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November 17, 1997

Dr. James Garland, President
Miami University
Roudebush Hall
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CERTIFIED MAIL
RECEIPT #P 611 892 252

FINAL PROGRAM REVIEW
DETERMINATION LETTER
REF: PRCN 199740814014

Dear Dr. Garland:

Thank you for your letter dated October 9, 1997, in response to our September 11, 1997 Title IV program review report. The program review report covered the institution's administration of the Campus Security Act of 1990 (the Act).

Final determinations have been made concerning all of the findings presented in the program review report. The purposes of this letter are to (1) identify actions to be taken resulting from the findings presented in the program review report, and (2) close the program review report.

The institution is advised that repeat findings in future program reviews may lead to the Department initiating an administrative action pursuant to 34 CFR 668, Subpart G, of the Student Assistance General Provisions regulations.

FINDINGS AND PROGRAM DETERMINATIONS

**FINDING NO. 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 institution's annual campus security reports for each of the years 1994, 1995, and 1996 were reviewed to determine: 1) whether all of the disclosures had been made, and 2) whether the disclosed information was accurate. Because there had been complaints alleging that the information reported was inaccurate, the reviewers examined the source documents used to prepare the crime statistics and interviewed individuals involved in the gathering of these statistics and in the preparation of the reports. While the institution did meet the requirement to*

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publish an annual report for each of these years, detailed examination revealed areas where the institution failed to properly report required information.

(a) **Crime incidents from all sources not reported.** The institution failed to properly gather the required crime statistics from all pertinent sources. All campus officials with significant responsibility for student and campus activities are not surveyed for data for possible inclusion in the report, as required by 34 CFR 668.47(a)(6).

Officials at the Miami University Department of Public Safety gather statistics and prepare the annual campus security reports. These statistics include, for the most part, only those statistics derived from the Miami University Department of Public Safety police records, and more recently in 1996 from the Oxford Police Department. The institution does not include statistics from (1) the institution counseling center, (2) the office of judicial affairs, and (3) the office of student affairs which compiles statistics from the McCullough-Hyde Hospital, Office of Residence Life, Office of Student Affairs, Oxford Crisis and Referral Center, Planned Parenthood, Psychology Clinic, and other agencies.

According to institution officials, the **institution counseling center** reports statistics to the Office of Student Affairs, but does not report statistics to the Department of Public Safety for inclusion in the annual campus security reports. The information is reported to the Office of Student Affairs on a form that requests the following information:

- * Type of offense
- * Date and time of occurrence
- * University affiliation of victim and perpetrator
- * Location (whether on or off campus; residential or non-residential or outside)
- * Whether victim and offender are acquainted
- * Whether the incident has been reported to any other reporting agency
- * Whether alcohol or drugs were involved in the assault

According to an official at the institution counseling center, the above information is completed when possible; however, many times the date and time of occurrence are omitted because the counseling center believes this information is confidential and if reported, will identify the victim.

According to institution officials, the **office of judicial affairs**, as a general policy, does not report crimes to the Department of Public Safety for inclusion in the annual campus security reports.

The **office of student affairs** publishes a Project TIPP (Treatment, Information, Prevention and Prosecution) Report which contains statistics derived from various reporting agencies mentioned above. However, no attempt is made to reconcile these statistics with the annual campus security reports. For example, according to the Project TIPP report for the period August 1995 through May 1996, there were 30 rapes reported. Of the 30 rapes, eight of the rapes occurred on-campus. In comparison, the annual campus security reports for the entire year of 1995 and the entire year of 1996 report only a total of four rapes on campus.

(b) **Crime statistics not calculated correctly from Miami University police records.** The crime statistics included in the institution's annual campus security reports do not reflect the number of actual crimes reported to the Miami University Department of Public Safety for 1994, 1995, and 1996. Discrepancies are noted below.

- 1994 Drug Law Arrests

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	Reported on 1995 campus security report	17
	Verified from Miami University police records	19
•	1995 Drug Law Arrests	
	Reported on 1996 campus security report	17
	Verified from Miami University police records	24
•	1996 Drug Law Arrests	
	Reported on 1997 campus security report	17
	Verified from Miami University police records	18
•	1994 Liquor Law Arrests	
	Reported on 1995 campus security report	78
	Verified from Miami University police records	73
•	1995 Liquor Law Arrests	
	Reported on 1996 campus security report	32
	Verified from Miami University police records	33
•	1996 Liquor Law Arrests	
	Reported on 1997 campus security report	42
	Verified from Miami University police records	51
•	1996 Aggravated Assault ¹	
	Reported on 1997 campus security report	3
	Verified from Miami University police records	4
•	1996 Forcible Fondling ²	
	Reported on 1997 campus security report	2
	Verified from Miami University police records	3
•	1994 Forcible Rape ³	
	Reported on 1995 campus security report	2
	Verified from Miami University police records	3

(c) **All university properties not included.** The definition of campus, as set forth in 34 CFR 668.47(f), includes 1) any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purpose; 2) any building or property owned or controlled by a student organization recognized by the institution; 3) any building or property controlled by the institution, but owned by a third party. The reviewers interviewed the director of the Department of Public Safety who indicated that prior to approximately October of 1995, the university's annual campus security reports included data only from properties located on the campus proper. The campus security reports, for the most part, did not include the occurrence of crimes at university-recognized fraternity housing facilities. The campus police

¹ Although there were three aggravated assault incidents, the incidents involved four victims and should have been reported as four crimes (Miami University Department of Public Safety police report nos. 96-2695, 96-3842, and 96-052).

² Although there were two forcible fondling incidents, the incidents involved three victims and should have been reported as three crimes (Miami University Department of Public Safety police report nos. 96-7809 and 96-183).

³ Miami University Department of Public Safety police report no. 94-179 not reported on 1995 campus security report, although institution was aware of crime as of February, 1994.

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department generally responds to and maintains records of crimes occurring on-campus, while the Oxford police department responds to and maintains records of crimes occurring at the off-campus fraternity housing facilities.

The reviewers obtained from the City of Oxford Police Department a print-out of crimes for 1994, 1995, and 1996 for all off-campus fraternity houses. An analysis of that documentation indicated the following:

Crimes at off-campus fraternity houses according to Oxford Police records

	1994	1995	1996
Burglary	18	32	16
Liquor law arrests	8	5	15
Drug law arrests	1	2	0
Sexual assault	1	1	0
Aggravated assault	2	4	7

According to institution records, it appears that Miami University did not include these statistics for 1994 and 1995 in their annual campus security reports. For 1996, it appears that Miami University did include some, but not all, of the reported crimes. The crimes delineated in the chart, especially for the years 1994 and 1995, are in addition to those set forth in paragraph (b) above.

(d) **Inconsistent data.** The reviewers found that the institution had apparently failed to consistently report carryover data. Specifically, in the category "Forcible Fondling", one is reported for the year 1994 in the 1995 annual campus security report; zero are reported for the year 1994 in the 1996 and 1997 annual campus security reports. The reviewers found evidence in the institution's records of one incident of forcible fondling in 1994 (Miami University Department of Public Safety Report No. 94-2134).

In the category "Liquor Law Violations", 83 are reported for the year 1994 in the 1995 annual campus security report; 78 are reported for the year 1994 in the 1996 and 1997 annual campus security reports. The reviewers documented 73 actual liquor law violations on-campus as set forth in paragraph (a) above and 8 off-campus as set forth in paragraph (c) above.

In the category "Drug Law Violations", 13 are reported for the year 1994 in the 1995 annual campus security report; 17 are reported for the year 1994 in the 1996 and 1997 annual campus security reports. The reviewers documented 19 actual drug law violations on-campus as set forth in paragraph (a) above and 1 off-campus as set forth in paragraph (c) above.

In the category "Robbery", one is reported for the year 1994 in the 1995 annual campus security report; zero is reported for the year 1994 in the 1996 and 1997 annual campus security reports.

Although the 1997 annual campus security report contains the disclaimer that the statistics may differ slightly from previously published lists due to reclassification, the carryover statistics still appear to be incorrect.

(e) **Crime statistics from branch campuses misreported.** The institution failed to report crime statistics from the local police departments of Hamilton and Middletown for their branch campuses located in those jurisdictions. Specifically, the institution reported zero crime at both the Hamilton and Middletown campuses for the years 1994, 1995, and

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1996. The reviewers interviewed officials at the City of Hamilton police department and the City of Middletown police department. An analysis of the documentation received from the police departments indicated the following:

Crimes at Hamilton branch campus
according to City of Hamilton Police records

Year	Crime	Number
1994	Aggravated assault	1 ^a
1995	Burglary	1 ^b
1996	Robbery	2 ^c

Crimes at Middletown branch campus
according to City of Middletown Police records

Year	Crime	Number
1995	Motor vehicle theft	1 ^d
1995	Aggravated assault	1 ^e
1996	Aggravated assault	1 ^f

Failure to accurately report occurrences of 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.

REFERENCE: 34 CFR 668.14(c)(2), General Provisions, redesignated from 668.12 to 668.14 and amended 4/29/94
 34 CFR 668.16, General Provisions, redesignated from 668.14 to 668.16 and amended 4/29/94
 34 CFR 668.47, General Provisions, 4/29/94, amended 6/30/95
 Section 485(f) of the HEA, as amended, 7/23/92

REQUIRED ACTIONS: The institution is required to review the requirements of 34 CFR 668.47, develop a system for collecting information about all occurrences (reports/arrests) of those crimes covered in 34 CFR 668.47(a)(6) and (a)(8), for inclusion in its annual campus security report.

In its response to this report, the institution is required to describe how it will bring its campus security statistical disclosures into compliance with the law and regulations, including detailed procedures it will implement to collect crime statistics and inform relevant staff of their reporting responsibilities and a listing of relevant staff who will be surveyed for required statistics. The institution's response should address each of the deficiencies noted above and explain how it will take corrective action to ensure complete reporting in the next annual campus security report. In addition, the institution must review previously disclosed statistics and report corrected statistics in light of the noted deficiencies."

⁴ Hamilton police records - 1601 Peck, 9/10/94
⁵ Hamilton police records - 1601 Peck, 11/11/95
⁶ Hamilton police records - 1601 Peck, 6/28/96, 8/19/96
⁷ Middletown police records - #95020480
⁸ Middletown police records - #95014160
⁹ Middletown police records - #96034811

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(a) **Crime incidents from all sources not reported**

Student Counseling Center: The institution, in its response, stated it was not required to report statistics from the student counseling center, citing Ohio state law regarding patient confidentiality. We note, however, that the counseling center does provide statistics without apparent objection to other offices of the university for publication, i.e., the TIPP Report. The Campus Security Act requires all officials with significant responsibility for campus and student activities to provide information for preparation of the annual statistical report. Regulations specifically state at 34 CFR 668.47(a)(6)(i) that **statistics** concerning the occurrence on campus of specified criminal offenses that are reported to local police agencies and to any official of the institution **who has significant responsibility for student and campus activities** must be reported in the annual statistical report.

In order to identify a crime as a reportable statistic under the Campus Security Act, the counseling center should, when possible, report to the Miami University Police Department (or some other appropriate office designated by the institution) the type of offense, whether the crime occurred on campus or in an off-campus fraternity house, date and time of occurrence, and if known, whether the incident was reported to another reporting agency. By providing this information, duplication of reporting statistics can, for the most part, be eliminated or decreased. This reporting maintains the confidentiality of the individual seeking counseling, while maintaining the integrity of the reporting system.

The institution has indicated that in the future it will, to the extent it is able to obtain verifiable information without violating patient confidentiality or the law, include data reported by the student counseling center in its annual statistical report.

Office of Student Judicial Affairs: The institution, in its response, stated that since 1995 the Office of Student Judicial Affairs has been responsible for reporting crime data to the Miami University Police Department for inclusion in the annual security report and during that time frame there were no reportable crimes that did not originate with a complaint to the Miami University Police Department or the Oxford Police Department. The institution's response did not address how, or if, the Office of Student Judicial Affairs reported crimes to the Miami University Police Department prior to 1995. In its response, the institution has indicated it will include statistics gathered by the Office of Judicial Affairs in its future annual security reports.

Office of Student Affairs: The institution, in its response, indicated it was unable to reconcile the numbers contained in the TIPP Reports and the numbers in the

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annual security reports. The institution was unable to explain the inconsistencies noted in the program review report under this finding. The institution stated it was evaluating the effectiveness of the TIPP Report. The institution is reminded that statistics reported to the Office of Student Affairs must be included in the institution's annual security reports.

(b) Crime statistics not calculated correctly from Miami University police records

The institution has re-examined its records and found additional incidents not included in statistics previously submitted to the reviewers. The institution's review of records revealed the following additional statistics. This recap does not include the additional statistics obtained through the Oxford Police Department (OPD) print-out which will be detailed under section (c) below.

Drug Law Arrests:

Drug Law Arrests	Original Report	Revised during program review	Add'l stats found after review	Total (not including OPD)
1994	17	19	1	20
1995	17	24	4	28
1996	17	18	0	18

The institution incorrectly indicates in its response that the reviewers categorized MUPD 96-6874 as a drug law arrest. This incident was categorized by the reviewers as a liquor law violation and is not included in the statistics above. In addition, the institution indicates that MUPD 96-8978 was also incorrectly categorized as a drug law arrest; yet the institution indicates on page 27 of the Appendix in its response that this incident is both a drug law arrest, as well as a liquor law arrest. This incident is included in the chart above, as well as the liquor law arrest chart below.

Liquor Law Arrests (on-campus):

Liquor Law Arrests	Original Report (MUPD records)	Revised during program review	Add'l stats found after review	Total (not including OPD)
1994	78	73	4	77
1995	29	30	1	31
1996	22	30*	1	31

*Originally revised to 33 during program review; error in institution's recap numbers--recap should show 22 originally reported, 17 not reported, and 9 mistakenly reported, for a total of 30 reportable.

Aggravated Assaults (1996):

The institution documented in its response that both the Oxford Police Department and the Miami University Police Department classifies report 96-052

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as one aggravated assault and two simple assaults. The reviewers originally classified the incident as two aggravated assaults. Upon further review, the reviewers agree that this incident will be counted as one aggravated assault for 1996.

Forcible Fondlings (1996):

The institution provided to the reviewers while on-site report numbers 96-183 and 96-7809 as evidence of the two forcible fondlings reported in 1996. The reviewers noted that report 96-7809 included two victims, and thus increased the total reportable number to three. In its response, the institution provided documentation that report 96-183 occurred in an off-campus building (not fraternity or institution-owned), and thus is not a reportable statistic. The reportable number will remain at two.

Forcible Rape (1994):

The institution, in its response, agreed that MUPD 94-179 was not included in its annual security report and will be included in its next Campus Security Report as an off-campus fraternity house forcible rape statistic.

(c) All university properties not included

The institution indicated that prior to approximately October 1995, it had not been able to obtain complete and accurate data from the Oxford Police Department for crimes occurring at the off-campus fraternity houses. The reviewers obtained from the OPD a print-out for crimes for 1994, 1995, and 1996 for addresses listed as off-campus fraternity houses. The institution, in its response, has provided additional information in determining which statistics are reportable under the Campus Security Act.

Burglary	OPD print-out	Reportable from print-out	Additional OPD not on print-out	Total OPD
1994	18	15	0	15
1995	32	26	1*	27
1996	16	12**	7*	19

*Included on institution's 1996 Annual Campus Security Report.

**5 of the 12 were included in the institution's 1996 Annual Campus Security Report.

Liquor Law	OPD print-out	Reportable from print-out	Additional OPD not on print-out	Total OPD
1994	8	6	0	6
1995	5	5**	1*	6
1996	15	20	11*	31

*Included on institution's 1996 Annual Campus Security Report

**One liquor law arrest was off-campus and not reportable; one liquor law incident reflected two arrests; thus the number remains 5.

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Drug Law Arrests	OPD print-out	Reportable from print-out	Additional OPD not on print-out	Total OPD
1994	1	1	0	1
1995	2	1	0	1
1996	0	0	0	0

Sexual Assault	OPD print-out	Reportable from print-out	Additional OPD not on print-out	Total OPD
1994	1	1	0	1*
1995	1	1	0	1**
1996	0	0	0	0

*94-0179 - same statistic as discussed in paragraph (b) above.
 **included in institution's Campus Security Report.

Aggravated Assault	OPD print-out	Reportable from print-out	Additional OPD not on print-out	Total OPD
1994	2	1	0	1
1995	4	0	0	0
1996	7	1	0	1*

*included in institution's Campus Security Report.

(d) Inconsistent Data

The institution, in its response, concurs that it failed to consistently report carryover data from 1994. The chart contained on page 74 of the Appendix to the institution's response, does not include the carryover information identified by the reviewers as the 1994 forcible fondling (94-2134) and the 1994 robbery previously reported. The institution must either report these incidents on its next annual campus security report or include an explanation with the report why the statistics are no longer required.

(e) Crime statistics from branch campuses misreported.

The institution's annual security report indicated no reportable crimes on the branch campuses at Hamilton and Middletown for the years 1994, 1995, and 1996. The institution apparently relied on sources other than the local police departments to determine there were no reportable crimes. The reviewers contacted the police departments for both Hamilton and Middletown to verify that there were, in fact, no reportable crimes at either branch campus. The reviewers received a print-out from the police departments containing dates and police report numbers or addresses for crimes occurring on the branch campuses. On August 4, 1997, and September 5, 1997, this information was faxed to the institution's Department of Public Safety for either verification or clarification prior to issuing the program review report. At that time the reviewers requested any additional information, including copies of police reports, that the institution might

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have for the incidents indicated on the print-outs. It was indicated at that time by the reviewers that if no information was obtained, any discrepancies could be explained in the institution's response to the program review report. No additional information was received from the institution prior to issuance of the program review. The reviewers did not rely on erroneous information. They obtained a source document that the institution had failed to obtain.

For the Hamilton campus, the institution determined from the report that the 1994 aggravated assault occurred on the street by the campus and not on the campus proper and therefore is not a reportable crime under the Campus Security Act. The institution also reviewed the incidents marked as "robberies, used force". The institution determined from the police department that these incidents were actually thefts without the use of force, and thus not reportable under the Campus Security Act. The 1995 burglary, previously unreported by the institution, is verified as a reportable crime under the Campus Security Act.

For the Middletown campus, the institution determined from the Middletown Police Department records that the two assaults indicated in the program review are classified as simple assaults; therefore, these are not reportable under the Campus Security Act. The 1995 motor vehicle theft, previously unreported by the institution, is verified as a reportable crime under the Campus Security Act.

A complete recap of the statistics that the institution is required to report is as follows. If the institution deviates from these statistics, a statement must be included with the institution's report detailing the discrepancies.

Oxford Campus Crime Statistics:

	1994	1995	1996
Murder	0	0	0
Sex offenses, forcible			
rape	3	2	2
forcible sodomy	0	0	1
sexual assault	0	0	0
forcible fondling	0	2	2
Sex offenses, non-forcible			
incest	0	0	0
statutory rape	0	0	0
Robbery	1	0	0
Aggravated assault	1	3	3
Hate crime	0	0	0
Burglary	17	29	20
Vehicle theft	0	1	0

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Arrests:	1994	1995	1996
Liquor law	83	37	62
Drug law	21	29	18
Weapons	1	0	0

Hamilton Campus Crime Statistics:

One (1) burglary in 1995 must be reported for the Hamilton campus.

Middletown Campus Crime Statistics:

One (1) motor vehicle theft in 1995 must be reported for the Middletown campus.

FINDING NO. 2 - Failure to Follow Campus Security Act Regulations Regarding Notification of Disciplinary Action

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

"FINDING: *The institution failed to initiate and enforce appropriate procedures for notifying both parties of the outcome of any institutional disciplinary proceeding brought alleging a sex offense, as required by 34 CFR 668.47(a)(12)(vi). The institution's current disciplinary procedures, as set forth in the 1997-98 "Code of Student Conduct", page 22, state:*

"Miami University, upon request (emphasis added) discloses to alleged victims of crimes of violence the results of disciplinary proceedings by the University."

In addition, page 18 of the handbook, states:

"The Office of Judicial Affairs will notify the student or student organization of the decision in writing of the outcome of the hearing and will also notify the student, if responsible, of the sanction(s) imposed."

The reviewers interviewed an institution official with the Office of Judicial Affairs to determine the actual procedure, if any, for notifying both parties of the outcome of any disciplinary hearing. According to that official, the complainant has the right to attend the punishment or sanction portion of the hearing. If the complainant does not attend the hearing, according to institution officials, the complainant "is usually notified" either by telephone, in person, or occasionally by letter.

Federal regulations state that both parties "shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense." The institution's current policies, both written and actual, do not provide sufficient safeguards to ensure that complainants are always notified of the outcome of disciplinary proceedings.

The institution's failure to properly develop a notification policy pursuant to the Campus Security Act of 1990 constitutes an inability by the institution to properly administer the Title IV programs.

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REFERENCE:

34 CFR 668.14(c)(2), General Provisions, redesignated from 668.12 to 668.14 and amended 4/29/94
34 CFR 668.16, General Provisions, redesignated from 668.14 to 668.16 and amended 4/29/94
34 CFR 668.47(a)(12)(vi), General Provisions, 4/29/94 Section 485(f) of the HEA, as amended, 7/23/92

REQUIREMENT:

The institution is required to review its disciplinary notification procedures to ensure that all policy statements, as well as actual enforcement, are in compliance with 34 CFR 668.47(a)(12)(vi). In its response, the institution must indicate additions/modifications to its current policy, as well as how it will implement the required policies and procedures."

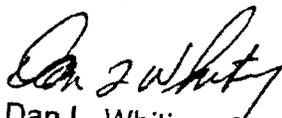
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The institution, in its response, states that it does comply with the Campus Security Act regulations regarding notification of disciplinary action in cases of alleged sex offenses. The Affidavit signed by an official of the Office of Judicial Affairs states that both the accused and the accuser have been notified of the outcome of disciplinary actions regarding sex offenses. However, the institution did not have a written policy in place to provide sufficient safeguards to ensure that complainants are always notified of the outcome of disciplinary actions in cases of alleged sex offenses. The institution, in its response, stated that page 22 of the Code of Student Conduct implements FERPA requirements and not notification requirements under 34 CFR 668.47. The institution has agreed to amend its Code of Student Conduct to reflect that in cases of an alleged sex offense, both the accused and the accuser will be notified, in writing, of the outcome of the disciplinary proceedings.

This letter concludes our program review and represents our final determinations. Inasmuch as this Final Program Review Determination Letter does not assert any liabilities, there are no provisions for an appeal of this letter.

If you have any questions, please contact Fran Susman at (303) 844-3677, extension 105.

Sincerely,



Dan L. Whiting, Co-Team Leader
Denver Case Management Team

cc: Diane L. Stemper, Director, Office of Student Financial Aid
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