



## Clery Act Crime Definitions

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

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

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

**A. Rape**

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

**B. Fondling**

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

**Sex Offenses, Nonforcible:** Unlawful, nonforcible sexual intercourse.

**A. Incest**

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

**B. Statutory Rape**

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

### **Incapacity to Consent Definition– Oregon Revised Statutes (163.315<sup>1</sup>)**

(1) A person is considered incapable of consenting to a sexual act if the person is:

- (a) Under 18 years of age;
- (b) Mentally defective;
- (c) Mentally incapacitated; or
- (d) Physically helpless.

(2) A lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with all other relevant evidence. [1971 c.743 §105; 1999 c.949 §2; 2001 c.104 §52]

### **Incapacity to Consent Definitions - University of Oregon Student Code of Conduct**

- A. Mental disorder:** a person suffers from a mental disease or disorder that renders that person incapable of appraising the nature of the conduct or another person.
- B. Mental incapacitation:** a person is rendered incapable of appraising or controlling one's own conduct at the time of the alleged offense because of the influence of a controlled or intoxicating substance or because of any act committed upon the person without consent.
- C. Physical helplessness:** a person is unconscious or for any other reason is physically unable to communicate unwillingness to engage in an act.



### **Explicit Consent – University of Oregon Student Code of Conduct**

Voluntary, non-coerced and clear communication indicating a willingness to engage in a particular act. “Explicit consent” includes an affirmative verbal response or voluntary acts unmistakable in their meaning.

### **Domestic Violence (ORS 107.700)**

Domestic Violence: Abuse between family or household members.

Family or household members: Spouses or former spouses; adults related by blood, marriage or adoption; persons cohabitating or who have cohabitated; persons in a past or present sexually intimate relationship; unmarried parents of a child.

Abuse: The occurrence of one or more of the following acts within a domestic or dating relationship:

- (a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.
- (b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.
- (c) Causing another to engage in involuntary sexual relations by force or threat of force

### **Domestic violence (42 USC § 13925)**

- (1) A felony or misdemeanor crime of violence committed-
  - (i) By a current or former spouse or intimate partner of the victim
  - (ii) By a person with whom the victim shares a child in common;
  - (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
  - (iv) By a person similarly situated to a spouse of the victim under the domestic violence laws of the jurisdiction in which the crime of violence occurred, or
  - (v) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- (2) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

### **Dating violence (42 USC § 13925)**

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

- 1) The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of the 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.
- 3) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

### **Stalking (ORS 163.732)**

- (1) A person commits the crime of stalking if:
  - (a) The person knowingly alarms or coerces another person or a member of that person’s immediate family or household by engaging in repeated and unwanted contact with the other person;



(b) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and

(c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

### **Stalking (42 USC § 13925)**

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

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

(ii) Suffer substantial emotional distress

(2) For the purposes of this definition-

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

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

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

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

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed.

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

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

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

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



**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

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

### **Clery Act Hate Crime Definitions**

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

Campus security authorities are required to report hate crimes statistics, according to the type of bias, for the following crime categories:

1. Murder and Non-negligent Manslaughter
2. Negligent Manslaughter
3. Sex Offenses
4. Dating/Domestic Violence
5. Stalking
6. Robbery
7. Aggravated Assault
8. Burglary
9. Motor Vehicle Theft
10. Arson

The crimes below (10-13) are only Clery-reportable if they are hate crimes:

#### **11. Larceny-Theft**

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

#### **12. 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.



**13. 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.

**14. Destruction/damage/vandalism of property**

To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

The following crime definitions are from the [Uniform Crime Reporting Handbook](#):

- Murder and Non-negligent Manslaughter
- Negligent Manslaughter
- Rape
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Simple Assault
- Intimidation
- Theft-Larceny
- Vandalism

The following crime definitions are from the [National Incident-Based Reporting System](#) edition of the Uniform Crime Reporting Program:

- Fondling
- Incest
- Statutory Rape

The following crime definitions are from the Department of Education:

- Dating Violence (42 USC § 13925)
- Domestic Violence (42 USC § 13925)
- Stalking (42 USC § 13925)

The following crime definitions are from the [Oregon Revised Statutes](#):

- Incapacity to Consent (163.315<sup>1</sup>)
- Domestic Violence (ORS 107.700)
- Stalking (ORS 163.732)

The following crime definitions are from the [University of Oregon Student Conduct Code](#):

- Incapacity to Consent
- Explicit Consent