corrected summary as 12-9-97, but date of occurrence was 8-28-97*)
- 4 burglaries (12-25-93, 12-17-94, 2-22-95, and 2-8-96)
- 1 liquor law arrest (2-24-98)

Ten of these omitted incidents involved bodily injury (or at least the threat of bodily injury). MSC’s failure to report these incidents resulted in an inaccurate portrayal of the situation at the institution. Students and employees who relied upon this information in making decisions about where to work or attend school did not receive a true and complete picture.

In its most recent campus security report, MSC stated that the statistics disclosed in the report are released with the intent to comply with Federal law. MSC officials should be

aware that, with the Amendments to the Higher Education Act in 1998, the disclosure requirements have changed. These changes are outlined in the final regulations published November 1, 1999 (effective date of regulations is July 1, 2000). A copy of these regulations is attached. MSC should review these regulations to ensure that it is in compliance.

One of the regulatory changes is the addition of new crime categories that are to be included in the crime statistics disclosure (34 CFR 668.46(c)). The institution's October 1, 2000 campus security report should include statistics for the 1997, 1998, and 1999 **calendar** years. The statistics for calendar year 1999 must include the new categories. MSC should also note that the institution must now provide a geographic breakdown of crime statistics.

The crime categories that must be reported are the following:

- (i) Criminal homicide:
 - (A) Murder and nonnegligent manslaughter
 - (B) Negligent manslaughter
- (ii) Sex offenses:
 - (A) Forcible sex offenses
 - (B) Nonforcible sex offenses
- (iii) Robbery
- (iv) Aggravated Assault
- (v) Burglary
- (vi) Motor vehicle theft
- (vii) Arson
- (viii) (A) Arrests for liquor law violations, drug law violations, and illegal weapons possession
- (B) Persons not included in above arrest category who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession

In addition, the regulations (34 CFR 668.46(f)) require an institution that maintains a campus police or campus security department to maintain a written crime log. Because MSC has a campus security department, the institution must ensure that it is complying with this provision, effective July 1, 2000.

b. Wrong standard and wrong reporting period used in report

Until the institution's 1999 campus security report, the institution's standard for reporting occurrences of the specified crimes in the statistical portion of its annual

campus security report was incorrect. Before the 1999 campus security report, MSC only reported those incidents where the County Attorney's office brought criminal charges. In the institution's November 3, 1998 correspondence with the Department, the Dean of Students indicated the College "only reported crimes where the perpetrator was found guilty." During the on-site visit, the Dean indicated that unless a student went to the police and pressed charges, an otherwise reportable incident would not appear in the campus security report statistics. The campus security report submitted with institution's response of September 30, 1999 indicates that MSC intends to comply with the Campus Security Act requirements regarding the disclosure of crime statistics.

In its response of September 30, 1999, MSC indicated the College did not have a formalized system for the collection of information from the Clinton Police Department. The institution indicated it would prepare and implement a system for collecting information from pertinent sources (including the Clinton Police) regarding occurrences of the specified crimes on campus.

The Department's interim correspondence of December 14, 1999 requested an institutional explanation of MSC's system of collecting information from the Clinton Police Department. The institution's January 14, 2000 response indicated that between July and December 1999 the institution maintained monthly oral contact with the Clinton Police Department regarding crimes reported to Clinton Police that occurred on the MSC campus. On December 31, 1999, MSC began monthly written correspondence with Clinton Police. The sample memo, submitted with the institution's January 14, 2000 response, asks the Clinton Police to provide MSC with monthly statistics for reported offenses, occurrences, crimes or incidents on the MSC campus.

In addition, MSC reported its statistics using an ACADEMIC year basis. In its September 30, 1999 response, MSC said, beginning with the calendar year 1999, the crime statistics would be reported on a calendar year basis. However, the campus security report submitted with the institution's January 14, 2000 response still reports the crime statistics by academic year. **The institution is advised that the disclosures/report due to be distributed on October 1, 2000 should contain statistics for the 1999, 1998 and 1997 CALENDAR years.**

c. Hate crimes

The campus security reports did not reflect whether any of the listed crimes manifested evidence of prejudice. Institutional officials corrected this error in the institution's September 30, 1999 response to the program review report. The institution reported that none of the reported crimes manifested prejudice as prescribed by the Hate Crime Statistics Act. **MSC officials should note that regulations effective July 1, 2000**

require institutions that report crimes as hate crimes to report those incidents by category of prejudice (34 CFR 668.46 (c)(3)).

As part of the final determination for this finding, the Kansas City Case Management Team has determined that a fine for this violation may be appropriate, and is making a formal fine referral to the Administrative Actions and Appeals Division (AAAD) for its consideration. AAAD will notify the institution of any action it may take as a result of this FPRD, and will include at that time information on institutional appeal rights and procedures.

2. Campus Security Report Information Not Made Available to Prospective Students and Employees

The original program review report included the following finding, reference, and requirement for this item:

FINDING: The review team interviewed institutional staff and obtained copies of material sent to prospective students to determine how Mount St. Clare College makes campus security report information available to current and prospective students and employees. It appears that the institution is not in compliance with the Campus Security Act disclosure requirements.

Prospective students and employees are not informed of the campus security report's availability, given a summary of its contents, and afforded the opportunity to request a copy. Admissions staff informed reviewers that students were directed to the Office of Student Affairs for specific questions about campus safety. According to the Director of Admissions, the campus security report is only given to prospective students who **specifically** ask for the report. However, no admissions material provided to prospective students informs students of the availability of the report.

The school distributes its Campus Security Act report to current students at Fall registration. Students who register at other times of the year are not provided with the report. Further, the report is "distributed" at a registration table that may or may not be staffed by institutional personnel. As a result, the institution cannot guarantee that each currently enrolled student receives a copy of the campus security report.

Failure to provide students, prospective students and employees with the campus security report information inhibits the ability of these individuals to make informed choices regarding the institution of postsecondary education where they might choose to attend or work. The goal of the Campus Security Act is to provide individuals with accurate information regarding safety issues at postsecondary educational institutions. Failure to make this information available to prospective students and employees violates the intention of the Act.

REFERENCE: 34 CFR 668.14(c)(2) (1995)
34 CFR 668.16 (1995)
34 CFR 668.47 (1995)
Section 485(f) of the Higher Education Act, as amended

REQUIRED ACTIONS:

Prospective students and employees must be informed of the campus security report's availability and given a summary of its contents, as well as the opportunity to request a copy of the report. Current students and employees must be given a copy of the report by September 1 each year.

In its response, the College must provide a copy of the notification it will provide to prospective students and employees and must indicate how the notification will be made. Also, the institution must outline the procedure by which it intends to ensure distribution of the report to current students and employees.”

FINAL DETERMINATION

The institution failed to adequately inform prospective students and employees of the campus security report’s availability, provide them with a summary of the report’s contents and afford them the opportunity to request a copy of the campus security report information. This failure inhibits the ability of students, prospective students and employees from making informed choices regarding the institution of postsecondary education where these individuals might choose to attend or work.

During the on-site review, admissions staff informed reviewers that students were directed to the Office of Student Affairs for specific questions about campus safety. No admissions material provided to prospective students informed students of the availability of the campus security report. Reviewers also expressed concern regarding the manner in which the school distributed the Campus Security Act report to students. Reviewers were unsure whether MSC personnel staffed the distribution table and whether students who did not complete Fall registration would receive a copy of the report.

In its September 30, 1999 response, MSC indicated that institutional personnel staff the registration table. Students are required to sign a form acknowledging they received a copy of the report. MSC indicated that prospective students are informed of the availability of the report through a notification in the admissions pamphlet that is mailed to all prospective students. The campus security report is also posted to the institution’s Internet website.

The Department’s correspondence of December 14, 1999, asked MSC to clarify when the notification was printed in the admissions pamphlet. The Department’s correspondence also noted that the notification was in small type hidden underneath informational reply cards. Further, the notification statement did not inform students how to request a hard copy of the report.

The institution’s January 14, 2000 response indicated that the notification did not appear in the admissions pamphlet until the Fall of 1999. The institution also indicated it would amend its notification to include information on how students could request a hard copy of the campus security report.

Based on conversations with institutional personnel while reviewers were on-site, MSC began posting its campus security information on its Internet website in the summer of

1999. However, a review of this information on March 16, 2000, shows the Internet version of the report differs slightly from the information presented in the hard copy report submitted with the institution's January 14, 2000 response. ***Most importantly, the crime statistics vary between hard copy and the copy posted on the Internet.*** The hard copy reflects three aggravated assaults in 1996-97, whereas only two aggravated assaults are reported on the Internet report. The hard copy reflects one aggravated assault in 1997-98 whereas the Internet copy shows zero aggravated assaults for this award year. Also, the hard copy report shows three arrests for liquor law violations in 1998-99, whereas the Internet copy only shows two arrests. The report distributed to students should contain the same, accurate information whether it is in hard copy or posted to the Internet.

The regulations effective July 1, 2000 (34 CFR 668.41(e)) changed the distribution deadline to October 1 from September 1. MSC officials should also note the requirements if the institution wishes to provide its annual security report to prospective students through an Internet posting. The notice directing students to the Internet posting must include (1) the **exact** electronic address at which the report is posted; (2) a brief description of the report; and (3) a statement that the institution will provide a paper copy of the report upon request.

As part of the final determination for this finding, the Kansas City Case Management Team has determined that a fine for this violation may be appropriate, and is making a formal fine referral to the Administrative Actions and Appeals Division (AAAD) for its consideration. AAAD will notify the institution of any action it may take as a result of this FPRD, and will include at that time information on institutional appeal rights and procedures.

3. Statements of Policy Omitted or Incomplete

The original program review report included the following finding, reference and requirement for this item:

FINDING: A review of MSC's campus security reports revealed several instances where required statements of policy were omitted.

a. Timely Warning Information The campus security reports distributed by the College did not include statements of the institution's policies for making timely reports to the campus community regarding the occurrence of the specified crimes. Such reports must be made in a timely manner that will aid in the prevention of similar crimes. 34 CFR 668.47(e). The DRAFT campus security statement given to reviewers on July 20, 1999 (subsequent to the institution's correspondence of April 1, 1999) contained timely warning information for sexual assaults but did not address timely warning procedures for the Campus Security Act's other enumerated crimes.

b. Safety, Access, Maintenance Concerns Regarding Campus Facilities This information was provided on pages 64-65 of the 1998-99 Student Handbook, but was not included in the Campus Security Act brochure.

c. Informational Programs The campus security reports omit the descriptions required under 34 CFR 668.47(a)(4) of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and crime prevention.

d. Sexual assault prevention programs and procedures for reporting a sex offense This information was not included in the campus security report until the DRAFT campus security brochure presented to reviewers on July 20, 1999. Individual brochures and a revised policy concerning sexual assault were submitted with the institution's correspondence on April 1, 1999. However, it appears no programs/procedures have been published in the campus security reports distributed by MSC.

Failure to develop and publish the policies and procedures required to be disclosed under the Campus Security Act is a violation of the Act and denies students and employees the opportunity to be fully informed and/or know how to act in personal safety/security matters.

REFERENCE: 34 CFR 668.14(c)(2) (1995)
34 CFR 668.16 (1995)
34 CFR 668.47 (1995)
Section 485(f) of the Higher Education Act, as amended

REQUIRED ACTIONS: Mount St. Clare College must review its campus security reports to ensure that all policy statements, as required under 34 CFR 668.47, are included.

In its response the institution must indicate where additions and modifications are made. This information should be presented in a comparison format or other format that clearly identifies the changes."

FINAL DETERMINATION

The institution's policies and procedures concerning timely warning information, security/access to campus facilities, informational programs, and sexual assault prevention programs and procedures for reporting a sex offense were either omitted or incomplete. The institution's failure to develop and publish these required policies is a violation of the Campus Security Act and denies students and employees the opportunity to be fully informed and/or know how to act in personal safety/security matters.

The institution submitted revised policies in the four required areas with its September 30, 1999 response. In its January 14, 2000 response, MSC conceded that these policy statements did not appear in MSC's campus security reports until the June 1, 1999 report.

The institution should be advised that the regulations effective July 1, 2000 (34 CFR 668.46 (b)) added additional policies that must be included in the institution's October 1, 2000 report. These regulations require the following new policies to be disclosed:

1. The institution's policies for preparing the annual disclosure of crime statistics (34 CFR 668.46(b)(2)(ii))
2. The list of titles/organization to whom students and employees report criminal offenses should disclose whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics, and, if so, a description of those policies and procedures (34 CFR 668.46(b)(2)(iii))
3. A description of procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics (34 CFR 668.46(b)(4)(iii))

As part of the final determination for this finding, the Kansas City Case Management Team has determined that a fine for this violation may be appropriate, and is making a formal fine referral to the Administrative Actions and Appeals Division (AAAD) for its consideration. AAAD will notify the institution of any action it may take as a result of this FPRD, and will include at that time information on institutional appeal rights and procedures.

CONCLUSION

In addition to the regulatory changes previously mentioned, 34 CFR 668.41(e)(5) requires an institution to submit its crime statistics to the Secretary on an annual basis. The Department will notify institutions of the availability of the form and submission deadline date. MSC officials should monitor the Information for Financial Aid Professionals (IFAP) website and other Departmental announcements for information regarding the submission of this information. Please contact the Kansas City office should you have questions concerning MSC's compliance with these regulations.

Record retention requirements that pertain to program records relating to the period of time covered by this program review appear at 34 CFR 668.24. Generally, an institution must retain records for three years. Thus, MSC must keep campus security records for three years following the last year in which the information is included in the annual security report. For example, an incident that occurred in calendar year 1999 must be reported on the Campus Security Act reports due October 1, 2000, October 1, 2001, and October 1, 2002. The school must retain the information concerning the reported incident for three years after the incident is reported in the October 1, 2002 report. Thus, MSC would have to retain information concerning a reportable crime incident in 1999 until October 1, 2005.

Your cooperation throughout the program review process is appreciated. If you have any questions, please contact Mr. Steve Dorssom at (816) 880-4053.

Sincerely,

Ralph A. LoBosco
Area Case Director
Kansas City Case Management Team
Case Management & Oversight
Student Financial Assistance Programs

cc: Mr. David L. Womack, Dean of Student Affairs
Mr. Paul Bookmeyer, CPA, Director of Administrative Services
Iowa College Student Aid Commission