



2018 Annual Security Report

Report for KCKCC Leavenworth Pioneer Center

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Kansas City Kansas Community College

2018 Annual Security Report

Report for KCKCC Leavenworth Pioneer Center

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PART A – Annual Campus Security Report

The Annual Campus Security Report – Introduction

Thank you for spending time reviewing our annual crime and fire safety report.

Kansas City Kansas Community College publishes this report in compliance with the ***Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Higher Education Opportunity Act of 2009***. This report includes statistics for the previous three years concerning reported crimes that occurred on campus; in certain off campus buildings or property owned or controlled by Kansas City Kansas Community College; and on public property within, or immediately adjacent to and accessible from the campus.

The Campus Police department works diligently with other local departments and agencies to compile the necessary information for this report. The Kansas City Kansas Police Department, the Wyandotte County Sheriff's Department, and the Leavenworth County Sheriff's Department have assisted the college by providing important information for this report. I encourage all community members to take a few minutes and review this report. If you have any questions please feel free to contact me at 913.288.7155 or via email at gschneid@kckcc.edu.

Sincerely,

Greg

Greg Schneider
Chief of Police
Kansas City Kansas Community College
<http://www.kckcc.edu/services/campus-police>

Reporting Crimes and Emergencies

To help provide a safe and secure environment, all members of the Kansas City community, including campus visitors, are expected, requested, and encouraged to report any criminal activity or emergency they observe. Reporting may be accomplished by contacting the Campus Police Department directly at **913.288.7636** or dial **911**.

You can make a voluntary, confidential report with the Campus Police Department by calling 913.288.7636 or coming by the Campus Police office in room 3462 on the main campus.

Timely Warning

In an effort to provide timely notice to the Kansas City community, and in event of a crime which may pose a serious on-going threat to our community, the Campus Police Department will issue "timely warning" crime bulletins to notify members of the community about serious crimes against people that occur on campus. Crime Alerts are usually distributed for the following Uniformed Crime Reporting Program (UCR)/National Incident Based Reporting System (NIBRS) classifications: arson, criminal homicide, and robbery. Cases of aggravated assault and sex offenses are considered on a case-by-case basis, depending on the facts of the case and the information known by the Campus Police Department.

For example, if an assault occurs between two students who have a disagreement, there may be no on-going threat to other KCKCC community members and a Crime Bulletin would not be distributed. Crime bulletins are distributed for the above listed crimes if they occur on Kansas City Kansas Community College designated property (on campus, non-campus, public property) and the incident constitutes an ongoing serious or continuing threat to community members. The Campus Police Department works to collect this information by requesting all Campus Police Authorities and local law enforcement agencies to report the above mentioned crimes in a timely fashion so a warning can be issued. The Kansas City Kansas Community College Police Department will draft the crime Bulletin. They will review and revise the text as needed then transmit the email containing the Crime Bulletin to the College Community as a blast email. Updates to the College community about any particular case resulting in a crime bulletin may also be distributed electronically via blast email or posted on the Kansas City Kansas Community College web site at (www.KCKCC.edu).

It should be noted that an institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

Signing up for emergency messages (Rave)

All students, staff, and faculty are automatically signed up for emergency messaging. All KCKCC email addresses are locked into the system and cannot be opted out of receiving emergency messages. All supplied cell phone numbers are also automatically signed up to receive emergency text messages. Cell phones have the option of opting out of receiving the emergency messages. To opt out simply reply "stop" back to a received message from the system. It should be noted that an institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

KCKCC will immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

Notification

The College's Campus Emergency Preparedness and Response Plan includes information about Management of Emergency Response and Operations, Emergency Operations Center (EOC), and Communication Responsibilities. College departments are responsible for developing contingency plans and continuity of operations plans for their staff and areas of responsibility. The College conducts emergency response drills and exercises each year, such as table top exercises, functional exercises, and tests of the emergency notification systems on campus. These tests are designed to assess and evaluate the emergency plans and capabilities of the institution.

Several campus police officers, supervisors and administrators have received training in Incident Command and Responding to Critical Incidents on Campus. When a serious incident occurs that causes an immediate threat to the campus, the first responders to the scene are usually the Leavenworth Police, Leavenworth County Sheriff, and/or the Leavenworth Fire & EMS agencies, when their assistance is necessary. These agencies typically respond and work together to manage the incident. Depending on the nature of the incident, other College departments and other local or federal agencies could also be involved in responding to the incident.

The College has general evacuation guidelines, in the event that a segment of the campus needs to be evacuated. The plan would be affected by a myriad of factors, including the type of threat, the occupancy of the other buildings and areas of the campus at the time of the incident, etc. Therefore, specific information about a multi-building or area evacuation cannot be shared with the campus community in advance. Kansas City Kansas Community College expects members of the community to follow the

instructions of first responders on the scene, as this type of evacuation would be coordinated on-site. In some emergencies, you may be instructed to “shelter-in-place”. If an incident occurs and the buildings or areas around you become unstable, or if the air outdoors becomes dangerous due to toxic or irritating substances, it is usually safer to stay indoors, because leaving the area may expose you to that danger. Thus, to “shelter-in-place” means to make a shelter of the building that you are in, and with a few adjustments this location can be made even safer and more comfortable until it is safe to go outside. This means that if an incident occurs and the building you are in is not damaged; stay inside in an interior room until you are told it is safe to come out. If your building is damaged, take your personal belongings (purse, wallet, access cards, etc.) and follow the evacuation procedures for your building (close your door, proceed to the nearest exit, and use the stairs instead of the elevators). Once you have evacuated, seek shelter at the nearest College building quickly. If police or fire department personnel are on the scene, follow their directions.

Additional information about the emergency response/evacuation procedures and updates to the plans for the College is available at <http://kckcc.edu/explore-kckcc/campus/safety>

Community members are encouraged to notify Campus Police of any situation or incident on campus that involves a significant emergency or dangerous situation that may involve an immediate threat to the health and safety of students and/or employees on campus. Campus Police has the responsibility of responding to, and summoning the necessary resources, to mitigate, investigate, and document any situation that may cause a significant emergency or dangerous situation. In addition, Campus Police has a responsibility to respond to such incidents to determine if the situation does in fact, pose a threat to the community, however other departments such as physical plant, student health, etc. may be involved in the confirmation process, depending on the nature of the potential threat. If so, Federal Law requires that the institution notify the campus community or the appropriate segments of the community that may be affected by the situation.

KCKCC will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

If Campus Police or other campus officials confirm there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of our community, The Kansas City Kansas Community College Police Chief, Deputy Chief, Chief Financial Officer, Chief Information Officer or their designee will collaborate to determine the content of the message and they will initiate

some or all of the systems described above in the Timely Warning section to communicate the threat to the college community or to the appropriate segment of the community, if the threat is limited to a particular building or segment of the population.

It should be noted that unlike the Timely Warning requirement, emergency notification isn't restricted just to Clery reportable crimes. Incidents such as a series gas leak, haz-mat spill, etc., could warrant the use of this protocol. The Campus Police Department will, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the judgment of the first responders (Leavenworth Police, Leavenworth County Sheriff, and the Leavenworth Fire & EMS, etc.), compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Annual Notification & Testing

Kansas City Kansas Community College will annually test and publicize their emergency response and evacuation procedures. These tests may be announced or unannounced depending on the type of exercise. Community members are encouraged to review the College's fire/tornado response plan and evacuation procedures located on the web at <http://kckcc.edu/explore-kckcc/campus/safety>.

Reporting Crimes on a Voluntary, Confidential Basis

Campus police cannot guarantee that you will remain anonymous when filing a report. If you are a victim of a sex crime and do not want to pursue action within the college system or the criminal justice system, you may still want to consider making a confidential report. The Title IX Coordinator can file a report on the details of an incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the College can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime in regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the institution

Preparation of the Annual Disclosure of Crime Statistics

The College prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The Chief of Police takes several steps to ensure required statistics are

compiled correctly. In addition, the Chief solicits the required crime statistics from the Kansas City Kansas Police Department and all the statistics are reviewed to insure none of them have been "double reported".

By October 1st of each year, a notice is emailed to all faculty, staff, and students that provide a direct link to the KCKCC web site containing the Annual Security Report (http://www.kckcc.edu/_files/docs/safety/kckcc-clery-leavenworth-report.pdf). Hard copies of the report may be obtained at the Campus Police Department located in Science Building or by calling 913.288.7636. A notice is posted on the on-line application page for prospective employers through the Human Resource office. A notice is also placed in all the application packets for prospective students. Candidates that apply outside of the on-line application process (i.e. Faculty) are provided the information if they are brought to campus for an interview.

Department Authority

The Campus Police Department is located in the Science Building (Main Campus) and provides protection and service to the Kansas City Kansas Community College Leavenworth Center community by foot, Monday thru Thursday from 5pm to 930pm. A Chief, Deputy Chief, 4 Sergeants, and 12 patrol officers staff the Campus Police Department. They are charged with the responsibility of making sure federal, state, and local laws, as well as College policies and procedures are obeyed and enforced.

All KCKCC Campus Police are state certified Law Enforcement officers and possess all powers that come with that state certification. Additionally, Campus Police maintains a strong working relationship with local, state, and federal law enforcement.

Policies and Procedures Encouraging Accurate and Prompt Reporting

All faculty, staff, students, and visitors are encouraged to report all crimes and public safety related incidents to the Kansas City Kansas Community College Campus Police Department in a timely manner. By promptly reporting crimes, it will ensure inclusion in the annual crime statistics and will aid in providing timely warning notices to the community, when appropriate.

To report a crime or suspicious activity, please contact Campus Police at 913.288.7636.

If you are unsure what you have witnessed or experienced is a crime, please contact the

Campus Police Department and we will assist you with your situation. Campus Police Officers are available 24 hours a day to answer your calls. In response to a call, a Campus Police Officer will take the required action, either dispatching an officer to your location, asking you to come to our office, or assist you in contacting another agency such as the Kansas City Kansas Police Department.

Campus Escort Program

Campus Police Officers are available to provide escorts between 5pm and 930pm Monday thru Thursday to and from any location on the KCKCC Leavenworth campus. Please be patient when calling as officers may be busy handling other calls.

Possession, Use and Sale of Alcoholic Beverages

The use, sale, delivery, possession and consumption of alcoholic beverages in or on any property owned or controlled by the College are strictly prohibited except as specifically stated in College policy. The College enforces all city, state and federal laws pertaining to the illegal use of alcoholic beverages, particularly the laws that prohibit the sale to or possession of alcoholic beverages by person(s) under the age of 21.

It is also a violation of College policy to possess alcohol in any public area of campus even if the person in possession is of legal age. Any groups or persons violating the alcohol/substance policies or laws may be subject to arrest by Campus Police Department and/or disciplinary sanctions by the College.

Possession, Use and Sale of Illegal Drugs

The possession, sale, manufacture, or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the College. Violators are subject to arrest by the Campus Police Department and/or disciplinary sanctions by the College.

Please refer to the *Kansas City Kansas Community College Alcohol and Controlled Substances Policy* listed in the Student Code of Conduct.

If You Are a Victim of a Sexual Assault

If you are a victim of a sexual assault, please contact the Campus Police Department immediately by calling 913.288.7636 and/or the Kansas City Kansas Police Department at

913.596.3000. You can also report the sexual assault to the Title IX coordinator by calling 913-288-7471. The Title IX coordinator can take the report confidentially. If you have been a victim of sexual assault, do not wash or change clothes, valuable evidence could be lost. Hair fibers, semen, saliva, and anything containing DNA can be helpful in solving the case. A sexual assault victim should report the incident to the Campus Police Department, Title IX coordinator, and/or Kansas City Kansas Police Department, even if the victim does not want to press charges. This will allow the investigators to gather important evidence should the victim later change his/her mind. When a sexual assault victim contacts the local police department, a sex crimes detective may be contacted to assist in the investigation. The victim may choose to pursue the investigation through the criminal justice system and/or the college judicial system. A College representative will guide the victim through the available options and support the victim in his or her decision. Various counseling options are available from the College through the Health office as well as the Counseling Center. Support services outside of KCKCC are offered by the Women's Resource Center.

Victim Notification

KCKCC will, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

Campus Sex Crimes Prevention Act

The Campus Sex Crimes Prevention Act (CSCPA) of 2000 is a federal law that provides for the tracking of convicted sex offenders enrolled at, or employed by, institutions of higher education. The CSCPA is an amendment to the Jacob Wetterling Crimes against Children and Sexually Violent Offender Act.

Under the Campus Sex Crimes Prevention Act, persons required to register under a state offender registration program must notify the state concerning each post-secondary school at which the offender works or is a student. The State of Kansas has developed a state wide registry list. The information on the web site refers only to persons who have been convicted of, found guilty of or plead guilty to committing or attempting to commit sexual offenses and may not reflect the entire criminal history of a particular individual. Offenders required to register for crimes of kidnapping, felonious restraint or child abuse may not be listed.

STATE OF KANSAS SEX OFFENDER LIST

www.accesskansas.org/kbi/ro.shtml

The CSCPA further amends the Family Educational Rights and Privacy Act of 1974 (FERPA) to clarify that nothing in the Act can prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders.

Crime Log

The Kansas City Kansas Community College Police Department maintains a daily crime log that records, by the date the incident was reported, all crimes and other serious incidents that occur on campus, on or in a non-campus building or property, on public property, or within the patrol jurisdiction of the Campus Police Department. The Daily Crime Log is open for public inspection and available in the Campus Police office located in the Science Building (room 3462)

Our process for maintaining and posting the Daily Crime Log complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (as amended in October 1998).

The Daily Crime Log includes:

- The nature, date, time, and general location of each crime reported to us; and
- The disposition of the complaint, if the disposition is known at the time the log is created.

The Kansas City Kansas Community College Police Department posts specific incidents in the Daily Crime Log within two business days of receiving a report of an incident. We reserve the right to exclude crime report information from the log under these circumstances:

- If posting the information jeopardizes an on-going investigation;
- If posting the information would cause a suspect to flee or evade detection;
- If posting the information could result in the destruction of evidence relating to the crime

Once these factors are no longer present, and/or there is no longer a chance that posting the information would adversely affect an on-going investigation, we will post the information.

We make available the most recent 60 days of crime logs. If you wish to view Daily Crime Logs older than the most recent 60 days, please contact the Campus Police Department at 913.288.7236.

Dating Violence Definition

The definition (from VAWA) of dating violence.

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.

i. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

ii. For the purposes of this definition—

A) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

B) Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence Definition

The definition (from VAWA) of domestic violence.

Domestic Violence:

i. A Felony or misdemeanor crime of violence committed—

A) By a current or former spouse or intimate partner of the victim;

B) By a person with whom the victim shares a child in common;

C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

D) 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

E) 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.

Sexual Assault Definition

The definition (from VAWA) of sexual assault.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, A sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."

- *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.*
- *Fondling: The touching of the private 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.*
- *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.*

Stalking Definition

The definition (from VAWA) of stalking.

Stalking:

- i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—*
 - A) Fear for the person's safety or the safety of others; or*
 - B) Suffer substantial emotional distress.*
- ii. For the purposes of this definition—*
 - A) Course of conduct means two or more acts, including, but not limited to, acts 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.*
 - B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.*
 - C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.*

Bystander Intervention

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers

to intervening, identifying safe and effective intervention options, and taking action to intervene. Consequently if a bystander observes this type of behavior we would like for them to intervene if it is safe to do so.

KCKCC Pioneer Career Center 1901 Spruce St.

Leavenworth, Kansas 66048

Crime Category	2015				2016				2017			
	Location				Location				Location			
	On Campus	Non-Campus	Public Property	On Campus Housing	On Campus	Non-Campus	Public Property	On Campus Housing	On Campus	Non-Campus	Public Property	On Campus Housing
Murder / Non Negligent Manslaughter	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Negligent Manslaughter	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Rape / Forcible Fondling	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Incest / Statutory Rape	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Robbery	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Aggravated Assault	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Burglary	0	0	0	n/a	0	0	0	n/a	1	0	0	n/a
Motor Vehicle Theft	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Arson	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Arrest												
Liquor Arrest	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Drug Arrest	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Weapon Arrest	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Referrals												
Liquor Referral	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Drug Referral	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Weapon Referral	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
VAWA												
Domestic Violence	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Dating Violence	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Stalking	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a
Unfounded Crimes												
Total Unfounded Crimes	0	0	0	n/a	0	0	0	n/a	0	0	0	n/a

*2015 stats are from July 1, 2015 - December 31, 2015. This Center opened on July 1, 2015

No Hate Crimes were reported during the calendar years 2015, 2016, and 2017

This campus does not have student housing.

**KCKCC Leavenworth Center 225 Cherokee.
Leavenworth, Kansas 66048**

Crime Category	2015				2016				2017			
	Location				Location				Location			
	On Campus	Non-Campus	Public Property	On Campus Housing	On Campus	Non-Campus	Public Property	On Campus Housing	On Campus	Non-Campus	Public Property	On Campus Housing
Murder / Non Negligent Manslaughter	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Negligent Manslaughter	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Rape / Forcible Fondling	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Incest / Statutory Rape	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Robbery	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Aggravated Assault	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Burglary	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Motor Vehicle Theft	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Arson	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Arrest												
Liquor Arrest	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Drug Arrest	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Weapon Arrest	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Referrals												
Liquor Referral	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Drug Referral	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Weapon Referral	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
VAWA												
Domestic Violence	1	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Dating Violence	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Stalking	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Unfounded Crimes												
Total Unfounded Crimes	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

*2015 stats are from January 1, 2015 -June 30, 2015. This location closed on July 1, 2015

No Hate Crimes were reported during the calendar years 2015, 2016, and 2017

This campus does not have student housing.

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Appendix

Clery Act Crime Definitions

Federal Bureau of Investigation Uniform Crime Reporting/National Incident-Based Reporting System Crime Definitions

Excerpted from the Implementing Regulations of the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act" (originally the Campus Security Act) originally published in the Federal Register on April 29, 1994 (Vol. 59, No. 82) and November 1, 1999 (Vol 64, No. 210).

The following definitions are to be used for reporting the crimes listed in 34 CFR sec. 668.46 (previously 668.47) in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program. The definitions for murder, robbery, aggravated assault, burglary, motor vehicle theft, weapon law violations, drug abuse violations and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions of forcible and no forcible sex offenses are excerpted from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Handbook.

Crime Definitions from the Uniform Crime Reporting Handbook

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.

Criminal Homicide-Manslaughter by Negligence The killing of another person through gross negligence.

Criminal Homicide-Murder and Non-negligent Manslaughter The willful (non-negligent) killing of one human being by another.

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 a theft. For reporting purposes this definition includes: 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 (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned) , and including joyriding)

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; and all attempts to commit any of the aforementioned.

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 nonnarcotic drugs (barbiturate's, Benzedrine).

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

Sex Offenses Definitions from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program

Sex Offenses-Forcible Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

- A. Forcible Rape-** The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

B. Forcible Sodomy- Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the persons will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

C. Sexual Assault With An Object- The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

C. Forcible Fondling- The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Sex Offenses-Non-forcible Unlawful, non-forcible sexual intercourse.

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

B. Statutory Rape-Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Hate Crimes

Hate Crimes crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim.

Source: Federal Register, April 29, 1994, Vol. 59, No. 82; Federal Register, November 1, 1999, Vol. 64, No. 210.

State of Kansas Crime Reporting Definitions

21-5812. Arson.

(a) Arson is:

(1) Knowingly, by means of fire or explosive damaging any building or property which:

(A) Is a dwelling in which another person has any interest without the consent of such other person;

(B) is a dwelling with intent to injure or defraud an insurer or lienholder;

(C) is not a dwelling in which another person has any interest without the consent of such other person; or

(D) is not a dwelling with intent to injure or defraud an insurer or lienholder;

(2) accidentally, by means of fire or explosive, as a result of manufacturing or attempting to manufacture a controlled substance or controlled substance analog in violation of K.S.A. 2010 Supp. 21-5703, and amendments thereto, damaging any building or property which is a dwelling; or

(3) accidentally, by means of fire or explosive as a result of manufacturing or attempting to manufacture a controlled substance or controlled substance analog in violation of K.S.A.2010 Supp. 21-5703, and amendments thereto, damaging any building or property which is not a dwelling.

(b) Aggravated arson is arson, as defined in subsection (a):

(1) Committed upon a building or property in which there is a human being; or

(2) which results in great bodily harm or disfigurement to a firefighter or law enforcement officer in the course of fighting or investigating the fire.

(c) (1) Arson as defined in:

(A) Subsection (a)(1)(A) or (a)(1)(B) is a severity level 6, person felony;

(B) subsection (a)(1)(C) or (a)(1)(D) or (a)(3) is a severity level 7, nonperson felony; and

(C) subsection (a)(2) is a severity level 7, person felony.

(2) Aggravated arson as defined in:

(A) Subsection (b)(1) is a:

(i) Severity level 3, person felony, if such crime results in a substantial risk of bodily harm; and

(ii) severity level 6, person felony, if such crime results in no substantial risk of bodily harm; and

(B) subsection (b)(2) is a severity level 3, person felony.

21-5401. Capital murder.

(a) Capital murder is the:

- (1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in K.S.A. 21-3420 and amendments thereto, or aggravated kidnapping, as defined in K.S.A. 21-3421 and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person for ransom;
 - (2) intentional and premeditated killing of any person pursuant to a contract or agreement to kill such person or being a party to the contract or agreement pursuant to which such person is killed;
 - (3) intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail;
 - (4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, as defined in K.S.A. 21-3502 and amendments thereto, criminal sodomy, as defined in subsections (a)(2) or (a)(3) of K.S.A. 21-3505 and amendments thereto or aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto, or any attempt thereof, as defined in K.S.A. 21-3301 and amendments thereto;
 - (5) intentional and premeditated killing of a law enforcement officer, as defined in K.S.A. 21-3110 and amendments thereto;
 - (6) intentional and premeditated killing of more than one person as a part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or
 - (7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping, as defined in K.S.A. 21-3420 and amendments thereto, or aggravated kidnapping, as defined in K.S.A. 21-3421 and amendments thereto, when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or with the child or with intent that the child commit or submit to a sex offense.
- (b) For purposes of this section, 'sex offense' means rape, as defined in K.S.A. 21-3502 and amendments thereto, aggravated indecent liberties with a child, as defined in K.S.A. 21-3504 and amendments thereto, aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto, selling sexual relations, as defined in K.S.A. 21-3512 and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto, or sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.
- (c) Capital murder or attempt to commit capital murder is an off-grid person felony.

(d) The provisions of subsection (c) of K.S.A. 2013 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of capital murder pursuant to this section.

21-5402. Murder in the first degree.

(a) Murder in the first degree is the killing of a human being committed:

(1) Intentionally, and with premeditation; or

(2) in the commission of, attempt to commit, or flight from any inherently dangerous felony.

(b) Murder in the first degree is an off-grid person felony.

(c) As used in this section, an "inherently dangerous felony" means:

(1) Any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2):

(A) Kidnapping, as defined in subsection (a) of K.S.A. 21-5408, and amendments thereto;

(B) aggravated kidnapping, as defined in subsection (b) of K.S.A. 21-5408, and amendments thereto;

(C) robbery, as defined in subsection (a) of K.S.A. 21-5420, and amendments thereto;

(D) aggravated robbery, as defined in subsection (b) of K.S.A. 21-5420 and amendments thereto;

(E) rape, as defined in K.S.A. 21-5503, and amendments thereto;

(F) aggravated criminal sodomy, as defined in subsection (b) of 21-5504, and amendments thereto;

(G) abuse of a child, as defined in K.S.A. 21-5602, and amendments thereto;

(H) felony theft of property as defined in subsection (a)(1) or (a)(3) of 21-5801, and amendments thereto;

(I) burglary, as defined in subsection (a) of K.S.A. 21-5807, and amendments thereto;

(J) aggravated burglary, as defined in subsection (b) of K.S.A. 21-5807, and amendments thereto;

(K) arson, as defined in subsection (a) of K.S.A. 21-5812, and amendments thereto;

(L) aggravated arson, as defined in subsection (b) of K.S.A. 21-5812, and amendments thereto;

(M) treason, as defined in K.S.A. 21-5901, and amendments thereto;

(N) any felony offense as provided in K.S.A. 2009 Supp. 21-36a03, 21-36a05 or 21-36a06, and amendments thereto;

(O) any felony offense as provided in subsection (a) or (b) of K.S.A. 21-6308, and amendments thereto;

(P) endangering the food supply, as defined in subsection (a) of K.S.A. 21-6317, and amendments thereto;

(Q) aggravated endangering the food supply, as defined in subsection (b) of K.S.A. 21-6317, and amendments thereto;

(R) fleeing or attempting to elude a police officer, as defined in subsection (b) of K.S.A. 8-1568, and amendments thereto;

(S) aggravated endangering a child, as defined in subsection (b)(1) of K.S.A. 21-5601, and amendments thereto;

(T) abandonment of a child, as defined in subsection (a) of K.S.A. 2011 Supp. 21-5605, and amendments thereto; or

(U) aggravated abandonment of a child, as defined in subsection (b) of K.S.A. 2011 Supp. 21-5605, and amendments thereto; and

(2) any of the following felonies, only when such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as to not be an ingredient of the homicide alleged to be a violation of subsection (a)(2):

(A) Murder in the first degree, as defined in K.S.A. 21-5402;

(B) murder in the second degree, as defined in K.S.A. 21-5403, and amendments thereto;

(C) voluntary manslaughter, as defined in subsection (a)(1) of K.S.A. 21-5404, and amendments thereto;

(D) aggravated assault, as defined in subsection (b) of K.S.A. 21-5412, and amendments thereto;

(E) aggravated assault of a law enforcement officer, as defined in subsection (d) of K.S.A. 21-5412, and amendments thereto;

(F) aggravated battery, as defined in subsection (b)(1) of K.S.A. 21-5413, and amendments thereto; or

(G) aggravated battery against a law enforcement officer, as defined in subsection (d) of K.S.A. 21-5413, and amendments thereto.

(d) Murder in the first degree as defined in subsection (a)(2) is an alternative method of proving murder in the first degree and is not a separate crime from murder in the first degree as defined in subsection (a)(1). The provisions of K.S.A. 21-5109, and amendments thereto, are not applicable to murder in the first degree as defined in subsection (a)(2). Murder in the first degree as defined in subsection (a)(2) is not a lesser included offense of murder in the first degree as defined in subsection (a)(1), and is not a lesser included offense of capital murder as defined in K.S.A. 21-5401, and amendments thereto. As set forth in subsection (b) of K.S.A. 21-5109, and amendments thereto, there are no lesser included offenses of murder in the first degree under subsection (a)(2).

(e) The amendments to this section by this act establish a procedural rule for the conduct of criminal prosecutions and shall be construed and applied retroactively to all cases currently pending.

21-5403. Murder in the second degree.

Murder in the second degree is the killing of a human being committed:

(a) Intentionally; or

(b) unintentionally but recklessly under circumstances manifesting extreme indifference to the value of human life.

Murder in the second degree as described in subsection (a) is a severity level 1, person felony.

Murder in the second degree as described in subsection (b) is a severity level 2, person felony.

21-5413. Battery; aggravated battery; battery of a law enforcement officer; aggravated battery of a law enforcement officer; battery against a school employee; battery against a mental health employee.

(a) Battery is:

(1) Knowingly or recklessly causing bodily harm to another person; or

(2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner;

(b) Aggravated battery is:

(1) (A) Knowingly causing great bodily harm to another person or disfigurement of another person;

(B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted;

(2) (A) recklessly causing great bodily harm to another person or disfigurement of another person; or

(B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted.

(3) (A) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act; or

(B) committing an act described in K.S.A. 8-1567, and amendments thereto, when bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement or death can result from such act.

(c) Battery against a law enforcement officer is:

(1) Battery, as defined in subsection (a)(2), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, or a

juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) battery, as defined in subsection (a)(1), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(3) battery, as defined in subsection (a) committed against a:

(A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(B) state correctional officer or employee by a person confined in such juvenile correctional facility, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(C) juvenile detention facility officer or employee by a person confined in such juvenile detention facility, while such officer or employee is engaged in the performance of such officer's or employee's duty; or

(D) city or county correctional officer or employee by a person confined in a city holding facility or county jail facility, while such officer or employee is engaged in the performance of such officer's or employee's duty.

(d) Aggravated battery against a law enforcement officer is:

(1) An aggravated battery, as defined in subsection (b)(1)(A) committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

- (C) judge, while such judge is engaged in the performance of such judge's duty;
- (D) attorney, while such attorney is engaged in the performance of such attorney's duty; or
- (E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;
- (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a:
 - (A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty;
 - (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;
- (C) judge, while such judge is engaged in the performance of such judge's duty;
- (D) attorney, while such attorney is engaged in the performance of such attorney's duty; or
- (E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or
- (3) knowingly causing, with a motor vehicle, bodily harm to a:
 - (A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or
 - (B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.
- (e) Battery against a school employee is a battery, as defined in subsection (a), committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.
- (f) Battery against a mental health employee is a battery, as defined in subsection (a), committed against a mental health employee by a person in the custody of the secretary for aging and disability services, while such employee is engaged in the performance of such employee's duty.
- (g) (1) Battery is a class B person misdemeanor.
- (2) Aggravated battery as defined in:
 - (A) Subsection (b)(1)(A) is a severity level 4, person felony;
 - (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony;
 - (C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person felony; and
 - (D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person felony.
- (3) Battery against a law enforcement officer as defined in:
 - (A) Subsection (c)(1) is a class A person misdemeanor;
 - (B) subsection (c)(2) is a severity level 7, person felony; and

- (C) subsection (c)(3) is a severity level 5, person felony.
- (4) aggravated battery against a law enforcement officer as defined in:
- (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and
- (B) subsection (d)(2) is a severity level 4, person felony.
- (5) Battery against a school employee is a class A person misdemeanor.
- (6) Battery against a mental health employee is a severity level 7, person felony.
- (h) As used in this section:
- (1) "Correctional institution" means any institution or facility under the supervision and control of the secretary of corrections;
- (2) "state correctional officer or employee" means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, whose duties include working at a correctional institution;
- (3) "juvenile detention facility officer or employee" means any officer or employee of a juvenile detention facility as defined in K.S.A. 2010 Supp. 38-2302, and amendments thereto;
- (4) "city or county correctional officer or employee" means any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, working at a city holding facility or county jail facility;
- (5) "school employee" means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12;
- (6) "mental health employee" means (A) an employee of the Kansas department for aging and disability services working at Larned state hospital, Osawatomie state hospital, Kansas neurological institute and Parsons state hospital and training center and the treatment staff as defined in K.S.A. 59-29a02, and amendments thereto, and (B) contractors and employees of contractors under contract to provide services to the Kansas department for aging and disability services working at any such institution or facility;
- (7) "judge" means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;
- (8) "attorney" means a: (A) County attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;
- (9) "community corrections officer" means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community

corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs; and

(10) "court services officer" means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court.

21-5414. Domestic Battery

(a) Domestic battery is:

(1) Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or

(2) knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) Domestic battery is a:

(1) Except as provided in subsection (b)(2) or (b)(3), a Class B person misdemeanor and the offender shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;

(2) except as provided in subsection (b)(3), a class A person misdemeanor, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a second time and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections; and

(3) a person felony, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$7,500. The offender convicted shall not be eligible for release on

probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections. If the offender does not undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

(c) As used in this section:

(1) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(A) "Conviction" includes being convicted of a violation of K.S.A. 21-3412a, prior to its repeal, this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(B) "conviction" includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(C) only convictions occurring in the immediately preceding five years including prior to July 1, 2011, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(d) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five-year period.

21-5420. Robbery; aggravated robbery.

(a) Robbery is knowingly taking property from the person or presence of another by force or by threat of bodily harm to any person.

(b) Aggravated robbery is robbery, as defined in subsection (a), when committed by a person who:

(1) Is armed with a dangerous weapon; or

(2) inflicts bodily harm upon any person in the course of such robbery.

(c) (1) Robbery is a severity level 5, person felony.

(2) Aggravated robbery is a severity level 3, person felony.

21-5807. Burglary.

(a) Burglary is, without authority, entering into or remaining within any:

(1) Dwelling, with intent to commit a felony, theft or sexually motivated crime therein;

(2) building, manufactured home, mobile home, tent or other structure which is not a dwelling, with intent to commit a felony, theft or sexually motivated crime therein; or

(3) vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property, with intent to commit a felony, theft or sexually motivated crime therein.

(b) Aggravated burglary is, without authority, entering into or remaining within any building, manufactured home, mobile home, tent or other structure, or any vehicle, aircraft, watercraft, railroad car or other means of conveyance of persons or property in which there is a human being with intent to commit a felony, theft or sexually motivated crime therein.

(c) (1) Burglary as defined in:

(A) Subsection (a)(1) is a severity level 7, person felony, except as provided in subsection (c)(2);

(B) subsection (a)(2) is a severity level 7, nonperson felony, except as provided in subsection (c)(2); and

(C) subsection (a)(3) is a severity level 9, nonperson felony, except as provided in subsection (c)(2); and

(2) subsection (a)(1), (a)(2) or (a)(3) with the intent to commit the theft of a firearm is a severity level 5, nonperson felony.

(3) Aggravated burglary is a severity level 5, person felony.

(d) As used in this section, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

21-5801. Theft.

(a) Theft is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:

- (1) Obtaining or exerting unauthorized control over property or services;
- (2) obtaining control over property or services, by deception;
- (3) obtaining control over property or services, by threat;
- (4) obtaining control over stolen property or services knowing the property or services to have been stolen by another; or
- (5) knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment with-out making payment for the motor fuel.

(b) Theft of:

- (1) Property or services of the value of \$100,000 or more is a severity level 5, nonperson felony;
- (2) property or services of the value of at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony;
- (3) property or services of the value of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony except as provided in subsection (b)(7);
- (4) property or services of the value of less than \$1,000 is a class A nonperson misdemeanor, except as provided in subsection (b)(5), (b)(6) or (b)(7);
- (5) property of the value of less than \$1,000 from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony;
- (6) property of the value of less than \$1,000 is a severity level 9, nonperson felony if committed by a person who has been convicted of theft two or more times;
- (7) property which is a firearm of the value of less than \$25,000 is a severity level 9 nonperson felony.

(c) As used in this section:

- (1) "conviction" or "convicted" includes being convicted of a violation of K.S.A. 21-3701, prior to its repeal, this section or a municipal ordinance which prohibits the acts that this section prohibits;
- (2) "regulated scrap metal" means the same as in K.S.A. 2010 Supp. 50-6,109, and amendments thereto; and

(3) "value" means the value of the property or, if the property is regulated scrap metal, the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.

21-5414. Domestic Battery

(a) Domestic battery is:

(1) Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or

(2) knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner.

(b) Domestic battery is a:

(1) Except as provided in subsection (b)(2) or (b)(3), a Class B person misdemeanor and the offender shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;

(2) except as provided in subsection (b)(3), a class A person misdemeanor, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a second time and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections; and

(3) a person felony, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$7,500. The offender convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. As a condition of any grant of probation, suspension of sentence or parole or

of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections. If the offender does not undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

(c) As used in this section:

(1) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(A) "Conviction" includes being convicted of a violation of K.S.A. 21-3412a, prior to its repeal, this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(B) "conviction" includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(C) only convictions occurring in the immediately preceding five years including prior to July 1, 2011, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(D) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(d) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five-year period.

21-5427. Stalking.

(a) Stalking is

- (1) Intentionally or recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;
- (2) intentionally engaging in a course of conduct targeted at a specific person which the individual knows will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family; or
- (3) after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 21-5924, and amendments thereto, that prohibits contact with a targeted person, intentionally or recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear.

(b) (1) Upon a first conviction, stalking as described in subsection (a)(1) is a class A person misdemeanor. Upon a second or subsequent conviction, stalking as described in subsection (a)(1) is a severity level 7, person felony.

(2) Upon a first conviction, stalking as described in subsection (a)(2) is a class A person misdemeanor. Upon a second or subsequent conviction, stalking as described in subsection (a)(2) is a severity level 5, person felony.

(3) Upon a first conviction, stalking as described in subsection (a)(3) is a severity level 9, person felony. Upon a second or subsequent conviction, stalking as described in subsection (a)(3) is a severity level 5, person felony.

(c) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a uniformed law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted intentionally as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.

(d) In a criminal proceeding under this section, a person claiming an exemption, exception or exclusion has the burden of going forward with evidence of the claim.

(e) The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.

(f) As used in this section:

- (1) "Course of conduct" means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:
 - (A) Threatening the safety of the targeted person or a member of such person's immediate family.
 - (B) Following, approaching or confronting the targeted person or a member of such person's immediate family.
 - (C) Appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family.
 - (D) Causing damage to the targeted person's residence or property or that of a member of such person's immediate family.
 - (E) Placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person.
 - (F) Causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family.
 - (G) Any act of communication.
- (2) "Communication" means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer.
- (3) "Computer" means a programmable, electronic device capable of accepting and processing data.
- (4) "Conviction" includes being convicted of a violation of this section or being convicted of a law of another state which prohibits the acts that this section prohibits.
- (5) "Immediate family" means father, mother, stepparent, child, step-child, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.
- (g) If any provision or application of this section is held invalid for any reason, the invalidity of such provision or application is severable and does not affect other provisions or applications of this section which can be given effect without the invalid provisions or applications.

21-5415. Criminal threat; aggravated criminal threat.

(a) A criminal threat is any threat to:

- (1) Commit violence communicated with intent to place another in fear, or to cause the evacuation, lock down or disruption in regular, on-going activities of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such fear or evacuation, lock down or disruption in regular, ongoing activities;
- (2) adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or
- (3) expose any animal in this state to any contagious or infectious disease.

(b) Aggravated criminal threat is the commission of a criminal threat, as defined in subsection (a), when a public, commercial or industrial building, place of assembly or facility of transportation is evacuated, locked down or disrupted as to regular, ongoing activities as a result of the threat.

(c) (1) A criminal threat is a severity level 9, person felony.

(2) Aggravated criminal threat is a severity level 5, person felony.

(d) As used in this section, "threat" includes any statement that one has committed any action described by subsection (a).

21-5408. Kidnapping; aggravated kidnapping.

(a) Kidnapping is the taking or confining of any person, accomplished by force, threat or deception, with the intent to hold such person:

- (1) For ransom, or as a shield or hostage;
- (2) to facilitate flight or the commission of any crime;
- (3) to inflict bodily injury or to terrorize the victim or another; or
- (4) to interfere with the performance of any governmental or political function.

(b) Aggravated kidnapping is kidnapping, as defined in subsection (a), when bodily harm is inflicted upon the person kidnapped.

(c) (1) Kidnapping is a severity level 3, person felony.

(2) Aggravated kidnapping is a severity level 1, person felony.

21-5503. Rape.

(a) Rape is:

(1) Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

(A) When the victim is overcome by force or fear; or

(B) when the victim is unconscious or physically powerless.;

(2) Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

(3) sexual intercourse with a child who is under 14 years of age;

(4) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or

(5) sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

(b) (1) Rape as defined in:

(A) Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

(B) subsection (a)(3) is a severity level 1, person felony, except as provided in subsection (b)(2); and

(C) subsection (a)(4) or (a)(5) is a severity level 2, person felony.

(2) Rape as defined in subsection (a)(3) or attempt, conspiracy or criminal solicitation to commit rape as defined in subsection (a)(3) is an off- grid person felony, when the offender is 18 years of age or older.

(c) If the offender is 18 years of age or older, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of rape as defined in subsection (a)(3);

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of rape as defined in subsection (a)(3); and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of rape as defined in subsection (a)(3).

(d) It shall be a defense to a prosecution of rape under subsection (a)(3) that the child was married to the accused at the time of the offense.

(e) Except as provided in subsection (a)(2), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sexual intercourse, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

21-5504. Criminal sodomy; aggravated criminal sodomy.

(a) Criminal sodomy is:

(1) Sodomy between persons who are 16 or more years of age and members of the same sex;

(2) sodomy between a person and an animal;

- (3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or
 - (4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.
- (b) Aggravated criminal sodomy is:
- (1) Sodomy with a child who is under 14 years of age;
 - (2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or
 - (3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:
 - (A) When the victim is overcome by force or fear;
 - (B) when the victim is unconscious or physically powerless; or
 - (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.
- (c) (1) Criminal sodomy as defined in:
- (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and
 - (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.
- (2) Aggravated criminal sodomy as defined in:
- (A) subsection (b)(3) is a severity level 1, person felony; and
 - (B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in subsection (3).
 - (3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony, when the offender is 18 years of age or older.
- (d) If the offender is 18 years of age or older, the provisions of:
- (1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);
 - (2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and
 - (3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).

(e) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.

(f) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

21-5505. Sexual battery; aggravated sexual battery.

(a) Sexual battery is the touching of a victim who is not the spouse of the offender, who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(b) Aggravated sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto with the intent to arouse or satisfy the sexual desires of the offender or another and under any of the following circumstances:

(1) When the victim is overcome by force or fear;

(2) when the victim is unconscious or physically powerless; or

(3) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c) (1) Sexual battery is a class A person misdemeanor.

(2) Aggravated sexual battery is a severity level 5, person felony.

(d) Except as provided in subsection (b)(3), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the battery, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

21-5506. Indecent liberties with a child; aggravated indecent liberties with a child.

(a) Indecent liberties with a child is engaging in any of the following acts with a child who is 14 years of age but less than 16 years of age:

(1) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(2) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

(b) Aggravated indecent liberties with a child is:

(1) Sexual intercourse with a child who is 14 or more years of age but less than 16 years of age;

(2) engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age and who does not consent thereto:

- (A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or
- (B) causing the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another; or
- (3) engaging in any of the following acts with a child who is under 14 years of age:
 - (A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or
 - (B) soliciting the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.
- (c) (1) Indecent liberties with a child is a severity level 5, person felony.
- (2) Aggravated indecent liberties with a child as defined in:
 - (A) Subsection (b)(1) is a severity level 3, person felony;
 - (B) subsection (b)(2) is a severity level 4, person felony; and
 - (C) subsection (b)(3) is a:
 - (i) Severity level 3, person felony, except as provided in subsection (c)(2)(C)(ii); and
 - (ii) off-grid person felony, when the offender is 18 years of age or older.
 - (d) It shall be a defense to a prosecution of indecent liberties with a child, as defined in subsection (a)(1), and aggravated indecent liberties with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that the child was married to the accused at the time of the offense.

21-5507. Unlawful voluntary sexual relations.

- (a) Unlawful voluntary sexual relations is:
 - (1) Engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:
 - (A) Voluntary sexual intercourse;
 - (B) voluntary sodomy; or
 - (C) voluntary lewd fondling or touching;
 - (2) when the offender is less than 19 years of age;
 - (3) when the offender is less than four years of age older than the child;
 - (4) when the child and the offender are the only parties involved; and
 - (5) when the child and the offender are members of the opposite sex.
- (b) Unlawful voluntary sexual relations as defined in:
 - (1) Subsection (a)(1)(A) is a severity level 8, person felony;
 - (2) subsection (a)(1)(B) is a severity level 9, person felony; and
 - (3) subsection (a)(1)(C) is a severity level 10, person felony.

21-5513. Lewd and lascivious behavior.

(a) Lewd and lascivious behavior is:

- (1) Publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others; or
- (2) publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.

(b) (1) Lewd and lascivious behavior if committed in the presence of a person 16 or more years of age is a class B nonperson misdemeanor.

(2) Lewd and lascivious behavior if committed in the presence of a person under 16 years of age is a severity level 9, person felony.

Additional Crimes added in the Higher Education Opportunity Act of 2008

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.")

- **Pocket-picking:** The theft of articles from another person's physical possession by stealth where the victim usually does not become immediately aware of the theft.

- **Purse-snatching:** The grabbing or snatching of a purse, handbag, etc., from the physical possession of another person. Shoplifting: The theft, by someone other than an employee of the victim, of goods or merchandise exposed for sale.

- **Theft From Building:** A theft from within a building which is either open to the general public or where the offender has legal access.

- **Theft From Coin Operated Machine or Device:** A theft from a machine or device which is operated or activated by the use of coins.

- **Theft From Motor Vehicle (Except "Theft of Motor Vehicle Parts or Accessories"):** The theft of articles from a motor vehicle, whether locked or unlocked.

• **Theft of Motor Vehicle Parts or Accessories:** The theft of any part or accessory affixed to the interior or exterior of a motor vehicle in a manner which would make the item an attachment of the vehicle, or necessary for its operation.

• **All Other Larceny:** All thefts which do not fit any of the definitions of the specific subcategories of Larceny/Theft listed above.

Source-*Uniform Crime Reporting Handbook*, 2004; U.S. Department of Justice

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.

Destruction/Damage/Vandalism of Property (Except "Arson"): 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.

Source-*Hate Crime Data Collection Guidelines*, October 1999; U.S. Department of Justice