

CLERY CRIME DEFINITIONS

Murder and Non-Negligent Manslaughter: The willful (non-negligent) killing of one human being by another. NOTE: Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides are excluded.

Negligent Manslaughter: The killing of another person through gross negligence.

Arson: The willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property of another kind.

Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. Rape

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

B. Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sex Offenses, Nonforcible: Unlawful, nonforcible sexual intercourse.

A. Incest

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

B. Statutory Rape

Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Robbery: 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.

Aggravated Assault: 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. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed. Aggravated assault includes poisoning (date rape drug, etc.)

Burglary: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or a felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access, even though the vehicles are later abandoned - including joy riding).

Domestic Violence

Federal Definition

- (1) A felony or misdemeanor crime of violence committed-
- (i) By a current or former spouse or intimate partner of the victim
 - (ii) By a person with whom the victim shares a child in common
 - (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or a partner
 - (iv) By a person similarly situated to a spouse of the victim under the domestic violence laws of the jurisdiction in which the crime of violence occurred, or
 - (v) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating Violence

Federal Definition

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- (1) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- (2) For purposes of this definition-
- (i) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - (ii) Dating violence does not include acts covered under the definition of domestic violence.
- (3) For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Stalking

Federal Definition

- (1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to-

(i) Fear for the person's safety or the safety of others; or

(ii) Suffer substantial emotional distress

(2) For the purposes of this definition-

(i) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

(ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Liquor Law Violations: The violation of laws or ordinance prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

Drug Abuse Violations: Violations of state and local laws 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 (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

Weapon Law Violations: The violation of Massachusetts laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.

Clery Act Hate/Bias Crimes

A hate crime is defined as any crime that manifests evidence that a victim was selected because of his/her actual or perceived race; gender; gender identity; religion; sexual orientation; ethnicity; national origin or disability. A hate crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender's bias. If the facts of the case indicate that the offender was motivated to commit the offense because of his/her bias against the victim's perceived race; gender; gender identity; religion; sexual orientation; ethnicity; national origin or disability, the crime is classified as a hate crime.

Bias

Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity or national origin. Although

there are many possible categories of bias, under Clery, only the following eight 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 distinct 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.

Gender Identity

A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.

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 person or group of persons based on their actual or perceived sexual orientation.

Ethnicity

A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term race in that "race" refers to grouping based mostly upon biological criteria, while "ethnicity" also encompasses additional cultural factors.

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/or traditions.

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. The University of Oregon Police Department is required to report statistics for hate/bias crimes by the type of bias for the prior listed offenses (see definitions above) as well as the crimes of larceny, simple assault, intimidation and vandalism (see definitions below). The below listed crimes are not Clery reportable crimes unless the crime was motivated by bias.

Larceny-Theft: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. (Note: Constructive possession is defined by Black's Law Dictionary, 6th ed. as "where one does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.")

Simple Assault: 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.

Intimidation: 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.

Destruction/Damage/Vandalism of Property (Except "Arson"): To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law. If a hate crime occurs during an incident involving larceny, simple assault, intimidation or vandalism, Clery law requires that the statistic be reported as a hate crime even though these four crime classifications by themselves are not Clery-reportable crimes. A hate crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender's bias. If the facts of the case indicate that the offender was motivated to commit the offense because of his/her bias against the victim's race, religion, ethnicity, national origin, gender, gender identity, sexual orientation, or disability, the crime is classified as a hate crime.