

**FBI Definitions of Crime Categories**

The following definitions are those outlined in the Federal Bureau of Investigation's National Incident-Based Reporting System, which colleges are required to use in reporting their crime statistics.

**Criminal Offenses**❖ **Criminal Homicide:**

- ❖ **Murder and Non-Negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.
- ❖ **Negligent Manslaughter:** The killing of another person through gross negligence.
- ❖ **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.
- ❖ **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.
  - ❖ **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without 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.
  - ❖ **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - ❖ **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- ❖ **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 and probably would result in serious personal injury if the crime were successfully completed.)
- ❖ **Burglary:** The unlawful entry of a structure to commit a felony or theft including: 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.
- ❖ **Motor-Vehicle Theft:** The theft or attempted theft of a motor vehicle including automobiles taken by persons not having lawful access even though the vehicle is later abandoned, including joyriding.
- ❖ **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.

**Hate Crimes**

A criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias. Bias is a preformed negative opinion of attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation, gender identity, ethnicity, or national origin. There are six categories of bias reported under the Clery Act.

- ❖ **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, whites, etc.).
- ❖ **Gender:** A preformed negative opinion or attitude toward a group of persons because those persons are male or female.
- ❖ **Religion:** A preformed negative 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 attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals).
- ❖ **Ethnicity/National Origin:** A preformed negative attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs, and traditions (e.g., Arabs, Hispanics).
- ❖ **Disability:** A preformed negative attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

**Larceny-Theft, Simple Assault, Intimidation, and Destruction/Damage/Vandalism of Property**

(These offenses are only included in the Clery statistics if they are Hate Crimes.)

- ❖ **Larceny-Theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. (Larceny and theft mean the same thing in the UCR.) 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:** Unlawfully placing 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.
- ❖ **Destruction/Damage/Vandalism of Property:** Willfully or maliciously destroying, damaging, defacing, or otherwise injuring real or personal property without the consent of the owner or the person having custody or control of it.

#### Arrests and Disciplinary Referrals for Violation of Weapons, Drug and Liquor Laws

- ❖ **Arrest:** Persons processed by arrest, citation, or summons.
- ❖ **Referred for Disciplinary Action:** The referral of any person to any official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction
- ❖ **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 weapon offenses that are regulatory in nature.
- ❖ **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. This includes arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs
- ❖ **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.

#### Violence Against Women

- ❖ **Sexual Assault:** See Rape and Sex Offenses under the Criminal Offenses section above.
- ❖ **Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction; or 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.
- ❖ **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 and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- ❖ **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or suffer substantial emotional distress.

#### State of Illinois Definitions of Crime Categories

The following definitions are those outlined under Illinois Law.

#### Preventing Sexual Violence in Higher Education

- ❖ **Criminal Sexual Assault:** In Illinois, a person commits "criminal sexual assault" if "that person commits an act of sexual penetration and: (1) uses force or threat of force; (2) knows that the victim is unable to understand the nature of the act or is unable to give knowing consent; (3) is a family member of the victim, and the victim is under 18 years of age; or (4) is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim, and the victim is at least 13 years of age but under 18 years of age.
- ❖ **Criminal Sexual Abuse:** Under Illinois law, a person commits "criminal sexual abuse" by sexual touching (short of penetration), by force or threat of force, or by knowing that the victim is unable to consent to or understand the act. A person also commits sexual abuse by engaging in any sexual activity (including sexual penetration): (A) with a person over the age of nine but under 17 years old when the defendant is under the age of 17, or (B) with a person over the age of 13 but under 17 years old when the defendant is at least five years older.
- ❖ **Aggravated Criminal Sexual Assault and Sexual Abuse:** Sexual assault and sexual abuse may be punished more severely in Illinois if (A) the defendant: uses, threatens, displays, or is armed with a weapon; causes bodily harm or injury; endangers or threatens the victim's or someone else's life; gives the victim a controlled substance without the victim's consent; (B) the crime is committed during the course of another felony; or (C) the victim is over 60 years old, physically handicapped, or severely mentally disabled. Depending on the age of the defendant and the victim, the relationship between the victim

and the defendant, and whether the defendant uses forces, sexual abuse and sexual assault may also be aggravated if the victim is a child under the age of 18.

- ❖ **Domestic Violence:** The complete Illinois Domestic Violence Act can be found at 750 ILCS § 60/101, et seq. Under that law, “domestic violence” is defined as “physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.” Prohibited domestic violence directed at a “family or household member” includes “spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants and caregivers as defined in Section 12-4.4a of the Criminal Code of 2012. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship.”
- ❖ **Dating Violence:** In Illinois, the Illinois Domestic Violence Act prohibits “physical abuse, harassment, interference with personal liberty or willful deprivation” directed toward “persons who have or have had a dating or engagement relationship.” “Neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship.”
- ❖ **Stalking:** In Illinois, a person commits the criminal offense of “stalking” when “he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to: (1) fear for his or her safety or the safety of a third person or (2) suffer other emotional distress.” The term “stalking” is further defined in subsections 720 ILCS § 5/12-7.3(a-3) and (a-5); the definition for “aggravated stalking” can be found at 720 ILCS § 5/12-7.4; and the definition of “cyberstalking” can be found at 720 ILCS § 5/12-7.5.

## Definitions of Consent

### Consent

Consent is present when clearly understandable words or actions manifest a freely given agreement to engage in specific sexual or intimate conduct.

- ❖ Consent must demonstrate that all individuals understand, are aware of, and agree to the “who” (same partners), “what” (same acts), “where” (same location), “when” (same time), and “how” (the same way and under the same conditions) of the sexual activity.
- ❖ Consent must take the form of “clearly understandable words or actions” that reveal one’s expectations and agreement to engage in specific sexual activity.
- ❖ Consent must be freely given and cannot be the result of force.

### Non-Consent

A person may appear to be giving consent but may not have the capacity to do so, in which case the apparent consent is not effective. If there is any doubt as to another person’s capacity to give consent, community members should assume that the other person does not have the capacity to give consent.

Being intoxicated or impaired by drugs or alcohol does not excuse one from the responsibility to obtain consent. Being intoxicated or impaired by drugs or alcohol is never an excuse to commit sexual violence.

Consent is not present when:

- ❖ A person’s lack of verbal or physical resistance does not constitute consent. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a “no”) should not – in and of themselves – be understood as consent.
- ❖ Submission resulting from the use or threat of force does not constitute consent. This means that violence, physical restraint, or the presence of a weapon, threats (indications of intent to harm, whether direct or indirect), intimidation (extortion, menacing behavior, bullying), coercion (undue pressure) or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity) should not be understood as consent.
- ❖ Consent cannot be inferred by an individual’s manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.
- ❖ Consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent may also be withdrawn at any time – provided the person withdrawing consent makes that known in clearly understandable words or actions.
- ❖ A person’s consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.



- ❖ Consent is not present when an individual does not have the capacity to give consent, voluntarily or involuntarily, and/or is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
  - ❖ The person is underage (generally 17 in Illinois)
  - ❖ Physical condition or mental disability that impairs the individual's ability to give consent
  - ❖ Consumption of drugs or alcohol (voluntarily or involuntarily), being in a state of unconsciousness, asleep, or any other state in which the person is unaware that sexual activity is occurring

#### Signs of Incapacitation

Some indicators of a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

- ❖ When an individual demonstrates that he/she is unaware of where they are, how he/she got there, or why or how he/she became engaged in a sexual interaction
- ❖ Lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance)
- ❖ Inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words)

#### Sexual Exploitation

Sexual exploitation is taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present. This includes, but is not limited to, the following actions (including when they are done via electronic means, methods, or devices):

- ❖ Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent
- ❖ Indecent or lewd exposure or inducing others to expose themselves when consent is not present
- ❖ Recording any person engaged in sexual or intimate activity in a private space without that person's consent
- ❖ Distributing sexual information, images, or recordings about another person without that person's consent;
- ❖ Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation
- ❖ Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs

## VIOLENCE AGAINST WOMEN & PREVENTING SEXUAL VIOLENCE

#### Federal Violence Against Women Act (VAWA)

Midstate College complies with the federal Violence Against Women Act amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act and the accompanying regulations which become effective on July 1, 2015. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled.

#### State of Illinois Preventing Sexual Violence in Higher Education Act (Title IX)

Midstate College complies with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the College's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. Title IX also provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, recruitment, consideration, or selection thereof whether full-time or part-time, under any education program or activity operated by the College.

The College's Title IX Coordinator and Deputy Title IX Coordinator respond to reports of violations to Title IX compliance. A complainant has the right to contact the Illinois Department of Human Rights (IDHR), Equal Employment Opportunity Commission (EEOC) or the United States Department of Education – Office of Civil Rights (OCR) about filing a formal complaint. An IDHR complaint must be filed within one hundred eighty (180) days of the alleged incident. A complaint with the EEOC must be filed within three hundred (300) days of the alleged incident. In addition, an appeal process is available through the Illinois Human Rights Commission (IHRC) after the IDHR has completed its investigation of the complaint.