Types of Criminal Offenses

You must disclose reported offenses, not the findings of a court, coroner or jury, or decision of a prosecutor.

1. Criminal Homicide. These offenses are separated into two categories: Murder and Non-negligent Manslaughter, and Negligent Manslaughter.

   a. **Murder and Non-negligent Manslaughter** is defined as the willful (non-negligent) killing of one human being by another

   Classify as Murder and Non-negligent Manslaughter any death caused by injuries received in a fight, argument, quarrel, assault or commission of a crime.

   Do not classify as Murder and Non-negligent Manslaughter:

   - Suicides
   - Fetal deaths
   - Traffic fatalities
   - Accidental deaths
   - Assaults to murder and attempts to murder (classify assaults and attempts to murder as aggravated assaults)
   - Situations in which a victim dies of a heart attack as the result of a crime, even in instances where an individual is known to have a weak heart
   - Justifiable homicide (which is defined as and limited to the killing of a felon by a peace officer in the line of duty, or the killing of a felon during the commission of a felony, by a private citizen)

   b. **Negligent Manslaughter** is defined as the killing of another person through gross negligence

   Classify as Negligent Manslaughter any death caused by the gross negligence of another. **Gross negligence** is the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another. In other words, it’s not something that a reasonable and prudent person would not do.
Do not classify as Negligent Manslaughter:

- Deaths of persons due to their own negligence
- Accidental deaths not resulting from gross negligence
- Traffic fatalities

2. **Sex Offenses.** Sex offenses are separated into two categories: forcible and non-forcible. This includes attempted sex offenses.

   a. **Sex Offenses – Forcible** is defined as any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent.

There are four types of Forcible Sex Offenses:

- **Forcible Rape** is the carnal knowledge of a person, forcibly and/or against that person’s will; or not forcible or against the person’s will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). This offense includes the forcible rape of both males and females.

- **Forcible Sodomy** is oral or anal sexual intercourse with another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

- **Sexual Assault With an Object** is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender’s genitalia. Examples are a finger, bottle, handgun, stick, etc.

- **Forcible Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s
will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

b. **Sex Offenses – Non-forcible** is defined as unlawful, non-forcible sexual intercourse.

There are two types of Non-forcible Sex Offenses:

- **Incest** is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- **Statutory Rape** is non-forcible sexual intercourse with a person who is under the statutory age of consent. If force was used or threatened, or the victim was incapable of giving consent because of his/her youth or temporary or permanent mental impairment, classify the offense as forcible rape, not statutory rape.

Do not classify as Non-forcible Sex Offenses:

- Date or acquaintance rape (these are Forcible Sex Offenses)
- Any offense other than incest or statutory rape

3. **Robbery.** Robbery is the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Essential Elements of a Robbery:**

- Committed in the presence of a victim (usually the owner or person having custody of the property)
- Victim is directly confronted by the perpetrator
- **Victim is threatened with force or put in fear that force will be used**
- Involves a theft or larceny

4. **Aggravated Assault.** Aggravated assault is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of
assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

**Classify as Aggravated Assaults:**

- Assaults or attempts to kill or murder
- Poisoning
- Assault with a dangerous or deadly weapon
- Maiming
- Mayhem
- Assault with explosives
- Assault with disease (as in cases when the offender is aware that he or she is infected with a deadly disease and deliberately attempts to inflict the disease by biting, spitting, etc.)
- All assaults by one person upon another with the intent to kill, maim, or inflict severe bodily injury with the use of any dangerous weapon. It is not necessary that injury result from an aggravated assault when a gun, knife or other weapon that could cause serious personal injury is used
- Assault cases that might be categorized as assault and battery, disorderly conduct, domestic violence or simple assault by some local jurisdictions, even though a knife, gun, or other weapon was used in the incident
- Attacks using personal weapons, such as hands, arms, feet, fists and teeth that result in serious or aggravated injury

5. **Burglary.** Burglary is the unlawful entry of a structure to commit a felony or a theft.

**Classify as Burglary:**

- Offenses that are classified by local law enforcement agencies as burglary (any degree); unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts at these offenses
- **Forcible entry.** All offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft of felony. This rule applies when a thief gains entry by using tools; breaking windows; forcing windows, doors, transoms or ventilators; cutting screens, walls or roofs; and where known, using master keys, picks, unauthorized keys, celluloid, a mechanical contrivance of any
kind (e.g., a passkey or skeleton key) or other devices that leave no outward mark but are used to force a lock. This includes burglary by concealment inside a building followed by exiting the structure

- **Unlawful entry – no force.** The entry of a structure in this situation is achieved by use of an unlocked door or window. The element of trespass to the structure is essential in this category, which includes thefts from open garages, open warehouses, open or unlocked dwellings (such as dorm rooms) and open or unlocked common basement areas in apartment houses where entry is achieved by someone other than the tenant who has lawful access

- **Attempted forcible entry.** A situation where a forcible entry into a locked structure is attempted but not completed

**Do not classify as Burglary:**

- Thefts from automobiles, whether locked or not
- Shoplifting from commercial establishments
- Thefts from coin boxes or coin-operated machines
- Thefts from areas of open access. If a perpetrator steals an item from an area of open access (i.e., there is no unlawful trespass), the incident is classified as Larceny, not Burglary
- Robbery. A structure can be burglarized, but it cannot be robbed. It is possible, however, for an attempted burglary to become a robbery
- A forcible entry or unlawful entry in which no theft or felony occurs, but acts of vandalism, malicious mischief, etc., are committed, provided investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft

**An incident must meet three conditions to be classified as a Burglary:**

1. **There must be evidence of unlawful entry (trespass).** This means that the person did not have the right to be in the structure at the time the incident occurred

2. **The unlawful entry must occur within a structure,** which is defined as having four walls, a roof, and a door

3. **The structure was unlawfully entered to commit a felony or a theft.** If the intent was not to commit a felony or a theft, do not classify the incident as Burglary
6. **Motor Vehicle Theft.** Motor vehicle theft is the theft or attempted theft of a motor vehicle.

**Classify as Motor Vehicle Theft:**
- Theft of any self-propelled vehicle that runs on land surface and not on rails, such as: sport utility vehicles, automobiles, trucks, buses, motorcycles, motor scooters, trail bikes, mopeds, all-terrain vehicles, self-propelled motor homes, snowmobiles, golf carts and motorized wheelchairs
- All incidents where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned. Include joyriding in this category. If a vehicle is stolen in conjunction with another offenses, classify the crime using the procedures for classifying multiple offenses (i.e., the Hierarchy Rule)

**Do not classify as Motor Vehicle Theft:**
- Theft of any of the following: farm equipment, bulldozers, airplanes, construction equipment, water craft (motorboats, sailboats, houseboats, or jet skis)
- Taking a vehicle for temporary use when prior authority has been granted or can be assumed, such as in family situations, rental car agreements, or unauthorized use by chauffeurs and others have lawful access to the vehicle
- A forcible or unlawful entry of a building to steal a motor vehicle. Classify this offense as a burglary
- Thefts from motor vehicles. Theft from a motor vehicle is Larceny, which is not a Clery Act crime unless it’s motivated by bias (i.e., a hate crime)

7. **Arson.** Arson is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Classify as Arson:**
- Only fires determined through investigation to have been willfully or maliciously set. Because the Clery Act requires institutions to disclose all arsons that occur on their Clery geography, you must have every fire that is not known to be accidental (such as a cooking fire) investigated. An Arson determination must be made by either a fire authority such as a fire marshal, law enforcement personnel or another individual experienced in arson investigation. The latter
includes someone at your institution who has received training in arson investigation by a fire authority

- Attempts to burn
- Any fire that investigation determines to meet the UCR definition of arson regardless of the value of property damage
- Incidents where an individual willfully or maliciously burns his or her own property

**Do not classify as Arson:**

- Fires of suspicious origin
- Fires of unknown origin

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**Clery Reporting: How to Properly Classify Incidents**

Under the *Clery Act*, campus security authorities are obligated to ask certain questions while gathering details related to an incident. This list will help your campus security authorities to properly classify each Clery crime.

**Forcible sex offenses**

- Was the victim penetrated with the suspect’s penis? If so, vaginally or anally?
- Was the victim penetrated by the suspect with any other object? If so, vaginally or anally?
- Did the suspect force the victim to perform oral sex on him/her?
- Was the victim unable to give consent because of his/her temporary (drugs/alcohol) or permanent mental or physical incapacity or because of his/her youth?
- Did the suspect(s) touch private body parts of the victim for the purpose of sexual gratification? If so, what was touched?

**Non-forcible sex offenses**

- Is the victim related to the suspect(s)?
- How old is the victim, and how old is the suspect(s)?

**Robbery**

- Did the suspect(s) take or attempt to take anything of value from the care, custody or control of the victim?
• Did the suspect take the property by force, threat of force or violence?
• Did the suspect put the victim in fear?

**Aggravated assault**

• Did the suspect(s) unlawfully attack the victim for the purpose of inflicting severe or aggravated bodily injury?
• Was a weapon used? If so, what type of weapon?
• Was the victim injured? If so, describe the injury(s)?

**Burglary**

• Was there evidence of unlawful entry (trespass)?
• Was there unlawful entry into a structure (building, apartment, office, etc.)?
• Was there evidence that the unlawful entry into the structure was made with the intent to commit a felony or theft?

**Motor vehicle theft**

• What type of vehicle with a motor was stolen?
• Was the vehicle taken by a person who doesn’t have legal access or owner consent?
• Did the suspect take the vehicle out joyriding and then return it?
• Where (location) was it obtained)
• Who (person) provided it to you?
• How and who brought it into the building/area where you were discovered?

**Arson**

• Did the suspect(s) willfully or maliciously (intentionally) burn or attempt to burn the property of another or his/her own property?
**Hate (bias) crimes**

- Was the criminal offense committed against a person or property motivated, in whole or in part, by the offender’s bias?

**Attempted Crimes**

DO NOT differentiate between attempted and completed crimes. For example, count an incident involving an attempted forcible rape as a Forcible Sex Offense. The only exception to this rule applies to attempts or assaults to murder when the victim does not die. Classify these incidents as Aggravated Assualts rather than murders.

**Status of the Victim and Perpetrator**

The status of the victim and the perpetrator is irrelevant. Count all Clery Act crimes, even if they involve individuals not associated with the institution.
Hate Crimes

A hate crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender’s bias. Bias is a preformed, negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin.

Although there are many possible categories of bias, under Clery, only the following six categories are reported:

- **Race.** A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g., color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity, which distinguish them as a distinctive division of humankind (e.g., Asians, blacks, whites)

- **Gender.** A preformed negative opinion or attitude toward a group of persons because those persons are male or female

- **Religion.** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists)

- **Sexual orientation.** A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals)

- **Ethnicity/national origin.** A preformed negative opinion or attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions (e.g., Arabs, Hispanics)

- **Disability.** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness

For Clery purposes, hate crimes include any offense in the following two groups that is motivated by bias:
Group A:

- Murder and Non-negligent manslaughter
- Forcible sex offenses
- Non-forcible sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson

Group B:

- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property

1. **Larceny-Theft** is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. **Constructive possession** is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.

**Classify as Larceny:**

- Thefts of bicycles or automobile accessories
- Shoplifting
- Pocket-picking
- The stealing of any property or article which is not taken by force and violence or by fraud
- Any of the above regardless of the value of the item or items taken
- Attempted larcenies

**Do not classify as Larceny:**

- Motor vehicle theft
- Attempted motor vehicle theft
- Embezzlement
2. **Simple Assault** is an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness. Include all assaults which do not involve the use of a firearm, knife, cutting instrument or other dangerous weapon and in which the victim did not sustain serious or aggravated injuries.

3. **Intimidation** is to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack. A person is assumed to be placed in “reasonable fear” if he or she reports threatening words or other conduct to law enforcement personnel. To be the victim of intimidation, one doesn’t have to be the intended target of the offender. Include in this category cyber-intimidation if the victim is threatened via computer while on your Clery geography.

4. **Destruction/Damage/Vandalism of Property** is to willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

   **Classify as Destruction/Damage/Vandalism of Property** (a wide range of malicious behavior directed at property, such as):
   
   - Cutting auto tires
   - Drawing obscene pictures on restroom walls
   - Smashing windows
   - Destroying school records
   - Defacing library books.

   **Do not classify as Destruction/Damage/Vandalism of Property:**
   
   - Incidents of burning that willfully or maliciously destroy, damage or deface property. Classify such incidents as Arson.

   - Confidence games
   - Forgery
   - Worthless checks
Aids for Classifying Hate Crimes

Before an incident can be classified as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender’s actions were motivated, in whole or in part, by bias. **While no single fact may be conclusive, facts such as the following, particularly when combined, are supportive of a finding of bias:**

- The offender and the victim were of a different race, religion, disability, sexual orientation and/or ethnicity/national origin. For example, the victim was black and the offender was white.

- Bias-related oral comments, written statement or gestures were made by the offender, which indicate his or her bias. For example, the offender shouted a racial epithet at the victim.

- Bias-related drawings, marking, symbols or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue.

- Certain objects, items or things which indicate bias were used. For example, the offenders taped a photo of a burning cross to the door of the victim’s dorm room.

- The victim is a member of a racial, religious, disability, sexual-orientation or ethnic/national origin group which is overwhelmingly outnumbered by other residents in the student housing facility where the victim lives and the incident took place. This factor loses significance with the passage of time (i.e., it is most significant when the victim first moved into the facility, and becomes less and less significant as time passes without incident).

- Several incidents occurred in the same location at or about the same time, and the victims were all of the same race, religion, disability, sexual orientation or ethnicity/national origin.

- A substantial portion of the campus community where the crime occurred perceived that the incident was motivated by bias.

- The victim was engaged in activities promoting his or her race, religion, disability, sexual orientation or ethnicity/national origin. For example, the victim was a member of the NAACP or participated in gay rights demonstrations on campus.
- The incident coincided with a holiday or a date of particular significance relating to a race, religion, disability, sexual orientation or ethnicity/national origin (e.g., Marin Luther King Day, Rosh Hashanah)

- The offender was previously involved in a similar Hate Crime or is a hate group member

- There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active on the campus

- An historically established animosity existed between the victim’s and the offender’s groups

- The victim, although not a member of the targeted racial, religious, disability, sexual-orientation or ethnic/national origin group, was a member of an advocacy group supporting the precepts of the victim group

Additional considerations in determining whether an incident is a hate crime:

- **Need for a case-by-case assessment of the facts.** The aforementioned factors are not all-inclusive of the types of objective facts which evidence bias motivation. Therefore, examine each case for facts which clearly provide evidence that the offender’s bias motivated him or her to commit the crime

- **Misleading facts.** Be alert to misleading facts. For example, the offender used an epithet to refer to the victim’s race, but the offender and victim were of the same race

- **Feigned facts.** Be alert to evidence left by the offenders that is meant to give the false impression that the incident was motivated by bias. For example, students of a religious school, hoping that they will be excused from attending class, vandalize their own school, leaving anti-religious statements and symbols on its walls

- **Offender’s mistaken perception.** Even if the offender was mistaken in his or her belief that the victim was a member of a racial, religious, disability, sexual-orientation or ethnic/national origin group, the offense is still a Hate Crime as long as the offender was motivated by bias against that group. For example, a non-gay student leaving a publicized gay rights meeting in a non-campus fraternity house is followed back to
campus and attacked behind a dorm by six teenagers who mistakenly believed the victim is gay. Although the offenders were mistaken, the offense is a Hate Crime because it was motivated by the offenders’ anti-gay bias.

Remember, it is the perception of the offender, not the perception of the victim, that determines whether a crime is classified as a Hate Crime. Also, knowing that an offender is prejudiced is not enough to classify a crime as a Hate Crime. There must be evidence that the offender was motivated by that prejudice to commit the crime.

**Arrests and Disciplinary Referrals**

The third category of crime statistics you must disclose is the **number of arrests** and the **number of persons referred for disciplinary action** for the following law violations:

2. Drug Abuse Violations
3. Liquor Law Violations

Disclose statistics for **violations of the law resulting in arrests or persons being referred for disciplinary action**. Do not include violations of your institution’s policies that resulted in persons being referred for disciplinary action if there was no violation of the law.

If an individual is both arrested and referred for disciplinary action for an offense, **disclose only the arrest statistic**.

1. **Arrest** for *Clery Act* purposes is defined as persons processed by arrest, citation or summons.

   **Classify as arrests:**

   - Those persons arrested and released without a formal charge being placed against them (an arrest has occurred when a law enforcement officer detains an adult with the intention of seeking charges against the individual for a specific offense(s) and a record is made of the detention)
   - Juveniles taken into custody or arrested but merely warned and released without being charged. A juvenile should be counted as “arrested” when the circumstances are such that if the individual were an adult, an arrest would have been counted.
- Any situation where a young person, in lieu of actual arrest, is summoned, cited or notified to appear before the juvenile or youth court or similar official for a violation of the law
- Only violations by young persons where some police or official action is taken beyond a mere interview, warning or admonishment

**Do not classify as arrests incidents in which:**

- Police contact a juvenile who has committed no offense
- Police take a juvenile into custody for his or her own protection, but no crime was committed
- Officers make call backs or follow-up contacts with young offenders for the purpose of determining their progress
- An individual makes a “citizen’s arrest”
- The arrest was for something other than a violation of a weapons, drug or liquor law (e.g., an arrest for Aggravated Assault)
- A civil citation is issued

2. **Referred for disciplinary action** is defined as the referral of any person to any official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction

The disciplinary process at your institution might be called “disciplinary action,” “mediation,” “judicial process” or some other term. The referral may, but doesn’t have to, originate with the police. Regardless of what you call it, if the process involves the following three criteria, it’s a disciplinary action under Clery:

1. **The official receiving the referral must initiate a disciplinary action**
2. **A record of the action must be kept**
3. **The action may, but does not have to, result in a sanction**

Note that a disciplinary action can be initiated in an informal as well as a formal manner. It can include an interview or an initial review of names submitted to an official.
How to Classify the Law Violations

1. **Weapons: Carrying, Possessing, Etc.,** is defined as the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature.

   **Classify as a Weapons: Carrying, Possessing, Etc., Violation:**
   - Manufacture, sale, or possession of deadly weapons
   - Carrying deadly weapons, concealed or openly
   - Using, manufacture, etc. of silencers
   - Furnishing deadly weapons to minors
   - Aliens possessing deadly weapons
   - Attempts to commit any of the above

   This type of law violation is not limited to “deadly” weapons; it also applies to weapons used in a deadly manner. For example, if there is a local or state law prohibiting the possession of brass knuckles, and an individual is arrested for possessing them on your Clery geography, the arrest should be included in your Clery statistics.

2. **Drug Abuse Violations** are defined as the violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use growing, manufacturing and making of narcotic drugs.

   The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics – manufactured narcotics which can cause true addiction (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).
Classify as a Drug Abuse Violation:

- All drugs, without exception, that are illegal under local or state law where your institution is located. This means that if you have campuses in different states, the laws may differ for each of them. For example, there are some states in which having a small amount of marijuana is no longer a crime. If a person is given a civil citation for possession under state law, there is no arrest statistic under Clery. However, if a person with marijuana in his or her possession is arrested for violation of the federal Controlled Substances Act, this is an arrest statistic for Clery purposes.
- All illegally obtained prescription drugs

3. Liquor Law Violations are defined as the violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

Classify as a Liquor Law Violation:

- The manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor
- Maintaining unlawful drinking places
- Bootlegging
- Operating a still
- Furnishing liquor to a minor or intemperate person
- Underage possession
- Using a vehicle for illegal transportation of liquor
- Drinking on a train or public conveyance
- Attempts to commit any of the above

Do not classify as a Liquor Law Violation:

- Drunkenness
- Driving under the influence