

FOUR GENERAL CLERY CRIME CATEGORIES

Criminal Offenses

VAWA Offenses

Hate Crimes

Arrests and Referrals for Disciplinary Action

DEPT. OF ED FINDING: FAILURE TO REPORT ACCURATE CRIME STATISTICS AND PROVIDE CLEAR AUDIT TRAIL; FAILURE TO PROPERLY CLASSIFY AND DISCLOSE CRIME STATISTICS

FAST FACTS

- Documentation from police department and student conduct office, but documentation from other CSAs insufficient or nonexistent
- Housing reports shredded
- No clear audit trail
- Misclassification of crimes

ACTION ITEMS

- For review itself, submitted information to the Department of Education to show incidents were classified properly and included in disclosure
- In some instances, finding was sustained, in others, it was not
- Established documentation systems and revisited application of crime definitions and record retention strategies

CRIMINAL OFFENSES

1. Criminal Homicide

- Murder & Non-Negligent Manslaughter
- Manslaughter by Negligence

Sex Offenses

- Rape
- Fondling
- Incest
- Statutory Rape

- 3. Robbery
- 4. Aggravated Assault
- 5. Burglary
- 6. Motor Vehicle Theft
- 7. Arson

VAWA OFFENSES

- Dating Violence
- Domestic Violence
- Stalking

HATE CRIMES

Criminal Offenses plus the following crimes:

- larceny-theft
- simple assault
- intimidation
- destruction, damage, or vandalism of property

ARRESTS

- Weapons law violations
- Drug abuse violations
- Liquor law violations

REFERRALS FOR DISCIPLINARY ACTION

- Weapons law violations
- Drug abuse violations
- Liquor law violations

THE HIERARCHY RULE

- Used for the Criminal Offenses category
- Only most serious offense should be counted
- Used when:
 - Offenses are committed at the same time and place
 - Time interval and distance between offenses is insignificant

OFFENSE HIERARCHY

- 1. Murder & Non-Negligent Manslaughter
- 2. Manslaughter by Negligence
- 3. Sex Offenses
- 4. Robbery
- 5. Aggravated Assault
- 6. Burglary
- 7. Motor Vehicle Theft

Sexual Assault

- If rape, fondling, incest, or statutory rape occurs in the same incident as a murder, the institution must record both the sex offense and the murder in its statistics
- Fondling is recognized as an element of the other sex offenses; Include a sexual assault as fondling only if it is the only sexual assault

Dating Violence, Domestic Violence, & Stalking

 Dating violence, domestic violence, and stalking are not listed in the hierarchy in the final regulations for the VAWA amendments to the Clery Act

Arson

- Arson is always counted
- Multiple offenses report most serious along with arson
- Incidents in which persons are killed as a direct result of arson - classified as a homicide and arson

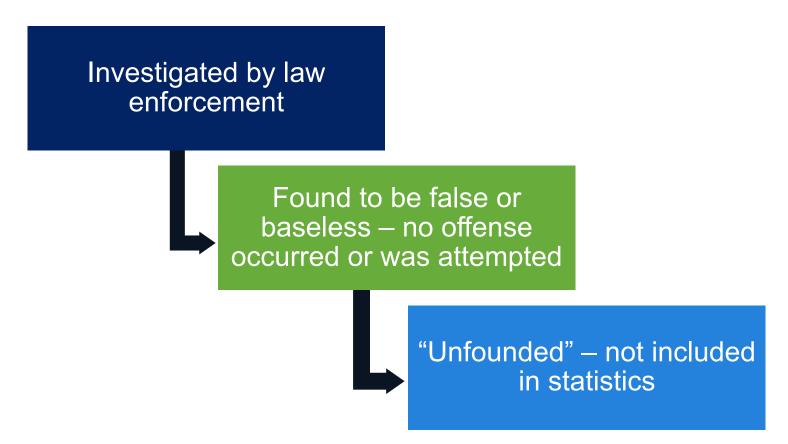
Hate Crimes

- Disclose all of the offenses committed in a multiple offense incident that are bias-motivated
- In a multiple-offense incident, only the crimes that are bias-motivated should be classified as hate crimes

EXCLUDED CRIMES

- Non-Clery Act crimes (vandalism, theft, disorderly conduct, drunk driving, etc.)
- Crimes outside Clery geographic area
- Unfounded crimes

UNFOUNDED CRIMES

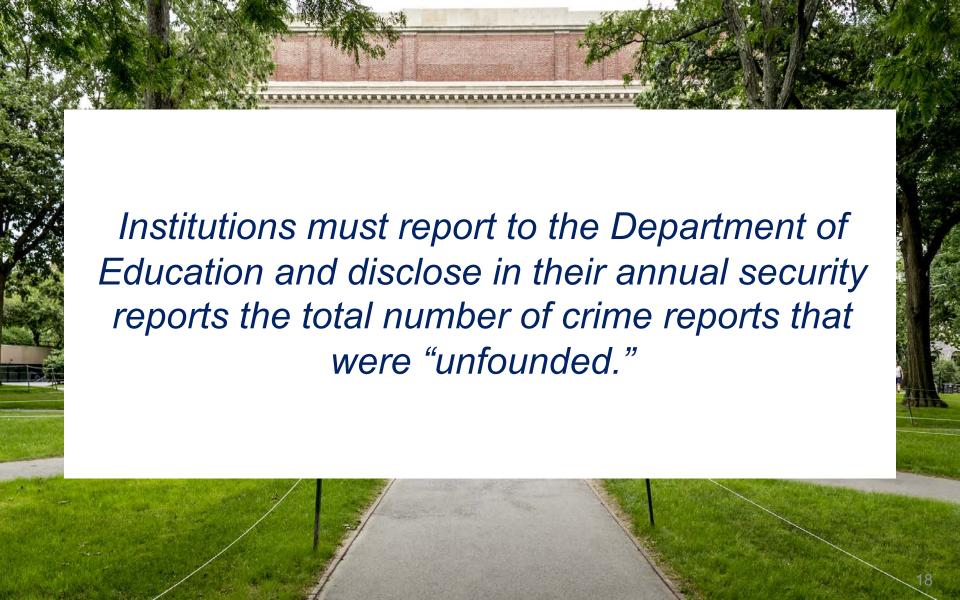


DO NOT COUNT AS UNFOUNDED

- Crimes that were initially misclassified
- Crimes initially reported as occurring within Clery Act geography but determined through investigation to have occurred outside of Clery Act geography
- Reports of weapon violations, drug abuse violations, or liquor law violations in which officers were unable to substantiate the report
- Arrests or disciplinary referrals
- Recovery of stolen property

DO NOT COUNT AS UNFOUNDED (CONT'D)

- Low value of stolen property
- Refusal of victim to cooperate
- Failure to make arrest
- Findings of coroner, court, jury, or prosecutor if law enforcement investigation establishes to be legitimate
- Reports where victim later retracts statement or withdraws a complaint unless thorough investigation proves crime did not occur and was never attempted

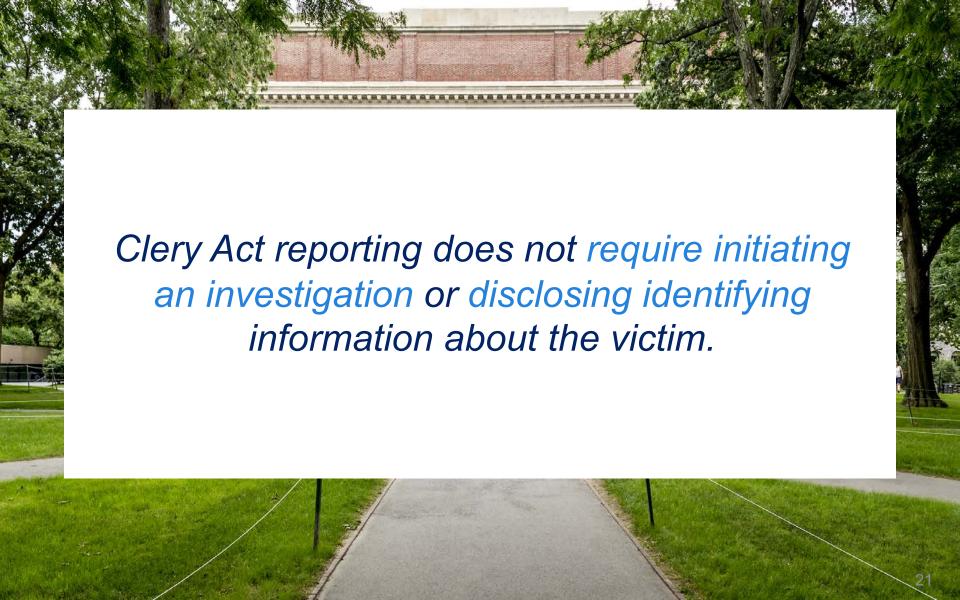


ATTEMPTED CRIMES

- Do not differentiate between attempted and completed crimes
- Only exception is attempt to murder where the victim does not die - these should be classified as aggravated assaults rather than homicides

PERSONAL IDENTIFICATION ELEMENTS

 Status of victim and/or perpetrator to the institution is irrelevant (ex. student, employee, individual not associated with the institution)



ACTIVITY

- For each scenario, use your available resources (slides and workbook) to answer the following questions:
 - Is this a Clery Act crime?
 - Did the incident fall within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
 - If applicable, how should this incident be counted?

SAMPLE QUESTION

A student's 17-year-old sibling who is visiting the campus reports that she was raped at a house owned by the institution and located on campus grounds, but leased to a fraternity.

Is this a Clery Act crime?

Did the incident fall within Clery geography (oncampus, on-campus student housing, noncampus, public property)?

If applicable, how should this incident be counted?

RECORDING STATISTICS: THINGS TO REMEMBER

- Statistics are tied to Clery Act geography
- Hierarchy Rule
- Use Clery crime definitions
- Classify according to the requirements:

| Homicide, sex offenses, aggravated assaults, dating violence, domestic violence, stalking | One offense per victim *Special considerations for stalking |
|--|---|
| Robbery, burlary | One offense per each distinct operation |
| Motor vehicle theft | One offense for each stolen vehicle |
| Arson | One offense for each distinct arson operation |

MURDER & NON-NEGLIGENT MANSLAUGHTER

COUNT:

- One offense per victim
- Deaths caused by injuries received in a fight, argument, quarrel, or commission of a crime

DO NOT COUNT:

- Suicides
- Fetal deaths
- Traffic fatalities
- Accidental deaths
- Attempted murder
- Justifiable homicide

MANSLAUGHTER BY NEGLIGENCE

COUNT:

One offense per victim

DO NOT COUNT:

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

EXAMPLE 1



A female student shot and killed a fellow student whom she had dated on and off over the last two years. The incident occurred in the Student Union building on campus.

Did a Clery Crime take place in Clery Geography?

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

WHY?

If applicable:

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

EXAMPLE 2



Two male students were on the university's baseball field next to the Science Center on campus. They were shooting beer cans for target practice. One student playfully pointed the gun at his friend and accidentally discharged the weapon and killed his friend.

Did a Clery Crime take place in Clery Geography?

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

WHY?

If applicable:

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

SEX OFFENSES

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

- Rape
- Fondling
- Incest
- Statutory rape

COUNTING SEX OFFENSES

Count

- Victims not offenders
- For statutory rape, count victims that fit your state statutory limit

While the definitions of sexual assault include lack of consent as an element of the offense, no determination as to whether that element has been met is required

EXAMPLE 3



Campus police respond to a call from the dean reporting that an unknown man exposed himself to a group of female students on campus.

Did a Clery Crime take place in Clery Geography?

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

WHY?

If applicable:

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

EXAMPLE 4

Three female students report that they were each raped by five male students at an off-campus fraternity house owned by the fraternity. Each male raped each of the female students.

Did a Clery Crime take place in Clery Geography?

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

WHY?

If applicable:

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

ROBBERY

COUNT:

- One offense for each distinct incident, including attempts
- Carjacking counts as robbery only and not as a motor vehicle theft

DO NOT COUNT:

- Number of victims robbed, offenders, or those present
- If force or threat of force doesn't exist
- If injury results in death count as homicide



A male approached a car stopped at a traffic light on a public thoroughfare running through campus. The male brandished a knife and ordered the driver of the car to get out of the vehicle. She complied and the male jumped into the driver's seat and drove off, leaving the car owner frightened but unharmed.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

AGGRAVATED ASSAULT

Factors to consider:

- Type of weapon or method used
- Seriousness of the injury
- Intent to cause serious injury

AGGRAVATED ASSAULT

COUNT:

- The number assaulted as the number of offenses
- Offense per victim even if injury does not result, if a weapon is used that could have caused serious personal injury
- Crimes meeting UCR definitions

DO NOT COUNT:

 Offenses based on local law classification or policy definitions



University police responded to a call in an on-campus university residence hall for a fight in progress. They found a male student beating a student on the head and face with a shoe. The student suffered a cut that required several stitches.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

BURGLARY

COUNT:

- One offense for each distinct operation
- One offense per residence, residential room, or structure if more than one room was entered
- Crimes meeting UCR definitions

DO NOT COUNT:

- More than one offense per academic building regardless of the number of classrooms or offices entered
- Do not use local law classifications or policy definitions



The bookstore on campus was closed during winter break and an unknown person gained access by breaking a window. The perpetrator took money from the cash register and some merchandise was taken from the store.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- If applicable:
 - Which Clery Act crime is it?
 - Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
 - How should this incident be counted?

Did a Clery Crime take place in Clery Geography?

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No



fled.

stole food and cash and then

- If applicable:
 - Which Clery Act crime is it?
 - Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
 - How should this incident be counted?

MOTOR VEHICLE THEFT

COUNT:

- One offense for each stolen vehicle
- Only if taken by a person who doesn't have legal access or owner consent
- Attempts and joyriding, even if the vehicle is recovered

DO NOT COUNT:

- Embezzlement of vehicles
- Thefts from motor vehicles
- Farm equipment, bulldozers, airplanes, construction equipment, sailboats, motorboats, house boats or jet skis
- Items taken from open access area

A student reports to campus security that his laptop computer was stolen from an unlocked car parked at an on-campus parking lot.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

ARSON

COUNT:

- One offense for each distinct incident
- Any fire determined to meet UCR definition through investigation by designated institutional official
- Multiple offenses if in conjunction with arson

DO NOT COUNT:

If origin is not in the institution's jurisdiction

A student ignited a fire in his residence hall room and as a result four rooms were damaged.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

HATE CRIMES

WB 19 & 20

Include any of the above crimes that manifest evidence that the victim was intentionally selected because of the perpetrator's bias.

Bias Categories:

- Race
- Gender
- Gender identity
- Religion
- Sexual orientation
- Ethnicity
- National origin
- Disability

HATE CRIME CATEGORIES

CRIMINAL OFFENSES:

- Murder and Non-negligent manslaughter
- Sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson

PLUS:

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

HATE CRIMES

COUNT:

- If sufficient objective facts are present to conclude that actions in whole or part were motivated by bias
- Offense per victim by geographic location
- All incidents of hate crimes in a multiple offense incident

DO NOT COUNT:

- Unless evidence knowing perpetrator is prejudiced not enough
- Based on victim's perception
- Rape unless there is clear evidence of bias

DETERMINING BIAS

- Oral comments, written statements, or gestures
- Drawings, markings, symbols, or graffiti
- Several incidents in same area
- Incident on a holiday or a date of significance
- Previous involvement in a similar hate crime
- Community perception that incident was bias motivated

CAVEATS

- Assess each case separately
- Be alert to misleading facts
- Be alert to feigned facts meant to give false impression of bias
- Offender's mistaken perception that the victim was part of a group



Early in the morning, two Latino brothers are attacked by two men while attending a party at an officially recognized fraternity house three blocks from the main campus. The brothers were embraced in a hug when they were attacked. The attackers used anti-gay and anti-Latino slurs when beating the brothers. Both brothers were knocked unconscious and had broken bones from the assault.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

DATING VIOLENCE

COUNT:

- Sexual or physical abuse
- The threat of such abuse

DO NOT COUNT:

 Acts covered under the definition of domestic violence



During a concert in the university's auditorium beside the student union, a woman shot her boyfriend, attempting to kill him. He recovered from the gunshot wound.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

A resident discloses to his RA that he is scared of his boyfriend. He shows the RA bruises covering his arms and says that while visiting his room the evening before, his boyfriend got angry and assaulted him.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?





Campus security receives reports of an altercation in a classroom on campus.

When they arrive, a faculty member tells them that her upset husband showed up on campus and hit her with a stapler. Her head is bleeding and she is transported to the hospital for stitches.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?



Officers respond to a call from the Residence Hall Director for Graduate and Family Housing, located on the west end of campus. When they arrive, a student reports that her husband repeatedly hits her, slaps her, kicks her, and punches holes into their walls. She says that the evening before, he arrived home intoxicated, threatened to kill her, and refused to let her leave the residence hall room.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

WHEN CLASSIFYING STALKING INCIDENTS

COUNT:

- At only the first location within the institution's Clery geography in which:
 - Perpetrator engaged in the stalking course of conduct OR
 - Victim first became aware of the stalking
- Not necessary for all activities in the course of conduct to occur within Clery geography in order to count the incident
- A stalking incident in which only one or some of the activities took place within Clery geography must be included in the reported statistics





A student tells his coach that his girlfriend's ex-boyfriend has been harassing him and his girlfriend since the beginning of the semester 6 weeks ago. He says that the ex-boyfriend has left more than 50 threatening voicemails on each of their phones and he has shown up numerous times at his residence hall attempting to start a fight. He tells the coach that he's worried about his girlfriend's safety.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?



Right before midterms, a graduate teaching assistant (TA) reports to her academic advisor that one of the students in her class has been following her from class to her on-campus office and continually leaving her gifts.

She's concerned that his behavior is escalating because he's begun to threaten her safety if she doesn't respond. The student has learned her schedule and shows up at the library any time she's there. She tells the advisor that the behavior started five days into the class.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

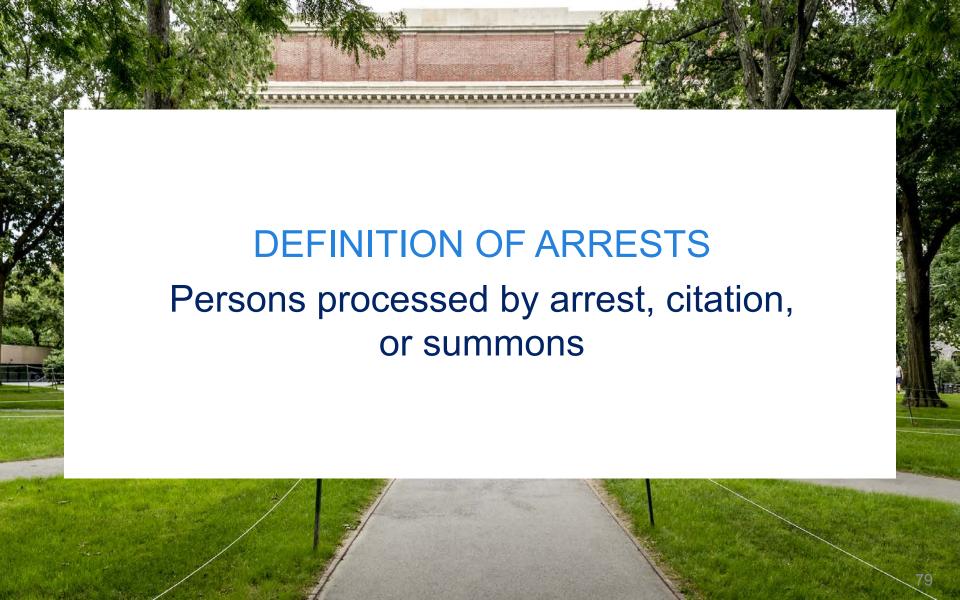
Drug Law Violations

Weapons - Carrying, Possessing, Etc. Law Violations



Liquor Law Violations

Arrests and referrals for these law violations are not covered by the Hierarchy Rule used to count Criminal Offenses.



REPORTING ARRESTS FOR ANY VIOLATION

- Use state laws or local ordinances
- Don't use institutional policy
- Count the number of arrests for weapons, drug, and liquor law violations separately
- Count for all required geographic areas
- Do NOT combine arrests and referrals

COUNT ARREST IF...

- Person is arrested and released without a formal charge
- Juvenile taken into custody but merely warned and released without being charged
- Official action is taken beyond a mere interview or warning

IF...

- Same person is arrested more than once for multiple separate incidents, count each separate arrest
- Referred for another violation (e.g., arrested for a drug law violation and referred for a liquor law violation) — count only the arrest
- Referred for the same violation (e.g., a drug law violation) — count only the arrest

ARRESTS: USE DISCRETION

- If there are multiple arrest or referral counts, determine which to count and document justification.
- Officer discretion is allowed only for illegal weapons possession, drug, and liquor law violations that occur during the same incident.

ARRESTS

DO NOT COUNT ARRESTS IF:

- Police contact a juvenile who has committed no offense
- Police take a juvenile into custody for their own protection, but no crime was committed



Two non-students are arrested during an on-campus football game for possession of cocaine. They were also cited for underage possession of alcohol.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?



Two students are involved in a verbal altercation in the parking lot of a bar across the street from their residence hall. Both are 19 years old and are intoxicated. One student begins to beat the other with a concrete block. Campus police respond and arrest both students for underage drinking and the aggressor for the assault.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

REFERRALS: 3 CRITICAL ELEMENTS

- Receiving official must initiate disciplinary action
- Record must be kept
- Action may, but doesn't have to, result in a sanction

The results of the disciplinary process (found responsible or not or accepts lesser violation as a "plea bargain") are irrelevant.

REFERRALS: OTHER IMPORTANT ELEMENTS

Not necessary that:

- Referrals originate with police
- A sanction be imposed

Count:

- Referrals within required geographic areas
- Violations of law (not just policy)
- Weapons, drug, and liquor law violations separately

Do not combine statistics for arrests and referrals.

HOW TO COUNT REFERRALS

COUNT:

- Number of persons, not violations
- Each referral if same person is referred more than once for multiple separate incidents
- Include "mediation" as long as fits definition

REFERRALS: USE DISCRETION

- If a person is referred for multiple violations during a single incident, use discretion to determine which violation to count
- Justify and document determination



A faculty member is referred for disciplinary action for having a firearm in their office in violation of school policy, but in a state without a law against possessing a firearm on campus.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?



A student is referred for disciplinary action for smoking marijuana in his on-campus residence hall. Because this is his first offense, he is issued a warning and no sanction is given. A record is kept of the action.

- A. Yes (On-Campus and On-Campus Student Housing
- B. Yes (On-Campus)
- C. Yes (Noncampus
- D. Yes (Public Property)
- E. No

- Which Clery Act crime is it?
- Where did this incident take place within Clery geography (on-campus, on-campus student housing, noncampus, public property)?
- How should this incident be counted?

"CHRIS"

- Chris attended a fraternity party last night and woke up today in the bed of their friend, Sam, who lives in Merriweather Hall. Chris lives in Post Hall.
- Chris returns to Post Hall and checks in with the RA.
- Chris tells the RA, "I think Sam raped me."
- Chris was drinking at the party, but is unsure of how much; Chris does remember returning to Sam's room before blacking out and shares all of this with the RA.
- Chris is scared and wants to figure out what really happened but doesn't want to make Sam mad or upset.
- Chris wants help understanding what happens when something like this is reported but Chris does not want "one of those warning emails" to go out to the entire campus.
- Chris doesn't know what to do next.

- Did Chris disclose to any campus security authorities?
- Did any crimes occur within Clery geography?
- If so, how would this incident be reflected in an institution's statistics?

MESSAGING TO YOUR CAMPUS

Take a minute on your own to note on the Reminders: What to Report page a few key messages about classifying and counting Clery crimes that you would like to share with your campus community.



CLERY CENTER

85 Old Eagle School Road, Suite 103 Strafford, PA 19087 484.580.8754

info@clerycenter.org clerycenter.org

Connect with us on social media! @Clery Center







