

## **Clery Act Hierarchy Following the Final Rules Implementing the Violence Against Women Act**

### **I- Clery Reportable Crimes, Incidents, Arrests & Referrals**

Following upon publication of the Final Rules implementing the Clery Act changes to the Violence Against Women Act, the following categories of crimes are reportable when the crime occurs within Clery Geography (On Campus, On Campus Residential, Non Campus and Public Property Adjacent to and Accessible from On Campus property):

#### **Part I Primary Crimes**

(A) Criminal homicide:

- (1) Murder and non-negligent manslaughter, and
- (2) Negligent manslaughter.

(B) Sex offenses:

- (1) Rape,
- (2) Fondling,
- (3) Incest, and
- (4) Statutory rape.

(C) Robbery.

(D) Aggravated assault.

(E) Burglary.

(F) Motor vehicle theft.

(G) Arson.

#### **Part II Drug Alcohol and Weapons Arrests & Referrals for Discipline**

(A) Weapons arrests.

(B) Drug law arrests

(C) Liquor law arrests

(D) Weapons law referrals

(E) Drug law referrals

(F) Liquor law referrals

**Part III Hate Crimes-** NARRATIVE FORMAT (Narrative format is advised over a table, but you may use a table that re-lists all Part I Primary crimes, plus the four Hate Crime only crimes)

#### **Part IV VAWA Crimes**

(A) Domestic violence.

(B) Dating Violence.

(C) Stalking.

### **II- Hierarchy Counting and Classifying Rules**

The Hierarchy Rule states that when counting more than one crime that occurs in a single transaction, we subsume lesser crimes into the gravest crime, and only count the gravest crime. Exceptions to the Hierarchy Rule include the following:

- Crimes that occur in on campus residence halls are counted twice, once On Campus and once On Campus Residential.
- Arson is always counted and is not subsumed into graver crimes.
- When there is a murder and a sexual assault, Sexual Assault crimes (Rape, Fondling, Incest, Statutory Rape) are not subsumed into the Murder/Non-Negligent Manslaughter
- Lesser crimes are subsumed into Sexual Assault Crimes.
- Primary Crimes that are also on the basis of bias against a listed group count twice, once in Primary Crimes and once in Hate Crimes.
- The four Hate Crime only crimes are only counted in the Hate Crime category.

- When a Primary Crime is also Domestic Violence, Dating Violence or Stalking, that crime is counted as a Primary Crime and also in the applicable VAWA crime category.
- When an incident can be classified as both Domestic Violence and Dating Violence, only count the Domestic Violence.
- When a crime or incident can be classified as Domestic Violence and/or Dating Violence and can also be classified as Stalking, count both the Stalking and the Domestic or Dating Violence.
- The Clery Handbook guidance states that when there is both an arrest and a referral for discipline for a weapon, drug or alcohol violation of state or local law, count only the arrest. Further, if there is possession of more than one of the illegal items, only count one item. The Handbook does not designate a hierarchy, but the State University of New York has received a positive response to its proposed hierarchy of Weapons, then Drugs, then Alcohol.

### III- If/Then for Clery Reportable Crimes Under the Hierarchy

<b>If the crime is (are)...</b>	<b>Then Report...</b>
Murder/non-negligent manslaughter alone or with Robbery, Burglary, Aggravated Assault, Motor Vehicle Theft (but not Arson, Sexual Assault or a VAWA Crime)	Murder/non-negligent manslaughter
Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape)	Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape)
Sexual Assault (Rape, Fondling, Incest, Statutory Rape) alone or with Robbery, Burglary, Aggravated Assault, Motor Vehicle Theft (but not Arson or a VAWA Crime)	Sexual Assault (Rape, Fondling, Incest, Statutory Rape)
Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Domestic Violence	Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Domestic Violence
Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Dating Violence	Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Dating Violence
Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Domestic Violence and Dating Violence	Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Domestic Violence (when a crime is both Domestic and Dating Violence, we count only the Domestic Violence)
Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Stalking	Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Stalking
Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Domestic Violence and/or Dating Violence and Stalking	Murder/non-negligent manslaughter and Sexual Assault (Rape, Fondling, Incest, Statutory Rape) and Domestic Violence and Stalking
Any of the above situations and Arson	Count as above but add Arson
An arrest of referral for discipline for violation of state or local law for one of the following: drug, alcohol or weapons possession	If there is an arrest and a referral, count only the arrest. If either arrest or referral for more than one crime, count weapons, then drug, then alcohol, but not more than one.

**Sources:**

2011 Clery Handbook: <http://www2.ed.gov/admins/lead/safety/handbook.pdf>

Dept. of Ed Final Rules Implementing VAWA: <http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>

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