

## **Appendix A to the Crime Reporting Policy: MUSC's Clery Geography and Crime Definitions**

### **I. MUSC's Clery Geography**

To qualify as reportable, a Clery Act crime must have occurred in one of the following locations:

- **On-campus property:** Any building or property owned or controlled by the University within the same reasonable contiguous geographic area and used by the University in direct support of, or in a manner related to, the University's educational purpose, including buildings or property the location described herein that is owned by the University but controlled by another person and which is frequently used by students (excluding residential life buildings and Greek houses).
  - This refers to MUSC's downtown Charleston campus and means any location that is owned or controlled by MUSC and is used (1) for educational purposes or (2) by students for some other purposes (e.g., food vendors). [Please refer to the Campus Map for further reference.](#)
- **On-campus residential life buildings and Greek houses.**
  - MUSC does not own or control any on-campus student housing facilities, dormitories, residential life buildings or Greek houses.
- **Non-campus property:** Any non-campus property or building owned or controlled (leased) by the University that is frequently used by students and is not within the same reasonable contiguous geographic area of the institution.
  - For example, MUSC-contracted housing for students on away rotations.
- **Public Property:** Any public property located immediately adjacent to and accessible from campus including public garages, thoroughfares, sidewalks, streets, lands, parks and public waterways.

### **II. Definitions of Primary Crimes<sup>1</sup>**

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

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

**Sexual assault** is defined as an offense that meets the definition of **rape, fondling, incest, or statutory rape** as used in the FBI's Uniform Crime Reporting Handbook.

- **Rape** is 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.

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<sup>1</sup> The definitions of Primary Crimes are from the Summary Reporting System User Manual from the FBI's Uniform Crime Reporting Program (UCR).

- **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent. In South Carolina the age of consent is 16.

**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, violence and/or by putting the victim in fear.

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

**Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or a felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking and all attempts to commit any of the aforementioned. Note: Thefts from areas of open access are classified as Larceny, not Burglary.

Burglary vs. Larceny: An incident must meet three conditions to be classified as a Burglary.

1. There must be evidence of unlawful entry (trespass). Both forcible entry and unlawful entry without force are counted.
2. The unlawful entry must occur within a structure that is defined as having four walls, a roof, and a door.
3. The unlawful entry into a structure must show evidence that the entry was made in order to commit a felony or theft.

If the intent was not to commit a felony or theft, or if the intent cannot be determined, or if unlawful access can't be proven, the proper classification is Larceny.

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

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

### III. Definitions of Hate Crimes<sup>2</sup>

**Hate Crime:** A criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias. Bias is a preformed negative opinion or attitude toward a person based on race, gender, gender identity, religion, sexual orientation, ethnicity, disability, or national origin. Reports of all Primary crimes, as well as the crimes of larceny-theft,<sup>3</sup> simple assault,<sup>4</sup> intimidation,<sup>5</sup> and vandalism,<sup>6</sup> in which a victim is intentionally selected because of their actual or perceived identity, shall be collected and reported according to the category of prejudice.

**Race:** A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind (e.g., Asians, blacks or African Americans, whites).

**Religion:** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, Atheists).

**Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation. Sexual Orientation is the term for a person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

**Gender:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**Gender Identity:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity (e.g., bias against transgender individuals). Gender non-conforming describes a person who does not conform to the gender-based expectations of society. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

**Ethnicity.** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language,

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<sup>2</sup> All Hate Crime definitions are from the U.S. Department of Education's Handbook for Campus Safety and Security Reporting, 2016 Edition. Hate Crimes are classified according to the FBI's Uniform Crime Reporting Hate Crime Data Collection Guidelines and Training Manual.

<sup>3</sup> Larceny-theft is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

<sup>4</sup> Simple assault is 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.

<sup>5</sup> Intimidation is 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.

<sup>6</sup> Vandalism is to willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

common culture (often including a shared religion) and/or ideology that stresses common ancestry.

**National Origin.** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth. This bias may be against people that have a name or accent associated with a national origin group, participate in certain customs associated with a national origin group, or because they are married to or associated with people of a certain national origin.

**Disability.** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

#### **IV. Definitions of VAWA crimes<sup>7</sup>**

**Dating violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim based on consideration of (a) the length of the relationship; (b) the type of relationship; (c) and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

**Domestic violence** is a felony or misdemeanor crime of violence committed by (a) a current or former spouse or intimate partner of the victim; (b) a person with whom the victim shares a child in common; (c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) 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.

**Stalking** is defined as 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. For the purposes of this definition, Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

#### **V. Arrests and referrals for violations of liquor laws, drug laws, and weapons laws.**

**Arrest** for Clery Act purposes, is defined as persons processed by arrest, citation or summons.

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<sup>7</sup> For Domestic Violence, Dating Violence and Stalking, the Clery Act specifies that MUSC must use the definitions provided by the Violence Against Women Act (VAWA).

**Referral for disciplinary action** is defined as the referral of a MUSC student, faculty, or staff member to a university official who initiates a disciplinary action of which a record is kept, and which may result in the imposition of a sanction.

**Weapons 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 or all attempts to commit any of the aforementioned.

**Drug Law Violations:** The violation 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, methadones) and dangerous non-narcotic drugs (barbiturates, Benzedrine).

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

## **VI. South Carolina Definitions of Dating Violence, Domestic Violence, Sexual Assault, and Stalking**

In addition to conduct that is prohibited by MUSC policy and federally-defined crimes reported in the Annual Security Report, below are the state definitions of dating violence, domestic violence, sexual assault and stalking. They are included to provide education and awareness of local jurisdiction crimes to the community. Terminology and state law vary from MUSC policy at times. This creates circumstances where Public Safety may not be able to bring criminal charges against an individual accused of violating University policy. However, University policy outlines consequences for the accused perpetrator if they are a member of the University community, as well as protection for the reporting individual. This administrative process occurs independently of any criminal charges.

**Domestic Violence** is defined as the unlawful causing of “physical harm or injury to a person’s own household member” or the “offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability in circumstances reasonably creating fear or imminent peril.” A “household member” includes a spouse, a former spouse, persons who have a child in common, co-habitants involved during a romantic relationship or those who formerly cohabitated during a romantic relationship. (South Carolina Code of Laws § 16-25-10).

**Dating Violence** is not a specific criminal violation in South Carolina. However, the state does prohibit a number of physically violent actions to include Homicide, Manslaughter, and Assault and Battery in multiple degrees, which may be applicable.

**Stalking** is defined by South Carolina law as a “pattern of words, whether verbal written, or electronic, or a pattern” of “two or more acts occurring over a period of time, however short,

evidencing a continuity of purpose” that “serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person’s position to fear” either “(1) death of the person or a member of his family; (2) assault upon the person or a member of his family; (3) bodily injury to the person or a member of his family; (4) criminal sexual contact on the person or a member of his family; (5) kidnapping of the person or a member of his family; or (6) damage to the property of the person or a member of his family.” (South Carolina Code of Laws § 16-3-1700)

**Sexual Assault** is prohibited in South Carolina as a type of **Criminal Sexual Conduct** called **Sexual Battery**. South Carolina Code of Laws does not define or have a statute associated with **consent**. Instead, an individual may be guilty of varying degrees of Criminal Sexual Conduct depending on the circumstances of the sexual battery.

**Sexual Battery** is defined as sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes. (South Carolina Code of Laws § 16-3-651).

A person is guilty of committing the felony of **Criminal Sexual Conduct in the first degree**, and may receive up to 30 years of imprisonment, if they commit Sexual Battery and at least one of the following occurs: (a) The perpetrator uses physical force or the threat of a weapon; (b) The victim submits to the sexual conduct by the perpetrator under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act; or (c) The perpetrator causes the victim, without the victim’s consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance. (South Carolina Code of Laws § 16-3-652).

A person is guilty of committing the felony of **Criminal Sexual Conduct in the second degree**, and may receive up to 20 years of imprisonment if they Sexual Battery and at least one of the following occurs: (a) The perpetrator threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat; or (b) The perpetrator threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person. (South Carolina Code of Laws § 16-3-653).

A person is guilty of committing the felony of **Criminal Sexual Conduct in the third degree**, and may receive up to 10 years of imprisonment, if they commit Sexual Battery and at least one of the following occurs: (a) The perpetrator uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances; or (b) The perpetrator knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used. (South Carolina Code of Laws § 16-3-654).