



## Santa Clara Campus Safety Services

### Jeanne Clery Campus Safety Act Crime Definitions

#### Criminal Offenses

Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence; Sexual Assault, including Rape, Fondling, Incest and Statutory Rape; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson.

**Criminal Homicide:** These offenses are separated into two categories: Murder and Non-negligent Manslaughter, and Manslaughter by Negligence.

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

**Manslaughter by Negligence** is defined as the killing of another person through gross negligence.

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

**Rape** is 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.

*Note: This offense includes the rape of both males and females.*

**Fondling** is 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 incapacity.

*Note: Private body parts are generally considered to include the genitals, breasts, and buttocks.*

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

**Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.

*Note: In California, the statutory age of consent is eighteen.*

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

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. The criminal act need not result in injury to be counted as aggravated assault when a gun, knife, or other weapon is used in commission of the crime.

**Burglary:** The unlawful entry of a structure to commit a felony or a theft.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle.

**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, or personal property of another.

## Hate Crimes

Any of the above-mentioned Criminal Offenses, plus any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction / Damage / Vandalism of Property that were motivated by bias.

**Hate Crime:** A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

**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.

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

**Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation. Sexual Orientation is the term for a person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

**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.

**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. Gender non-conforming describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

**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 a grouping based mostly upon biological criteria, while “ethnicity” also encompasses additional cultural factors.

**National Origin:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth. This bias may be against people that have a name or accent associated with a national origin group, participate in certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.

**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.

For Clery Act purposes, Hate Crimes include any of the following offenses that are motivated by bias:

- Murder and Non-negligent Manslaughter
- Sexual Assault
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Hazing (*beginning January 1, 2025*)
- Larceny-Theft\*

- Simple Assault\*
- Intimidation\*
- Destruction/Damage/Vandalism of Property\*

*\*These crimes are included as a Clery Act statistic ONLY if they are classified as “Hate Crimes”. See below for definitions:*

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

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

*Note: A person is assumed to be placed in “reasonable fear” if he or she reports threatening words or other conduct to law enforcement personnel. To be the victim of Intimidation, one doesn’t have to be the intended target of the offender.*

**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.

## Violence Against Women Act (VAWA) Crimes

Any incidents of Domestic Violence, Dating Violence or Stalking. (Note that Sexual Assault is also a VAWA Offense but is included in the Criminal Offenses category for Clery Act reporting purposes).

**Domestic Violence:** A felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse; 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 by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; where the existence of such a relationship shall be determined based on the reporting party's statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence is not limited to sexual or physical abuse or the threat of such abuse.

*Note: California Penal Code 13700 includes dating relationships and previous dating relationships (including engagement) within the scope of domestic violence. Therefore, if an act of violence meets the definition of Domestic Violence in a dating relationship, then the act is classified as Domestic Violence rather than Dating Violence.*

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

*Note:*

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

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

*Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

## **The Stop Campus Hazing Act (S.2901, H.R.5646) Offense**

**Hazing:** Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including:

- (1) whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity;
- (2) causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
- (3) causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
- (4) causing, coercing, or otherwise inducing another person to perform sexual acts; any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
- (5) any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law.

*Note: Student organization* means an organization at an institution of higher education (such as a club, society, association, varsity or junior varsity athletic team, club sports team, fraternity, sorority, band, or student government) in which two or more of the members are students enrolled at the institution of higher education, whether or not the organization is established or recognized by the institution.

## **Alcohol, Drug and Weapon Violations**

The Clery Act requires institutions collect statistics for arrests and referrals for disciplinary action for liquor law violations, drug law violations and illegal weapons possession.

**Liquor Law Violation:** The violation of state or local laws or ordinances prohibiting the manufacture, sale, transportation, possession or use of alcoholic beverages. This offense includes, amongst other violations, underage possession, furnishing liquor to a minor, and any attempts to commit these offenses. Drunkenness and driving under the influence are not included in this definition.

**Drug Abuse Violation:** The violation of state or local 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.

The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**Weapons Violation:** 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.

*Note: In California, the possession and carrying of knives on college campuses are regulated by both state law and individual campus policies. Penal Code Section 626.9 and 626.10 prohibits the possession of specific types of knives and weapons on the grounds of any public or private school (K-12) or any campus of a community college, state university, University of California, or private university.*