



# Background on Crime Categories and Statistical Reporting Requirements Under the Clery Act in Missouri 2020



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## I. Introduction

The information contained in this document is intended to be used as a tool to assist in proper classification of the incidents contained in the Lincoln University Crime Log for statistical purposes required Clery Act reporting. The list of crimes that are required to be reported can be found in the in [34 CFR 668 Appendix A](#) and the *FBI's Universal Crime Reporting (UCR) Handbooks*. Missouri has specific jurisdiction on laws pertaining to alcohol, drugs, and weapons violations and Missouri also has specific language for some of the other Clery crime categories. All current applicable Missouri laws and citations have been reviewed and can also be found in this document along with other guidance. Lincoln University must submit a report that lists the statistical crime data to the Department of Education annually. This document includes information from the [US Department of Education 2016 Handbook for Campus Safety and Security Reporting \(Clery Handbook\)](#) and information for the new crime categories found in the ["Violence Against Women Reauthorization Act \(VAWA\) of 2013"](#).

Under section 304(b) of VAWA, the changes made by the new law became effective with the annual security report prepared all institutions of higher education on October 1, 2014. The [rulemaking process](#) to develop the Final regulations to implement the statutory changes to the Clery Act was completed on October 20, 2014. These new regulations became effective on July 1, 2015. Lincoln University has made a good faith effort to comply with the statutory requirements in accordance with the statutory effective date. The 2014 Lincoln University Annual Security Report was the first report to include crime data for the new crime categories. (See <http://www2.ed.gov/admins/lead/safety/campus.html> or <http://ope.ed.gov/campussafety/#/> for more info). (CH = [Clery Handbook](#))

## II. Clery Geography [34 CFR 668.46\(c\)\(5\)](#)

*"An institution must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on non-campus buildings or property, and on public property of the following that are reported to local police agencies or to a campus security authority."*

1. **On-Campus:** 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 purposes, including residence halls; and(2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor). ([CH](#) pgs. 2-2 thru 2-8)
  - a) **On-Campus Housing (On-Campus subset):**  
any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility. ([CH](#) pgs. 2-9 thru 2-10)
2. **Non-campus building or property:** Any building or property owned or controlled by a student organization that is officially recognized by the institution; or (2) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution. ([CH](#) pgs. 2-18 thru 2-24)



3. **Public property:** All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus (within 1 mile). ([CH](#) pgs. 2-11 thru 2-18)

[More information can be found on the Lincoln University Campus map page](#)

### Considerations for Trips to Off-Campus Locations ([CH](#) pgs. 2-25 thru 2-26)

- **Field trips:** You are not required to include statistics for crimes that occur on field trips at locations your institution does not own or control.
- **Overnight, school-sponsored trips:** If your institution sponsors students on an overnight trip, for example to see a play, and they rent motel rooms, you don't have to include crimes that occur in those rooms in your *Clery Act* statistics because the motel rooms don't meet the frequently-used-by-students criterion.
- **Repeated use of a location for school-sponsored trips:** If your institution sponsors students on an overnight trip **every year** and the students stay in the **same hotel each year**, you must include portions of the hotel in your non-campus geography.
- **Short-stay "away" trips:** If your institution sponsors short-stay "away" trips of more than one night for its students, all locations used by students during the trip, controlled by the institution during the trip and used to support educational purposes should be treated as non-campus property.
- **Study abroad programs:** If your institution sends students to study abroad at a location or facility that you don't own or control, you don't have to include statistics for crimes that occur in those facilities. However, if your institution rents or leases space for your students in a hotel or student housing facility, you are in control of that space for the time period covered by your agreement.

### III. *Crime Reporting Categories*

The Clery Act requires your institution to include four general categories of crime statistics:

Reported crime statistics citation 34 CFR 668.46(c) (1)

1. **Criminal Offenses** — Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence; Sexual Assault (i.e. Rape, Fondling, Incest and Statutory Rape); Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson.
2. **VAWA Offenses** — Any incidents of Domestic Violence, Dating Violence and Stalking.
3. **Hate Crimes** — Any of the above-mentioned criminal offenses, and any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/ Vandalism of Property that were motivated by bias;
4. **Arrests and Referrals for Disciplinary Action for Weapons** — Carrying, Possessing, Etc. Law Violations, Drug Abuse Violations and Liquor Law Violations.



#### IV. *Hierarchy Rule for Multiple Offenses* ([CH](#) pgs. 3-24 thru 3-25)

When counting multiple offenses, you must use the FBI's UCR Hierarchy Rule. This rule requires you to count only the most serious offense when more than one offense was committed during a single incident.

##### *Clery Hierarchy Rule for Multiple Offenses:*

1. Murder and Non-Negligent Manslaughter
2. Negligent Manslaughter
3. Sex Offenses
  - Rape
  - Fondling
  - Incest
  - Statutory Rape
4. Robbery
5. Aggravated Assault
6. Burglary
7. Motor Vehicle Theft

##### **\* Hierarchy rule does not apply to these crimes**

- Arson
- Hate Crimes
- Arrests
- Referrals for Disciplinary Action
- VAWA Offenses

#### V. *Special Notes on Counting Crime Statistics*

##### **Please Note**

- Statistics must be disclosed separately for each of these four general categories. This means that when an incident meets the definitions in more than one of these categories, it must be reported in each category. For example, any Criminal Offense that is also a Hate Crime or VAWA Offense, or results in an arrest or disciplinary action for a Weapons, Drug Abuse or Liquor Law Violation, should be counted as a Criminal Offense and also as a Hate Crime, VAWA Offense, arrest, or disciplinary referral, as appropriate. The Hierarchy Rule applies only when counting crimes within the Criminal Offenses category. ([CH](#) pgs. 3-2)
- If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is "unfounded" and should be noted in the Annual Security Report along with a comment as currently documented in the electronic report submitted to the Department of Education. ([CH](#) pgs. 3-51 thru 3-54)
- A reported crime cannot be designated "unfounded" if no investigation was conducted or the investigation was not completed. Nor can a crime report be designated unfounded merely because the investigation failed to prove that the crime occurred; this would be an inconclusive or unsubstantiated investigation. ([CH](#) pgs. 3-51 thru 3-54)



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- When multiple offenses are committed during the same distinct operation as the Arson offense, report the most serious crime category offense along with the Arson.
  - Do not differentiate between attempted and completed criminal offenses. For example, count an incident involving an attempted rape as a Sex Offense.
  - If there is an incidence of a Rape along with a murder or non-negligent manslaughter count both instances for crime reporting purposes.
  - 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.
  - If a person is arrested for multiple violations during a single incident (e.g., violations of both drug and liquor laws), law enforcement or security officer discretion should be used to determine which violation to count. It is recommended that you document the justification for this determination. Officer discretion is allowed only for weapons, drug and liquor law violation arrests *resulting from a single incident*



## VI. Differences between UCR and Clery Act Reporting

### 1. Categories for Crime Statistics

#### **Clery Act Crime Reporting Categories**

[Page 3-2, 2017 Clery Handbook](#)

The Clery Act requires your institution to include four general categories of crime statistics: Reported crime statistics citation 34 CFR 668.46(c)

- **Criminal Offenses**—Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence; **Sexual Assault (Rape, Fondling, Incest and Statutory Rape)**; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson. **(Sexual Offense/Assault under Clery is not the same as UCR)**
- **Hate Crimes**—Any of the above-mentioned offenses, and any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/ Vandalism of Property that were motivated by bias;
- **VAWA Offenses**—Any incidents of Domestic Violence, Dating Violence and Stalking. (Note that Sexual Assault is also a VAWA Offense but is included in the Criminal Offenses category for Clery Act reporting purposes); and
- **Arrests and Referrals** for Disciplinary Action for Weapons—Carrying, Possessing, Etc. Law Violations, Drug Abuse Violations and Liquor Law Violations.

*Statistics must be disclosed separately for each of these four general categories. This means that when an incident meets definitions in more than one of these categories, it must be reported in each category.*

#### **UCR Crime Reporting Categories**

[Page 97, 2004 FBI UCR Handbook](#)

For each person arrested, reporting agencies must use only one crime classification. If a person was arrested for several offenses, both Part I and Part II, agencies must ignore the Part II crimes and score only the Part I crime appearing highest in the hierarchy. (See page 10 for an explanation of the Hierarchy Rule.)

- **Part I Criminal Offenses** ([see UCR pages 15 – 38 for additional info](#))  
Criminal Homicide (including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence); **Rape**; Robbery; Aggravated Assault; Burglary; **Larceny-theft**; Motor Vehicle Theft; and Arson
- **Part II Criminal Offenses** ([see UCR pages 139 – 147 for additional info](#))  
Other Assaults; Forgery and Counterfeiting; Fraud; Embezzlement; Stolen Property: Buying, Receiving, Possessing; Vandalism; **Weapons: Carrying, Possessing, etc.**; Prostitution and Commercialized Vice; **Sex Offenses (i.e...Fondling, Incest and Statutory Rape)**; **Drug Abuse Violations**; Gambling; **Offenses Against the Family and Children**; Driving Under the Influence; **Liquor Laws**; Drunkenness; Disorderly Conduct; Vagrancy; All Other Offenses; Suspicion; Curfew and Loitering Laws (Persons under 18); and Runaways—(Persons under 18)

*Please note: Simple assault is not a Part I offense, it is a Part II offense but is collected under Part I offenses as a quality control matter and for the purpose of looking at total assault violence. Agencies*



*must classify as simple assault such offenses as assault and battery, injury caused by culpable negligence, intimidation, coercion, and all attempts to commit these offenses. Under certain circumstances, offenses of disorderly conduct, domestic violence, or affray must be classified as simple assault. Simple assault is not counted under the Clery act.*

### Data links for crime statistics

- Clery Crime Statistics Data: <https://ope.ed.gov/campussafety/#/>
- Missouri UCR Crime Statistics Data:  
[http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data\\_and\\_statistics\\_ucr\\_query\\_backup.html](http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/data_and_statistics_ucr_query_backup.html)

### 2. “Rape and Other Sex Offenses”

#### UCR Definition of Sex Offenses

#### ***Forcible Rape Definition has been updated (effective date 1/1/13)***

The old definition was “The carnal knowledge of a female forcibly and against her will.” Many agencies interpreted this definition as excluding a long list of sex offenses that are criminal in most jurisdictions, such as offenses involving oral or anal penetration, penetration with objects, and rapes of males.

The new Summary definition of Rape:

**Rape** - “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.”

(see [Frequently Asked Questions about the Change in the UCR Definition of Rape](#))

### New Rape Fact Sheet

[https://ucr.fbi.gov/new-rape-fact-sheet/at\\_download/file](https://ucr.fbi.gov/new-rape-fact-sheet/at_download/file)

(See [Missouri Sexual Offenses & VAWA Crimes Tables.pdf](#) for more info)

(See [Background on Clery Act Statistical Reporting](#) for more info)

UCR definition includes the sex crimes of *incest, statutory rape (both formerly non-forcible offenses,) and fondling under Part II Offense.*

3. All Part I offenses other than theft are Clery Act reportable
4. The following Part II categories are counted in Clery Act reporting:
  - Drugs, weapons, and, Alcohol offenses (*also includes “applicable” conduct referrals for these categories*),
  - Sex Offenses and VAWA offenses (*domestic violence incidents may also be counted as an aggravated assault or rape under Part I offenses depending on the situation*)
5. If there is no arrest for a “Sex Offense” it will not show up in UCR (**Part I offenses include all dispositions of a case but only arrests are recorded for Part II offenses in UCR**). The crime category of Rape will show up in UCR reporting since it is a Part I offense.
6. Anonymous reports for “Rape” or other “Sex Offenses” can be counted under the Clery Act and might not be included in UCR if there is not enough information to pursue an investigation.



## VII. Federal Crime Definitions Under Clery [34 CFR 668 Appendix A](#)

### (A) Criminal Offenses

FBI's UCR Program "[Summary Reporting System \(SRS\) User Manual](#)" and [Revised Statutes of Missouri \(RSMo.\)](#) Effective Jan 1, 2017 unless otherwise noted (for more info see [SB491](#) & [HB1371](#) from 2014) (CH = [Clery Handbook](#))

1. **Murder and Non-Negligent Manslaughter** - The willful (non-negligent) killing of one human being by another. (CH pgs. 3-4 & 3-5)

#### Missouri Offense Table for Murder ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Murder 1<sup>st</sup> Deg</b>	causes the death of another person after deliberation upon the matter	<i>knowingly</i> causes the death	Death or life in Prison, A/Felony	<a href="#">565.020</a>
<b>Murder 2<sup>nd</sup> Deg</b>	causes the death of another person	purpose of causing serious physical injury to another person, causes the death of another person or death during felony crime	10 – 30, or life, A/Felony	<a href="#">565.021</a>

2. **Manslaughter by Negligence** - The killing of another person through gross negligence. (CH pgs. 3-4 & 3-5)

#### Missouri Offense Table for Manslaughter ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Involuntary Manslaughter 1<sup>st</sup> Deg</b>	causes the death of another person	<i>recklessly</i>	3-10 years, C/Felony	<a href="#">565.024</a>
<b>Involuntary Manslaughter 2<sup>nd</sup> Deg</b>	causes the death of another person	<i>Criminal negligence</i>	Up to 4 years, E/Felony	<a href="#">565.027</a>

### 3. Sex Offense

**Sex Offenses (Sexual Assault)** – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. *Definitions for fondling, incest and statutory rape come from the FBI's UCR Program document "[The National Incident-Based Reporting System \(NIBRS\) User Manual from the FBI's UCR](#)"* (see [Missouri Sexual Offense Tables](#) below for more information).

- i. **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. Definition from the FBI's UCR Program "[Summary Reporting System \(SRS\) User Manual](#)" & (CH pgs. 3-6 thru 3-8)

#### Missouri Sexual Offense Table ([RSMo. 566](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Rape 1<sup>st</sup> Deg</b>	<i>Sexual intercourse</i>	Incapable/lack capacity for <i>consent</i> , or by the use of <i>forcible compulsion</i>	5, 15 years – life (30 years - natural life)	<a href="#">566.030</a>
<b>Rape 2<sup>nd</sup> Deg</b>	<i>Sexual intercourse</i>	Without <i>Consent</i>	Up to 7 years, D/Felony	<a href="#">566.031</a>
<b>Sodomy 1<sup>st</sup> Deg</b>	<i>Deviate sexual intercourse</i>	Incapable/lack capacity for <i>consent</i> , or by the use of <i>forcible compulsion</i>	5, 10 years – life (natural life)	<a href="#">566.060</a>
<b>Sodomy 2<sup>nd</sup> Deg</b>	<i>Deviate sexual intercourse</i>	Without <i>consent</i>	Up to 7 years, D/Felony	<a href="#">566.061</a>



- ii. **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 ([CH](#) pgs. 3-6 thru 3-8)

Missouri Sexual Offense Table ([RSMo. 566](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Sexual Abuse 1 <sup>st</sup> Deg	<i>Sexual contact</i>	Incapable/lack capacity for <i>consent</i> , or by the use of <i>forcible compulsion</i>	3 to 15 years, C, B/Felony	<a href="#">566.100</a>
Sexual Abuse 2 <sup>nd</sup> Deg	<i>Sexual contact</i>	Without <i>consent</i>	Up to 1 or 4 years, A/misdemeanor or E/Felony	<a href="#">566.101</a>
Child Molestation 2 <sup>nd</sup> degree	<i>Sexual contact</i>	<b>Aggravated Sexual Offense</b> Offender > 4 years older than person not yet 17 ( <i>with or without consent</i> )	5 to 15 years, B/Felony	<a href="#">566.068</a>
Child Molestation 4 <sup>th</sup> degree	<i>Sexual contact</i>	Offender > 4 years older than person not yet 17 ( <i>with or without consent</i> )	Up to 4 years, E/Felony	<a href="#">566.071</a>

- iii. **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. ([CH](#) pgs. 3-6 thru 3-8)

Missouri Sexual Offense Table (Incest) ([RSMo. 568](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Incest	Marry or attempt to marry, sexual inter. or <i>deviate sexual intercourse</i>	Relative (Siblings, ancestors, & adopted children..etc..)	Up to 4 years, E/Felony	<a href="#">568.020</a>

- iv. **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the statutory age of consent. ([CH](#) pgs. 3-6 thru 3-8)

Missouri Offense Sexual Offense Table (Statutory Rape) ([RSMo. 566](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Stat. Rape 1 <sup>st</sup> Deg	<i>Sexual intercourse</i>	Intercourse with someone under 14	5, 10 years – life (natural life)	<a href="#">566.032</a>
Stat. Rape 2 <sup>nd</sup> Deg	<i>Sexual intercourse</i>	21 or older having intercourse with someone under 17	Up to 7 years, D/Felony	<a href="#">566.034</a>
Stat. Sodomy 1 <sup>st</sup> Deg	<i>Deviate sexual intercourse</i>	Intercourse with someone under 14	5, 10 years – life (30 years - natural life)	<a href="#">566.062</a>
Stat. Sodomy 2 <sup>nd</sup> Deg	<i>Deviate sexual intercourse</i>	21 or older having intercourse with someone under 17	Up to 7 years, D/Felony	<a href="#">566.064</a>

*Please note that if the incident of statutory rape or sodomy is forcible it is should be deemed as the crime of Rape for Clery reporting purposes (see [Missouri Sexual Offenses & VAWA Crimes Tables](#) for more info).*



4. **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. ([CH](#) pgs. 3-9 & 3-10)

Missouri Offense Table for Robbery ([RSMo. 570](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Robbery 1<sup>st</sup> Deg</b>	forcibly steals property	Serious physical injury or weapons used or threatened	A/Felony	<a href="#">570.023</a>
<b>Robbery 2<sup>nd</sup> Deg</b>	forcibly steals property	No weapon used	5 – 15 years B/Felony	<a href="#">570.025</a>

5. **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 and probably would result in serious personal injury if the crime were successfully completed.) ([CH](#) pgs. 3-10 thru 3-13)

Missouri Offense Table for Assault ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Assault 1<sup>st</sup> Degree</b>	<i>Knowingly</i> Attempt to kill or cause <i>serious physical</i> injury	Person does this <i>knowingly</i> includes “ <i>special victims</i> ”	5 years – life (30 years), B, A/Felony	<a href="#">565.050</a>
<b>Assault 2<sup>nd</sup> Degree</b>	<i>Knowingly</i> Attempt to kill or cause <i>serious physical</i> injury	Attempts to cause injury, sudden passion, <i>reckless</i> cause, intoxication etc..etc	Up to 7 years or 5 - 15 years, D, B/Felony	<a href="#">565.052</a>

6. **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 felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned. ([CH](#) pgs. 3-13 thru 3-19)

Missouri Offense Table for Burglary ([RSMo. 569](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Burglary 1<sup>st</sup> Deg</b>	enters unlawfully or remains unlawfully in a building or structure for the purpose of committing a crime	Done <i>knowingly</i> and deadly weapon involved	5 - 15 years, B/Felony	<a href="#">569.160</a>
<b>Burglary 2<sup>nd</sup> Deg</b>	enters unlawfully or remains unlawfully in a building or structure for the purpose of committing a crime	Done <i>knowingly</i> and <b>no</b> weapon involved	Up to 7 years, D/Felony	<a href="#">569.170</a>

7. **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 joyriding.) ([CH](#) pgs. 3-20 thru 3-21)

Missouri Offense Table for Motor Vehicle Theft ([RSMo. 570](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Stealing</b>	Taking of other property	Without consent (greater \$150, \$750 and \$25,000 changes charge)	D or A/Misdemeanor or E, D, C, B, A/ Felony	<a href="#">570.030</a>



8. **Arson** - 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. ([CH](#) pgs. 3-21 thru 3-23)

Missouri Offense Table for Arson ([RSMo. 569](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Arson 1<sup>st</sup> Deg</b>	damages a building or inhabitable structure with fire or explosion	<i>Knowingly</i> places a person in danger of death or serious physical injury	5 years – life (30 years), B, A/Felony	<a href="#">569.040</a>
<b>Arson 2<sup>nd</sup> Deg</b>	damages a building or inhabitable structure with fire or explosion	<i>No</i> person involved	Up to 7 years D/Felony	<a href="#">569.050</a>
<b>Arson 3<sup>rd</sup> Deg</b>	damages a building or inhabitable structure with fire or explosion	<i>recklessly</i>	Up to 1 Year, A/Misdemeanor	<a href="#">569.053</a>



## **(B) Violence Against Women Act (VAWA) Crime Category**

[Definitions used in section the Violence Against Women Act of 1994 \(42 U.S.C. 13925\(a\)\)](#)

### 1. **Domestic Violence:** ([CH](#) pgs. 3-37 thru 3-38)

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 intimate partner;
- (iv) By a person similarly situated to a spouse of the victim under the domestic or family 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.

### 2. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. ([CH](#) pgs. 3-36 thru 3-37)

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 the purpose 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.

[Domestic Violence \(RSMo.455.010\(5\)\)](#) is "**abuse**" or "**stalking**" committed by a "**family or household member**" (*In reference to Orders of Protection*). In Missouri, the punishment for the crime of domestic violence is covered under the charges that govern domestic assault and sexual offenses.

***Please note the definition of abuse includes: assault, battery, coercion, harassment, sexual assault, and unlawful imprisonment***

Also note that "**Dating Violence**" is considered "**Domestic Violence**" under current Missouri law in the definition for domestic assault based on the definition of "Family or Household Member" in [RSMo. 455.010\(7.\)](#). "*spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time;*"

"**Domestic victim**" ([RSMo. 565.002](#)), a household or family member as the term "family" or "household member" is defined in section [455.010](#), including any child who is a member of the household or family;



Missouri Offense Table for Domestic Violence/Dating Violence ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Domestic Assault 1 <sup>st</sup> Deg	Attempt to kill, or cause serious injury	Knowing causes injury Term " <i>Domestic Victim</i> "	5 years – life (30 years), B, A/Felony	<a href="#">565.072</a>
Domestic Assault 2 <sup>nd</sup> Deg	<i>Knowingly</i> cause serious injury	<i>Recklessly</i> causes injury choking use of a weapon	Up to 7 years, D/Felony	<a href="#">565.073</a>
Domestic Assault 3 <sup>rd</sup> Deg	Attempt to cause physical injury or pain		Up to 4 years, E/Felony	<a href="#">565.074</a>
Domestic Assault 4 <sup>th</sup> Deg	<i>Recklessly</i> causes physical injury or pain	<i>Criminal negligence</i>	Up to 1 year or 4 years, A/Misdemeanor or E/Felony	<a href="#">565.076</a>

3. *Stalking* — means engaging in a "*course of conduct*" directed at a specific person that would cause a reasonable person to—  
 (A) fear for his or her safety or the safety of others; or  
 (B) suffer substantial emotional distress.  
 ([CH](#) pgs. 3-38 thru 3-41)

Missouri Offense Table for Stalking Violations ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Harassment 1 <sup>st</sup> Deg	act with the purpose to cause emotional <i>distress and suffering</i> to another person		Up to 4 years, E/Felony	<a href="#">565.090</a>
Harassment 2 <sup>nd</sup> Deg	engages in any act with the purpose to cause emotional distress		Up to 1 year, A/misdemeanor	<a href="#">565.091</a>
Stalking 1 <sup>st</sup> Deg	<i>In the course of conduct</i> disturbs or follows with the intent of disturbing another person <i>or knowingly accessing, or attempting to access, the address of a participant of the address confidentiality program (HB1562) 8/28/16</i>	Communicates a credible threat	Up to 7 years, E, D/Felony	<a href="#">565.225</a>
Stalking 2 <sup>nd</sup> Deg	<i>In the course of conduct</i> disturbs or follows with the intent of disturbing another person		Up to 1 year of Up to 4 years, A/misdemeanor or E/Felony	<a href="#">565.227</a>
Unlawful Posting Info on Internet	<i>knowingly</i> posts the name, home address, Social Security number, or telephone number of any person	intending to cause great bodily harm or death, or threatening to cause	Up to 15 days, C/misdemeanor	<a href="#">565.240</a>
Invasion of Privacy	<i>Knowingly</i> photographs or films another person (full/partial/nudity)	Without Consent	Up to 1 year of up to 4 years, A/misdemeanor or E/Felony	<a href="#">565.252</a>
Non-consensual dissemination of private sexual images	<i>Intentionally disseminates an image with intent to harass, threaten or coerce (2019 H.B. 243 &amp; 544) 8/28/19</i>	Without Consent	Up to 7 years, D/Felony	<a href="#">573.110</a>
Threatening the non- consensual dissemi- nation of private sexual images	<i>Gains or attempts to gain anything by threatening to disseminate an image</i>	Without Consent	Up to 4 years, E/Felony	<a href="#">573.112</a>



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(See [565.002 RSMo.](#) for definition of applicable terms for Stalking)

- *"Course of conduct"*, a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct. Such constitutionally protected activity includes picketing or other organized protests;

The following criminal violations noted above can be considered as part of the course of conduct for a stalking determination under the Clery Act:

- Harassment 1<sup>st</sup> Degree
- Harassment 2<sup>nd</sup> Degree
- Unlawful Posting Info on Internet
- Invasion of Privacy
- Non-consensual dissemination of private sexual images
- Threatening the non-consensual dissemination of private sexual images



***(C) Hate Crime Reporting 34 CFR 668.46(c)4***

*Definitions From the Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook 2015 (CH pgs. 3-25 thru 3-35)*

An institution must report, by category of bias (prejudice), the following crimes reported to local police agencies or to a campus security authority that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived categories below:

- **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 or African Americans, whites.
- **Gender:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., 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.
- **National origins:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.
- **Sexual orientation:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived sexual orientation.
- **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.
- **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.
- **Disability:** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness. A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness.

Includes the following crime categories of:

- Murder and Non-Negligent Manslaughter
- Negligent Manslaughter
- Rape
- Fondling
- Incest
- Statutory Rape
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson



The "Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook" also includes the following 4 additional categories noted below (the required penalties designated for the Hate Crimes categories under Missouri law are denoted in **red** with HC attached to the prison term section).

1. **Larceny-Theft (Except Motor Vehicle Theft)** – The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded. ([CH](#) pgs. 3-27 thru 3-28)

Missouri Offense Table for Larceny/Theft ([RSMo. 570](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Stealing	Taking of other property	Without consent (greater \$150 and \$25,000 changes charge)	A or D/Misdemeanor or D, C, B, A/Felony*	<a href="#">570.030</a>

2. **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. ([CH](#) pgs. 3-28)

Missouri Offense Table for Simple Assault ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Assault 3 <sup>rd</sup> Deg	<b>Knowingly</b> causes physical injury to another person.		Up to 7 years, D, E/Felony <b>HC</b>	<a href="#">565.054</a>
Assault 4 <sup>th</sup> Deg	attempts to cause or <b>recklessly</b> causes physical injury, physical pain, or illness		15 days to 1 Year, C, A/misdemeanor	<a href="#">565.056</a>

3. **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. ([CH](#) pgs. 3-29)

Missouri Offense Table for Intimidation ([RSMo. 565](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
Harassment 1 <sup>st</sup> Deg	act with the purpose to cause emotional <b>distress and suffering</b> to another person		Up to 4 years, E/Felony <b>HC</b>	<a href="#">565.090</a>
Harassment 2 <sup>nd</sup> Deg	engages in any act with the purpose to cause emotional distress		Up to 1 year, A/misdemeanor	<a href="#">565.091</a>



4. ***Destruction/Damage/Vandalism of Property*** - 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. ([CH](#) pgs. 3-29)

Missouri Offense s Table for Vandalism ([RSMo. 569 & 574](#))

CHARGE	ACT	OTHER ELEMENTS	PRISON TERM	STATUTE
<b>Tampering 2<sup>nd</sup> Deg</b>	causing substantial inconvenience to that person	Unlawfully rides in or upon another's motor-propelled vehicle;	Up to 1 year or up to 7, A/misdemeanor or D, E/Felony <b>HC</b>	<a href="#">569.090</a>
<b>Property damage 1<sup>st</sup> Deg</b>	<b>Knowingly</b> damages property of another	More than \$750 Includes motor vehicles	Up to 15 Years, E, D, B/Felony <b>HC</b>	<a href="#">569.100</a>
<b>Property damage 2<sup>nd</sup> Deg</b>	<b>Knowingly</b> damages property of another	Less than \$750 Includes motor vehicles	Up to 6 months, B/Misdemeanor <b>HC</b>	<a href="#">569.120</a>
<b>Institutional Vandalism</b>	<b>Knowingly</b> damages property of another	church, cemetery, school	Up to 1 year or up to 7, A/misdemeanor or D, E/Felony	<a href="#">574.085</a>

**Specific Information on Hate Crimes Under Missouri Statute [557.035 RSMo.](#)**

Enhanced penalties are applicable for specific violations of the law in which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim(s).

The State of Missouri add the following additional crime categories under Hate crimes

- Unlawful use of weapons
- Trespass in the first degree
- Rioting

All hate crimes in Missouri shall be considered a Class D or E felony depending on the situation (see statute above for more info).



**(D) Arrests & Disciplinary Referral Violations [34 CFR 668.46\(c\)\(1\)\(ii\)\(A\) & 34 CFR 668.46\(c\)\(1\)\(ii\)\(B\)](#) ([CH](#) pgs. 3-42 thru 3-50)**

- *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.*
- *arrests and referrals for these law violations are not covered by the Hierarchy Rule used to count Criminal Offenses. Therefore, you must count arrests for Weapons, Drug Abuse and Liquor Law Violations in addition to the most serious Criminal Offense when occurring in a single incident.*

**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.

**1. Arrest Violations**

- i. ***Liquor Law Violations*** - 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. ([CH](#) pgs. 3-48 thru 3-50)

*Missouri Liquor Laws*

The Liquor Control Law for the State of Missouri ([311 RSMo.](#)) provides that any person under the age of 21 years who purchases, attempts to purchase or has in his/her possession any intoxicating liquor is guilty of a misdemeanor ([311.325 RSMo.](#)). Anyone who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years is guilty of a misdemeanor ([311.310 RSMo.](#)). It is a Class A misdemeanor for a property owner to knowingly allow a person under the age of 21 to drink or possess intoxicating liquor or fail to stop a minor from drinking or possessing liquor. Any subsequent violation is a Class E felony ([311.310 RSMo.](#)). Anyone 17 - 20 years old that uses a fake ID to obtain alcohol is also guilty of a misdemeanor ([311.320 RSMo.](#)). Under current Missouri law, a subject under the age of 21 who is visibly intoxicated can be arrested without being in physical possession of the intoxicating beverage. A person who has been convicted of a misdemeanor may be subjected to a fine ranging from \$50.00 to \$1,000.00 and/or imprisonment for up to one year ([311.880 RSMo.](#)).

Missouri Offense Table for Alcohol Violations ([RSMo. 311](#))

<a href="#">RSMo.</a>	Description	Crime/Class
<a href="#">311.310</a>	Supplying liquor to a minor or intoxicated person	Unclassified misdemeanor
<a href="#">311.320</a>	Misrepresentation of age by minor to obtain liquor	Unclassified misdemeanor
<a href="#">311.325</a>	Possession	Up to 1 year, D,A/misdemeanor
<a href="#">311.880</a>	Misdemeanor Violations	Up to 1 year, A/misdemeanor

***Under current Missouri law, a subject under the age of 21 who is visibly intoxicated can be arrested without being in physical possession of the intoxicating beverage ([311.325 RSMo](#)).***

- ii. ***Drug Abuse Violations*** - 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. ([CH](#) pgs. 3-47 thru 3-50)

***Please note that most of the controlled substance offenses found RSMo [195](#) have been transferred to [579](#) effective Jan 1, 2017.***

Missouri Offense Table for Drug Violations ([RSMo. 579](#))

<a href="#">RSMo.</a>	Description	Prison Term
<a href="#">195.244</a>	Advertisements to promote sale of drug paraphernalia or imitation controlled substances prohibited, penalty.	6 months, B/misdemeanor
<a href="#">579.015</a>	Possession or control of a controlled substance. * <b>Triggers 10g and &gt;35g marijuana any amount of any other controlled substance or synthetic marijuana</b>	Up to 1 year or up to 7 years, D, A/misdemeanor or D/Felony
<a href="#">579.020</a>	Delivery of a controlled substance	Up to 4 – 15 years, E, C, B, /Felony
<a href="#">579.030</a>	Distribution of a controlled substance near <i>protected location</i> .	10 years – life (30 years), A/Felony
<a href="#">579.040</a> *	<b>Distribution, delivery, or sale of drug paraphernalia</b>	Up to 1 or 4 years, A/misdemeanor –E/Felony*
<a href="#">579.050</a> *	<b>Manufacture of an imitation controlled substance</b>	Up to 4 years, E/Felony*
<a href="#">579.055</a>	Manufacture of a controlled substance	Up to 4 years or 3years - life (30 years), E, C, B, A/Felony
<a href="#">579.065</a>	Trafficking drugs, first degree	5 years – life (30 years), B/A Felony
<a href="#">579.068</a>	Trafficking drugs, second degree	3 years – life (30 years), C, B, A/ Felony
<a href="#">579.072</a>	Providing materials for production of a controlled substance	Up to 4 years, E/Felony
<a href="#">579.074</a>	Unlawful use of drug paraphernalia	Up to 1 or 4 years, D, A/misdemeanor –E/Felony
<a href="#">579.076</a>	Unlawful delivery or manufacture of drug paraphernalia	Up to 1 or 4 years, A/misdemeanor –E/Felony
<a href="#">579.078</a>	Possession of an imitation controlled substance	Up to 1 year, A/misdemeanor



**Missouri Offense Table for Drug Violations ([RSMo. 579](#)) continued**

<a href="#">RSMo.</a>	Description	Prison Term
<a href="#">579.080</a>	Delivery of an imitation controlled substance	E felony
<a href="#">579.101</a>	Possession or purchase of solvents to aid others in violations	Up to 6 months or Up to 4 years B/misdemeanor or E/Felony
<a href="#">579.103</a>	Selling or transferring solvents to cause certain symptoms	Up to 7 years, D/Felony
<a href="#">579.105</a>	Keeping or maintaining a public nuisance	Up to 4 years, E/Felony
<a href="#">579.110</a>	Possession of methamphetamine precursors	Up to 4 years, E/Felony
<a href="#">579.170</a>	<b>Prior and persistent drug offenders (added increase in charge)</b>	<b>1 or 2 classes higher than previous offense</b>

**[Medical Amnesty Law \(RSMO 195.205\)](#)**

The medical amnesty law offers protection from criminal liability (arrest, charge, prosecution, and conviction) to a person who calls 911 for a drug or alcohol overdose.

Crimes from which there is immunity:

1. Possession of a controlled substance
2. Unlawful possession of drug paraphernalia
3. Possession of an imitation of a controlled substance
4. Minor use of an altered ID, purchase/possession of liquor by a minor, and sale of liquor to a minor
5. Violating a restraining order and or violating probation or parole
6. Maintaining a public nuisance

The law does not provide immunity for:

- Delivery, distribution, or manufacturing of a controlled substance, except in regard to minors and alcohol.
- It's important to know that officers can still arrest someone at the scene if he/she has an outstanding warrant

***In order to receive immunity, a person must first make the call to 911 for help, in good faith.***

***Weapons: Carrying, Possessing, Etc*** - 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. ([CH](#) pgs. 3-47 thru 3-50)

**Missouri Offense Table for Weapons Violations ([RSMo. 571](#))**

<a href="#">RSMo.</a>	Description	Crime/Class
<a href="#">571.010</a>	Definitions	
<a href="#">571.020</a>	Possession, manufacture, transport, repair, sale of certain weapons	Up to 1 or 3 to 10 years, A/misdemeanor or C/Felony
<a href="#">571.030</a>	Unlawful use of weapons ( <b>permitless CCW 1/1/17</b> )	Up to 1 year – life (30 years), B,A/misdemeanor– D,B,A/Felony
<a href="#">571.070</a>	Possession of firearm unlawful for certain persons	Up to 7 years, C/Felony
<a href="#">571.107</a>	Conceal Carry ( <b>updates in permit info 1/1/17</b> )	

Based on changes with [SB 656](#) veto override on 9/14/16



## 2. Referral Violations

**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 established 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 the *Clery Act*:

- The official receiving the referral must initiate a disciplinary action,
- A record of the action must be established, and
- 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. So too, sanctions can be formal or informal, punitive or educational. For example, requiring completion of a “Dangers of Alcohol” education seminar in lieu of an arrest for underage alcohol possession must be included as one referral for disciplinary action for a Liquor Law Violation.

### ***Lincoln University Student Code of Conduct***

See Article II.B. of the [Lincoln University Student Code of Conduct](#) for Violations of Rules and Regulations

#### **Applicable Violations include:**

##### **Illegal Drugs & Other Substances (*Article II.B.2.*):**

Being in the presence of any drug that is prohibited by law. The manufacture, use, possession or sale any drug that is prohibited by law. Possessing drug paraphernalia or other paraphernalia used to facilitate illegal use, and attempting to manufacture or sell counterfeit drugs are also included in this violation.

<sup>1</sup>**Weapons (*Article II.B.11.*):** Possession or use of a weapon, including, but not limited to firearms, knives, bows, arrows, BB guns, paint ball guns and air guns, dangerous chemicals, incendiary devices, or other explosive substances including fireworks, sling shots, martial arts devices or other objects classified or used as weapons with potential danger or harm.

<sup>2</sup>**Alcohol (*Article II.B.15.*):** The possession, use or distribution of alcohol by students on university property or as a part of any university activity is prohibited. **Any** student who violates this standard of conduct shall be subject to disciplinary sanctions. Sanctions may include suspension and/or referral for prosecution.

1 *Possession of a firearm would be included for statistical purposes under clery, however BB guns, bows, arrows, paint ball guns and air guns are considered projectile weapons but not firearms under Missouri law and would not be reported in the statistics. Remember that possessions of these weapons are violations of University policy and not allowed on campus and applicable sanctions will apply (see [RSMo. 571.010](#) & [RSMo. 571.030.](#))*

2 *Alcohol possession on campus by a person 21 years of age or older is not listed in Clery statistics since this is only a violation of school policy and not a violation of Missouri law ([RSMo. 311.325](#)).*



**Sexual Misconduct (Article II.B.9.):** Physical contact or other non-physical conduct of a sexual nature in the absence of clear, knowing and voluntary consent, including but not limited to:

- a. Non-consensual sexual intercourse, defined as any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object by any person upon any person without consent.
- b. Non-consensual sexual contact, defined as any intentional sexual touching, with any body part or object by any person upon any person without consent.
- c. Sexual exploitation (a form of sexual harassment), defined as taking non-consensual, unjust or abusive sexual advantage of another. Examples include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity), engaging in non-consensual voyeurism, and knowingly transmitting or exposing another person to a sexually transmitted infection (STI) without the knowledge of the person.
- d. All other forms of Sexual harassment, as defined in [Lincoln University Title IX Sexual Harassment, Sex Equity, and Gender Based Discrimination Processes & Procedures.](#)
- e. Indecent exposure, defined as the exposure of the private or intimate parts of the body in a lewd manner in public or in private premises when the respondent may be readily observed.

**Consent:** is a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior.

1. Consent or lack of consent may be expressed or implied
2. Consent **cannot** be given by:
  - a) a person who has been **incapacitated** by mental disability, alcohol, drugs, or any other reason is manifestly unable or known by someone to be unable to make a reasonable judgment about consent (*e.g., a person is asleep or unconscious*).
  - b) a person under force, threat, duress, coercion, or deception;
  - c) a person under the legal age of consent in Missouri (currently under 17 years of age)
- ✓ **"No"** means **"No"**
- ✓ **"Yes" or "No"** can be expressed or implied (**can be given verbally or by actions**)
- ✓ **"Yes"** means **"No"** if conditions **2a, 2b, or 2c** listed above exist

Individuals that engage in sexual activity or behavior must understand that:

- consent must be mutually understood;
- past consent does not imply future consent;
- silence or an absence of resistance does not imply consent;
- consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
- consent to engage in one form of sexual activity does not imply consent to engage in other forms of sexual activity; and
- consent can be withdrawn at any time

**Incapacitation:** the physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act.



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Please review the [Lincoln University Sexual Assault, Domestic Violence, Dating Violence, and Stalking Processes and Procedures](#), [trifold handout summary of Victim's Rights](#), and the [Victims' Rights in cases of Sexual Assault, Domestic Violence, Dating Violence, and Stalking](#) for more information.

**34 CFR 668.48(k)(3)(iv)**

***Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding that is brought alleging a sex offense. Compliance with this paragraph does not constitute a violation of the Family Educational Rights and Privacy Act (FERPA). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused.***





## VIII. Classification of Missouri Penalties and Fines for Offenses

### Missouri Penalties and Fines for Offenses

Felony Class	Penalties (Years of imprisonment <a href="#">558.011 RSMo.</a> )	Fines ( <a href="#">558.002 RSMo.</a> )
A	10 – 30, or life	-
B	5 - 15	-
C	3 - 10	Up to \$10,000
D	Up to 7	Up to \$10,000
E	Up to 4	Up to \$10,000
Misdemeanor Class	Penalties (Term of imprisonment <a href="#">558.011 RSMo.</a> )	Fines ( <a href="#">558.002 RSMo.</a> )
A	Up to 1 year	\$2,000
B	Up to 6 month	\$1,000
C	Up to 15 days	\$750
D	-	\$500
Infraction	-	\$400

## IX. Missouri Definition of Specific Terms

(See [556.061 RSMo.](#) for definition of applicable terms)

- **"Consent"**: consent or lack of consent may be expressed or implied.  
Assent does not constitute consent if:
  1. It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or
  2. It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
  3. It is induced by force, duress or deception;
- **"Criminal negligence"**, failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation;
- **"Forcible compulsion"** either:
  1. Physical force that overcomes reasonable resistance; or
  2. A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;
- **"Incapacitated"**, a temporary or permanent physical or mental condition in which a person is unconscious, unable to appraise the nature of his or her conduct, or unable to communicate unwillingness to an act;
- **"Knowingly"**, when used with respect to:
  1. Conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or
  2. A result of conduct, means a person is aware that his or her conduct is practically certain to cause that result;
- **"Purposely"**, when used with respect to a person's conduct or to a result thereof, means when it is his or her conscious object to engage in that conduct or to cause that result;



- "**Recklessly**", consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation;
- "**Physical injury**", slight impairment of any function of the body or temporary loss of use of any part of the body;
- "**Serious physical injury**", physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(See [566.010 RSMo.](#) for definition of applicable terms for Sex Offenses)

- "**Aggravated sexual offense**", any sexual offense, in the course of which, the actor:
  - A. Inflicts serious physical injury on the victim; or
  - B. Displays a deadly weapon or dangerous instrument in a threatening manner; or
  - C. Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person; or
  - D. Had previously been found guilty of an offense under this chapter or under section [573.200](#), child used in sexual performance; section [573.205](#), promoting sexual performance by a child; section [573.023](#), sexual exploitation of a minor; section [573.025](#), promoting child pornography in the first degree; section [573.035](#), promoting child pornography in the second degree; section [573.037](#), possession of child pornography; or section [573.040](#), furnishing pornographic materials to minors; or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said sections;
  - E. Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or
  - F. Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:
    - Ancestor or descendant by blood or adoption;
    - Stepchild while the marriage creating that relationship exists;
    - Brother or sister of the whole or half -blood; or
    - Uncle, aunt, nephew, or niece of the whole blood;
- "**Deviate sexual intercourse**", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, *of the penis, female genitalia*, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;
- "**Sexual conduct**", sexual intercourse, deviate sexual intercourse or sexual contact;
- "**Sexual contact**", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person *or for the purpose of terrorizing the victim*;
- "**Sexual intercourse**", any penetration, however slight, *of the female genitalia by the penis*.



**X. Fire Reporting 34 668.49(c) & 34 668.49(d)**

**(A) Fire statistics (CH pgs. 13-1 thru 13-7)**

An institution must report statistics for each on-campus student housing facility, for the three most recent calendar years for which data are available, concerning

- (i) The number of fires and the cause of each fire;
- (ii) The number of persons who received fire-related injuries that resulted in treatment at a medical facility, including at an on-campus health center;
- (iii) The number of deaths related to a fire; and
- (iv) The value of property damage caused by a fire.

**(B) Fire log (CH pgs. 12-1 thru 12-5)**

An institution that maintains on-campus student housing facilities must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. This log must include the nature, date, time, and general location of each fire. *Please note that only fires that occur in student housing are reported in the annual Clery report.*

**Definition of fire** - Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner. (CH pgs. 11-1 thru 11-4)

1. "Any instance of open flame or other burning in a place not intended to contain the burning." Some examples are:
  - Trash can fire.
  - Oven or microwave fire.
  - Burning oven mitt on a stove.
  - Grease fire on a stovetop.
  - Flame coming from electric extension cord.
  - Burning wall hanging or poster.
  - Fire in an overheated bathroom vent fan.
  - Couch that is burning without any flame evident.
  - Fires in parking facilities and dining halls that are **physically attached to and accessed directly from**, on-campus student housing facilities.

*Also note any incident where there is evidence that there was burning, for example, a singed electrical cord*

2. "Any instance of open flame or other burning in an uncontrolled manner."

Some examples are:

- Chimney fire.
- Gas stove fire.
- Fuel burner or boiler fire.

**Do not include:**

- Sparks or smoke where there is no open flame or other burning.
- Such incidents as burnt microwave popcorn that trigger fire alarms or smoke detectors but there are no open flames or other burning.
- *Attempted* arson in cases where there is no open flame or burning (Attempted arson must be included along with statistics for completed arson in your Clery crime statistics).
- Fires in parking facilities and dining halls that are **not physically attached to and accessed directly from** on-campus student housing facilities, even if the facilities are reserved for the use of residents in those housing facilities.





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Appendix A: Crime Category Examples from from the [\*US Department of Education 2016 Handbook for Campus Safety and Security Reporting \(Clery Handbook\)\*](#)





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### Examples of Murder and Non-negligent Manslaughter

**Scenario 1:** A gunman enters a classroom on campus and kills two students and a faculty member before being subdued and arrested. Include three incidents of on-campus Murder and Non-negligent Manslaughter in your crime statistics.

**Scenario 2:** Two groups of students get into an argument in a campus parking lot. Jim punches Joe and causes him to hit his head on a concrete sidewalk, inflicting severe head trauma. Two days later, Joe dies. Include one incident of on-campus Murder and Non-negligent Manslaughter in your crime statistics.

**Scenario 3:** A husband and wife have an argument at a married student housing facility owned by the institution that is five miles from campus, and the wife shoots and kills her husband. Include one incident of noncampus Murder and Non-negligent Manslaughter in your crime statistics. Also include one incident of noncampus Domestic Violence. (Domestic Violence is discussed on pages 3-37 and 3-38.)

**Scenario 4:** A nonstudent is shot and killed during an armed Robbery on a city-owned sidewalk in front of a building on campus. Include one incident of public property Murder and Non-negligent Manslaughter in your crime statistics.

**Scenario 5:** Two students get into an argument at a popular off-campus bar. Bob attacks Brad with a broken bottle and Brad pulls out a gun and kills Bob. Do not include this incident in your *Clery Act* statistics because the incident occurred at a private facility off campus.

### Example of Manslaughter by Negligence

**Scenario:** Two students, Jim and Mike, are handling a gun at an on-campus fraternity house owned by the institution, and Jim “jokingly” points the gun at Mike. Jim fires the gun, and Mike is killed. Jim claims no knowledge of the gun being loaded. Include this as one Manslaughter by Negligence in the on-campus category and one Manslaughter by Negligence in the on-campus student housing facility category.

### Examples of Sexual Assault

**Scenario 1:** A female student reports that she was raped by an unidentified male while jogging along a campus trail. Include this as one on-campus Rape.

**Scenario 2:** A female student reports that her ex-boyfriend had sex with her in her campus residence hall room while she was unconscious after a night of drinking alcohol. Include this as one Rape in the on-campus category and one Rape in the on-campus student housing facility category. Also include one incident of Dating Violence in both the on-campus and on-campus student housing facility categories (Dating Violence is discussed on pages 3-36 and 3-37).

**Scenario 3:** A male student reports that another male student fondled him in a campus building while telling him that he was glad they could finally be alone. Include this as one on-campus Fondling.



**Scenario 4:** A female student reports to the campus police that she was raped in her car in a parking lot on her school's campus by students from another college. Include this as one on-campus Rape.

**Scenario 5:** Three female students report that they were each raped by five male students at an off-campus fraternity house owned by a recognized fraternity. Each male raped each of the female students. Include this as three noncampus Rapes.

**Scenario 6:** A female student reports that an unknown male attempted to rape her on a city-owned sidewalk outside a classroom building on campus, but that he was frightened away by another pedestrian before completing the attack. Include this as one public property Rape.

**Scenario 7:** A woman is walking on a public sidewalk in front of your campus and a man pinches her buttocks as he runs by her. Include this as one public property Fondling only if the victim reports that it was sexual in nature.

**Scenario 8:** A female student reports that she has been raped three times since January by someone who lives in the same on-campus student housing facility. All three of the sexual assaults occurred in this housing facility. Include this as three Rapes in both the on-campus category and on-campus student housing facility category.

**Scenario 9:** A 21-year-old student has sex with a 15-year-old juvenile in the student's on-campus apartment. There is no use of force or threat of force (the statutory age of consent is 16). Include this as one Statutory Rape in the on-campus category and one Statutory Rape in the on-campus student housing facility category.

**Scenario 10:** Campus police respond to a call from the dean reporting that an unknown man exposed himself to a group of female students on campus. Do not include this incident in your *Clery Act* statistics as it is not a *Clery Act* crime.

### **Example of Robbery**

**Scenario:** Two students returning to campus from a night at a local bar are approached by three armed men on a city sidewalk outside their residence hall and told to hand over their wallets. The students comply, and the three armed men leave without harming the students. Include this as one Robbery on public property.

### **Examples of Aggravated Assault**

**Scenario 1:** Sarah and Anne have a heated argument at a party at a sorority house owned by a recognized sorority located a mile from the campus. Sarah grabs a lacrosse stick and repeatedly beats Anne across the back with it, breaking several ribs. Include this as one Aggravated Assault in the noncampus category.

**Scenario 2:** Two students are involved in a fist fight in the laundry room in their on-campus dormitory. Both sustain head injuries and are treated at a hospital. Include this as two Aggravated Assaults in the on-campus category and two Aggravated Assaults in the on-campus student housing facility category.



**Scenario 3:** Brad and Tim are involved in a physical altercation in a campus parking lot behind their dormitory. Brad pulls a canister of Mace from his pocket and sprays Tim in the face, causing him severe burning and discomfort. Tim flees the scene and seeks medical attention. Include this as one on-campus Aggravated Assault.

**Scenario 4:** Campus police respond to a disturbance call on a public sidewalk in back of the campus and find a fight in progress. Most of the participants escape except for four injured individuals. None of the individuals would cooperate and the campus police could not determine who started the fight. The four individuals suffered from severe knife wounds. Include this as four Aggravated Assaults on public property.

**Scenario 5:** A male student slips a date rape drug into a female student's drink at a noncampus fraternity house. Before he can lure the victim away from her friends, however, someone notices what he had done and summons the police. Count this as one noncampus Aggravated Assault.

### **Examples of Burglary**

**Scenario 1:** A room in an on-campus dormitory is broken into and a laptop is stolen by a student living down the hall. Because the student unlawfully entered the room, include this as one on-campus Burglary and one on-campus student housing facility Burglary.

**Scenario 2:** A student living in an on-campus dormitory invites another student into her room. The invited student takes a ring from the top of a dresser when the owner leaves to use the restroom. Because the perpetrator was invited into the room, there is no element of trespass. Do not include this incident in your *Clery Act* statistics because it is a Larceny.

**Scenario 3:** A perpetrator enters five on-campus dorm rooms without permission on the same night looking to steal money. He takes a wallet from one room, but takes nothing from the other four rooms. Include this as five Burglaries in both the on-campus category and on-campus student housing facility category.

**Scenario 4:** Someone enters an unlocked dorm room on campus and steals a student's wallet. Investigation determines that the student's roommate did not take the wallet. Because no one else had lawful access to the dorm room at the time the wallet was taken, it had to have been taken by someone who did not have lawful access. Include this as one on-campus Burglary and one on-campus student housing facility Burglary.

**Scenario 5:** A patient in a hospital room in an on-campus medical center reports a stolen watch. Police investigate and cannot determine who took the watch. Because there is no evidence that someone unlawfully entered the room to steal the watch, this is a Larceny. Do not include this incident in your *Clery Act* statistics.

**Scenario 6:** A school is bordered by a municipal parking garage that has four walls, a roof and a door. Parking is allowed by permit only. Someone without a permit enters the garage and steals a GPS from a car. Include this as one public property Burglary.



**Scenario 7:** A school is bordered by a parking garage that has four walls, a roof and a door. Anyone who pays can park there. Someone enters the garage and steals a GPS from a car. Because the garage has open access there was no element of trespass. Do not include this incident in your *Clery Act* statistics because it is a Larceny.

**Scenario 8:** After his team practice session a member of the football team breaks into the locker of a teammate and takes his wallet. Because a locker is not a structure, this is a Larceny. Do not include this incident in your *Clery Act* statistics.

**Scenario 9:** A member of the football team climbs through an open window in the campus gym after hours and then breaks into a teammate's locker looking for drugs. He leaves empty-handed. Because the perpetrator trespassed into the gym with the intention of stealing drugs, include this as one on-campus Burglary.

**Scenario 10:** A maintenance worker with a work order uses his keys to enter an on-campus office to fix an air conditioner, and while he is there he decides to steal a laptop. This incident is a Larceny because the maintenance worker had a right to be in the office at the time of the theft. Do not include this incident in your *Clery Act* statistics.

**Scenario 11:** A maintenance worker without a work order uses his keys to enter a locked on-campus office to search for something to steal. Include this as one on-campus Burglary because the maintenance worker did not have a right to be in the office at the time of the theft. He unlawfully entered the office with the intent to steal something. (Because the intent was to steal something, it's a Burglary even if the maintenance worker leaves empty-handed.)

### **Examples of Motor Vehicle Theft**

**Scenario 1:** A faculty member's car is reported stolen from a campus parking garage and is later recovered a block off campus. Include one on-campus Motor Vehicle Theft.

**Scenario 2:** A car stereo and CDs are reported stolen from a car parked along a city-owned street on campus. Do not include this incident in your *Clery Act* statistics because it is theft **from** a motor vehicle, not Motor Vehicle Theft.

**Scenario 3:** A student's car is stolen from a city street outside a classroom five miles from campus. Do not include this incident in your *Clery Act* statistics because it occurred on public property adjacent to a noncampus location.

### **Examples of Arson**

**Scenario 1:** A student is killed by what an investigation determines was a deliberately set fire in his campus residence hall room. Include this as one Murder and Non-negligent Manslaughter and one Arson in the on-campus category and one Murder and Non-negligent Manslaughter and one Arson in the on-campus student housing facility category.

**Scenario 2:** A suspicious fire is reported in a campus academic building, but fire authorities cannot determine if it was intentionally set. Do not include this incident as Arson in your *Clery Act* statistics.



**Scenario 3:** A resident of a noncampus Greek house sets fire to his couch on the lawn in front of the house in celebration of a school football victory. Investigators determine that the incident was Arson. Include this as one Arson in the noncampus category.

**Scenario 4:** A fire is reported in a campus dormitory. Ten students are killed as a direct result of the flames and asphyxiation. Two more students die from internal injuries when they attempt to jump to safety. Six people are hospitalized with second- and third-degree burns. Investigation determines that the fire was intentional. Include this as one Arson in the on-campus category and the on-campus student housing facility category and 12 Murder and Non-negligent Manslaughters and six Aggravated Assaults in the on-campus category and the on-campus student housing facility category. This Arson, along with the resulting deaths and injuries, must also be included in your fire statistics described in Chapters 12 and 13.

**Scenario 5:** A student is seen setting fire to a paper advertisement on an on-campus dormitory bulletin board. Investigation determines that the student willfully set fire to the paper. Include this as one Arson in the on-campus and the on-campus student housing facility categories and also as one intentional fire in your fire statistics described in Chapters 12 and 13.

### Examples of Hate Crimes

**Scenario 1:** One night a student with known anti-gay sentiments steals a number of books by LGBTQ authors from a campus library exhibit. He leaves a note on the exhibit table that reads, "Gay and lesbian books don't belong in our library." When he is caught leaving the library with a large bag of books, he starts shouting that LGBTQ students have been getting too much attention on campus and he was tired of it. Include this as one on-campus Larceny-Theft characterized by Sexual Orientation bias.

**Scenario 2:** A white student causes a disturbance in an on-campus classroom during a discussion on race relations. The student begins shouting racial epithets while pointing at black students. The instructor calls campus security for assistance. A white security officer and a black security officer arrive. When the black officer tries to subdue the student, the student starts shoving the officer and shouting racial epithets at him. Include this as one on-campus Simple Assault characterized by racial bias.

**Scenario 3:** A campus police officer overhears a white student and a black student arguing over a parking space on campus. They are shouting obscenities at one another and the white student shoves the black student who scrapes his hand on the asphalt when he falls. The officer approaches the students and asks for an explanation for the argument. The students tell him that one of them was driving toward the parking space first but didn't use his turn signal to indicate he wanted to park there. The other student drove into the space not knowing that the first student had intended to park there. The officer did not find any evidence that the Simple Assault was motivated by bias. Do not include this incident as a Hate Crime in your *Clery Act* statistics.

**Scenario 4:** During finals week, a gay faculty member gets a series of phone calls in his noncampus office. When he answers, the caller says that she hates gay people and then hangs up. On the third night, the caller says that the faculty member had better be careful because something terrible was about to happen to gay people at the school. The faculty member is afraid and calls



the local police to report the threat. Include this as one noncampus Intimidation based on Sexual Orientation bias.

**Scenario 5:** Several students call the campus security office to report swastikas spray-painted on the walls in a hallway of an on-campus student housing facility. Campus security personnel investigate but cannot find conclusive evidence that the markings were bias-motivated. Do not include this incident as a Hate Crime in your *Clery Act* statistics.

**Scenario 6:** Several students call the campus security office to report swastikas spray-painted on the hallway walls of an on-campus student housing facility on the floor where members of a Jewish student group live. The spray-painting follows a week of escalating tension between some Jewish and non-Jewish students over news about the Israeli-Palestinian conflict. Campus security personnel investigate and, based on the evidence, conclude that a Hate Crime was committed. Include this as one on-campus Intimidation characterized by religious bias and one on-campus student housing facility Intimidation characterized by religious bias.

**Scenario 7:** An on-campus student center features a photo exhibit of famous Muslim-Americans and their achievements. Next to the display case is a second unrelated photo exhibit that features several well-known school alumni. An employee who is prepping the coffee bar for the day notices that there are what appear to be permanent ink markings on the glass over some of the facial features of photos of the Muslim-Americans. There are no markings on the other exhibit case. The employee reports the incident to the school's public safety officer who is on the other side of the campus and in the process of examining defaced posters announcing a meeting of the school's Muslim-American student group. After examining all of the evidence the officer concludes that a Hate Crime was committed. Include this as one on-campus Destruction/Damage/Vandalism of Property incident characterized by religious bias.

**Scenario 8:** The office of the Arab-American Student Center on the third floor of the campus student union contains both Arabic and English writing on the outside of the door. One night the office is vandalized, with anti-Arab threats and disparaging anti-Arab messages. Include this as one on-campus Destruction/Damage/Vandalism of Property incident characterized by Ethnicity bias.

**Scenario 9:** Two students are walking on campus, speaking Spanish. Five other white students surround them, shove them and throw them to the ground, shouting "You're in America. This is our country. We speak English here! Go back to your own country if you don't like it!" Include this as two on-campus Simple Assaults characterized by National Origin.

**Scenario 10:** A white student ran by another student in front of the Student Union, shoved him to the ground, and forcibly pulled his Dastar (Sikh Turban) and said, "Take that thing off your head—we don't want your kind in this neighborhood!" In the process of the attack, the Sikh student suffered a concussion. When campus police responded to the scene, a witness to the attack identified the perpetrator as a part-time clerk at a local convenience store near a predominately Sikh community. Include this as one on-campus Aggravated Assault characterized by religious bias.



**Scenario 11:** A transgender woman was leaving the campus bookstore when three men walking toward her said, “Hey, what’s your problem? Huh?” She kept walking, trying to ignore them. However, as they got close, one yelled “We don’t want no she-males around here!” and a second one knocked her to the ground. Include this as one on-campus Simple Assault characterized by Gender Identity bias.

**Scenarios 12:** For a fraternity prank, two students forcibly bring a developmentally disabled student back to their house on campus. They shave the student’s head, spelling out the word “retard” in his remaining hair. They record the incident on their cell phones and post it on the fraternity website, all the while mocking his disability and his slurred-speech protests. Include this as one on-campus Simple Assault characterized by Disability bias.

### Examples of Dating Violence

**Scenario 1:** A female student cuts her ex-boyfriend with a knife during an altercation in an on-campus dining hall. Include this as one incident of on-campus Dating Violence and one on-campus Aggravated Assault.

**Scenario 2:** A female student reports that her boyfriend forced her into nonconsensual sex in her on-campus dorm room. Include one Rape in both the on-campus category and the on-campus student housing facility category, and one incident of Dating Violence in both the on-campus category and the on-campus student housing facility category.

**Scenario 3:** After a party on campus, John walked back to his apartment in a noncampus housing complex with Matt, whom he has hooked up with a few times over the past month. When they reached John’s apartment, it became clear that Matt was angry that John had been talking with other men at the party, causing Matt to punch two holes in the wall and threaten to beat John if he sees him flirting with any other men on campus. John now fears for his safety around Matt. Include one incident of noncampus Dating Violence for the threat of physical abuse.

**Scenario 4:** A dating couple is arguing on a public sidewalk in front of a campus building. The male slaps the female and her face is red. Include this as one public property incident of Dating Violence.

### Examples of Domestic Violence

**Scenario 1:** A student’s wife is waiting for her husband outside of his on-campus classroom building. She attacks her husband with a knife when he exits the building. Include this as one on-campus incident of Domestic Violence and one on-campus Aggravated Assault.

**Scenario 2:** A neighbor reports yelling in the apartment next door in a university housing complex. The officer who arrives at the apartment finds a husband and wife having an argument. Neither party reports any physical injuries and neither party reports being intimidated. Do not include this incident in your *Clery Act* statistics.

**Scenario 3:** An employee reports to the campus police that her ex-husband has physically assaulted her four times. All four assaults occurred at the employee’s private residence; however, he has also recently showed up in the noncampus parking lot outside her office and threatened to



hurt her. Include one noncampus Domestic Violence incident for the Intimidation that occurred in the noncampus parking lot. Do not include the Aggravated Assaults in your *Clery Act* statistics because they did not occur on *Clery Act* geography. Do not include the Intimidation as a Hate Crime in your *Clery Act* statistics because there was no evidence that it was motivated by bias. Also include one incident of noncampus Stalking (Stalking is discussed below).

**Scenario 4:** A father argues with his son at a football game in the on-campus stadium. He eventually hits his son, breaking his jaw. Include this as one on-campus incident of Domestic Violence and one Aggravated Assault.

### Examples of Stalking

**Scenario 1:** A female student reports that she is being followed by a man she met at her job at a café off-campus. He began showing up at the café and would not leave her alone. Since then she has also noticed him following her around campus and she fears for her safety. Include this as one incident of Stalking on-campus since the first occurrence on *Clery Act* geography occurred when the victim noticed the perpetrator following her on-campus.

**Scenario 2:** Several students belonging to the university association of Hispanic students have reported being watched or followed by the same unknown man on various parts of campus. All of the students reported fearing for their safety as a result of his behavior but none of the students saw the man more than once. Do not include this as Stalking in your *Clery Act* statistics because, given that the man has never approached the same student more than once, the course of conduct was not directed at a single individual,

**Scenario 3:** A female student reported that she is afraid for her safety because her ex-boyfriend has been sending harassing emails to her private email account over the past several weeks. She opened the first five emails in her off-campus apartment. However, earlier that day she opened another email on her mobile phone while walking on campus. She came directly to the Campus Police to report the behavior. The location of the ex-boyfriend when he was sending the harassing messages is unknown. Include this as one on-campus Stalking because the first incident in the course of conduct to occur on *Clery Act* geography was the victim reading the email on-campus.

**Scenario 4:** A male student reports that his ex-girlfriend has been sending him harassing text messages. The ex-girlfriend attends another university 200 miles away. While at home over summer break, the ex-girlfriend showed up at the student's house every day asking if he has a new girlfriend at school. Now that he has returned to school, she sends him daily text messages threatening to "check-in" on him on-campus. The ex-girlfriend sends these text messages late at night and the victim receives them when he is inside his on-campus dorm room. Include one incident of Stalking in both the on-campus category and in the on-campus student housing facility category **if the male student fears for his safety as a result of this behavior.**

**Scenario 5:** A male student reported a Stalking course of conduct to Campus Police during the spring semester. During the investigation, Campus Police established that the first incident in the Stalking course of conduct to occur on *Clery Act* geography took place on public property. When the student returned to campus for the fall semester, the Stalking continued when the perpetrator repeatedly waited for the victim in the hallway outside the victim's dorm room in an on-campus



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student housing facility. Since the spring and fall Stalking incidents involved the same victim and the same perpetrator, the fall incidents should be considered a continuation of the Stalking course of conduct that started in the spring. Include this as one Stalking incident on public property.

### **Examples of Arrests and Referrals**

**Scenario 1:** In an on-campus student housing facility room three underage students and a nonstudent are found drinking alcohol in violation of state law. The students are referred for disciplinary action, while the nonstudent is given a written citation. Include three referrals for Liquor Law Violations in both the on-campus category and in the on-campus student housing facility category as well as one arrest for a Liquor Law Violation in the on-campus category and in the on-campus student housing facility category.

**Scenario 2:** A party at an off-campus, university-owned fraternity house is busted, and 30 students are both arrested and referred for disciplinary action for state Liquor Law Violations by campus police. Include this as 30 noncampus arrests for Liquor Law Violations.

**Scenario 3:** A 21-year-old student is referred for disciplinary action for possessing a beer at an on-campus fraternity house on a “dry” campus. Do not include this incident in your *Clery Act* statistics because no violation of the law occurred.

**Scenario 4:** A dozen students are cited for underage drinking by campus police at a popular off-campus bar. Do not include these violations in your *Clery Act* statistics as they occurred on private property off campus.

**Scenario 5:** A student is referred for disciplinary action for smoking a marijuana cigarette in his on-campus dorm room. Because this is his first offense, he is issued a warning and no sanction is imposed. A record is established of the action. Include this as one on-campus referral and one on-campus student housing facility referral.

**Scenario 6:** Two nonstudents are arrested during an on-campus football game for possession of cocaine. Include this as two on-campus arrests for Drug Abuse Violations.

**Scenario 7:** A student is cited for having a firearm in his or her residence hall room in violation of state law. Include this as one arrest for Weapons: Carrying, Possessing, Etc., in the on-campus category and one arrest for Weapons: Carrying, Possessing, Etc., in the on-campus student housing facility category.

**Scenario 8:** A faculty member is referred for disciplinary action for having a firearm in his or her office in violation of school policy. The state in which the campus is located does not have a law against possessing a firearm on campus. Do not include this incident in your *Clery Act* statistics because there was no violation of the law.

**Scenario 9:** Police respond to an incident at a noncampus, institution-owned sorority house where there are underage students drinking at a party. The officers list all 10 of the students in their report, which is forwarded to the campus Judicial Affairs office. A Judicial Affairs official interviews the students and finds that two of them had not been drinking. Those students are not charged. Judicial



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Affairs continues the disciplinary process against the eight students who were drinking. Include this as 10 noncampus referrals for disciplinary action because all 10 students were referred for underage drinking.

**Scenario 10:** A resident assistant (RA) has the duty of loading disciplinary information into an electronic database. She enters the names of 15 students who were referred for disciplinary action as a result of being at an on-campus party where there was underage drinking in violation of state law. The RA's supervisor begins the disciplinary action process by reviewing the information in the database. She determines that five of those students were present in a location where illegal drinking took place but that these five students did not violate any liquor laws. Nothing more is done in terms of disciplinary action for those five individuals. The disciplinary process continues for the remaining 10 individuals who were at the party. Include this as 15 referrals for disciplinary action in the on-campus category because 15 students were referred for underage drinking.

**Scenario 11:** Two students are caught smoking marijuana before class in the stairwell they use to access their classroom in a noncampus building. The students are brought before a panel of their peers for a disciplinary hearing. The dean of students is present to monitor the proceedings. The panel of students determines that the two students broke the law and requires them to attend drug abuse counseling sessions at the school health clinic. A record of the disciplinary action is established by the institution. Include this as two Drug Abuse Violation referrals in the noncampus category.

**Scenario 12:** A Burglary occurs at a business down the street from campus. The suspect is chased by police and apprehended on campus. The suspect is carrying a firearm in violation of state law and arrested for both Burglary and a Weapons Violation while on campus property. Include this as one on-campus arrest for Weapons: Carrying, Possessing, Etc. Do not include the Burglary in your *Clery Act* statistics because the Burglary did not occur on *Clery Act* geography.