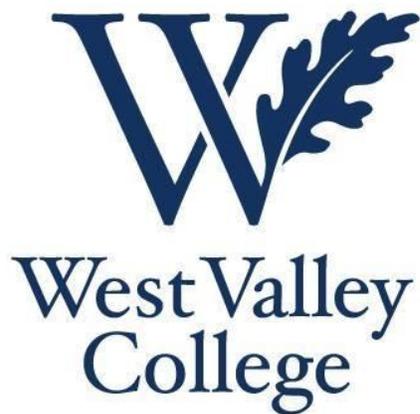


# Jeanne Clery Act

ANNUAL SAFETY AND SECURITY REPORT  
2019-2021 CRIME STATISTICS  
WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT



# TABLE OF CONTENTS

• College Maps	3
• Message from the Chief of Police	5
• Jeanne Clery Act	7
• Reporting a Crime	9
• Kristin Smart Campus Safety Act	13
• Education and Prevention	14
• Emergency Notifications & Timely Warnings Notices	15
• Security and Access to Campus Facilities	16
• Violence Against Women Act (VAWA)	17
• Policy on Sexual Assault	18
• TITLE IX	21
• Marcy’s Law- Victim Bill of Rights	25
• Missing Student Notification	27
• Sexual Assault Awareness and Prevention	31
• Voluntary Confidential Reporting	32
• Prevention and Educational Awareness	32
• Megan’s Law	36
• Policies on Alcoholic Beverages, Illegal Drugs and Abuse Programs	37
• Definitions of Clery Crimes	42
• Hate Crimes	43
• Crime Statistics	45
• Community Resources	47
• Santa Clara County Law Enforcement Agencies	50
• Appendix A: Jurisdiction Definitions	52



\* Please make sure a valid parking permit is properly displayed on your vehicle at all times

March 2022

14000 Fruitvale Avenue, Saratoga, CA 95070  
[www.westvalley.edu/](http://www.westvalley.edu/)





3000 Mission College Boulevard Santa Clara, CA 95054-1897  
[www.missioncollege.org/](http://www.missioncollege.org/)



---

## A MESSAGE FROM THE CHIEF OF POLICE

---

On behalf of the men and women of the West Valley-Mission Community College District Police Department we hope your time on our campuses is safe, secure and enjoyable. This annual security report is in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998. Our goal is to ensure that everyone who visits, works, or studies at our campuses has a safe and secure environment to work and learn.

This report is intended to provide you with important information about safety and security at our WVM District campuses. In addition to outlining many of the policies and the resources offered to the campus community, this report also contains the required crime statistics for the previous three calendar years of January 1, 2019 - December 31, 2021

As members and stakeholders of the West Valley Mission District community we share in the responsibility of keeping our community safe and secure. For more information on District safety, emergency preparedness and prevention please visit our website:

<http://www.wvm.edu/police/>

Please feel free to approach any of our officers and civilian personnel with questions or concerns.

*Dalton C. Rolen*

Chief of Police  
West Valley-Mission  
Community College District



### **Administrators**

Chancellor **Brad Davis**  
Mission College President **Seher Awan**  
West Valley College President **Stephanie Kashima**

### **West Valley-Mission District Board of Trustees**

Adrienne Grey, Anne Kepner, Jack Lucas, Karl Watanabe, Susan Fish, Robert Owens, Randi Kinman

### **West Valley-Mission Community College District Offices**

14000 Fruitvale Avenue, Saratoga, CA 95070

---

## THE COLLEGE DISTRICT

---

West Valley-Mission Community College District has a devoted Board of Trustees and a dedicated staff that serves its two colleges. West Valley College in Saratoga and Mission College in Santa Clara are on the cutting edge among higher education institutions in the Silicon Valley.

**West Valley College** is located at 14000 Fruitvale Ave in Saratoga. The campus is accessible from Saratoga-Los Gatos Road, Saratoga Avenue and Highway 85. The campus serves an average student population of 8000.

**Mission College** is located at 3000 Mission College Blvd., just off Highway 101 at Great America Parkway in Santa Clara. The Mission College campus serves an average student population of 7,000.

### College Statistics

#### **West Valley College**

Founding Date: 1963

Campus Size: 143 acres

#### **Mission College**

Founding Date: 1977

Campus Size: 164 acres

#### **All students live off campus**

Both West Valley and Mission Colleges are commuter campuses, with no on-campus housing.

## WVM DISTRICT POLICE

The West Valley-Mission Community College District Police Department is a full-service law enforcement agency, employing police officers whose law enforcement authority is granted under Section 830.32 of the California Penal Code and Education Code, Section 72330. The authority of these officers extends anywhere within the State of California. West Valley- Mission Community College District Police Officers are vested with full law enforcement powers and responsibilities, similar to local police or sheriff departments in the community. The District Police Department is a Peace Officer Standard in Training (P.O.S.T) certified law enforcement agency. The officers are trained at a local police academy and receive additional on-going training in first aid, firearms, use of force defensive tactics, legal updates, evidence gathering, traffic investigation, and campus specific policing. The officers maintain their state certification through annual state mandated training.

The West Valley-Mission Community College District Police (WVMCCDP) provides law enforcement services from 6:30 AM to 2:00 AM, seven days a week, 365 days a year for both the West Valley and Mission campuses. Note: (During our non-hours of operation from 2:00 AM through 6:30 AM, the Santa Clara County Sheriff's Office responds to calls for service at West Valley College and the City of Santa Clara Police Department responds to calls for service at Mission College). Officers are responsible for a full range of public safety services, including all crime reports, investigations, medical emergencies, fire emergencies, traffic accidents, traffic enforcement, vehicle code violations, enforcement of laws regulating underage drinking,

possession of alcohol on a campus, the use of controlled substances, weapons, gambling, and all other incidents requiring police assistance.

In addition to sworn police officers, WVMCCDP employs Community Service Officers who patrol the campus on foot and by vehicle. While not police officers, Community Service Officers have radio contact with police officers and can summon assistance when necessary. These officers assist in non-emergency situations, aid motorists, provide campus information, issue parking citations and direct traffic.

Our mission is to provide outstanding service and safety through education and campus partnerships. This is achieved through community engagement and partnerships with both college campuses.

### **Jurisdiction**

The District Police jurisdiction includes other grounds or properties owned, operated, controlled, or administered on behalf of the West Valley-Mission College District as outlined in the Education Code, Section 72330. West Valley-Mission Community College District Police is committed to the safety and security of all students, staff, and faculty, as well as others visiting our campuses.

West Valley-Mission Community College District police officers have complete police authority to apprehend and arrest anyone involved in illegal acts, pursuant to California Penal Code Section 830.32 and Education Code Section 72330. Having met all state standards for selection and training, the officers have authority similar to a municipal police officer or county deputy sheriff.

West Valley-Mission Community College District Police maintains formal agreements with the Santa Clara County Sheriff's Office for the West Valley College campus and the Santa Clara Police Department for the Mission College campus. These agreements also clarify operational responsibilities for investigations of Part I violent crimes and delineates the specific geographical boundaries of each agency's operational responsibility.

### **WHAT IS THE JEANNE CLERY ACT?**

The Clery Act was championed by Howard & Connie Clery after their daughter, Jeanne, was murdered at Lehigh University in 1986.

Signed into law in 1990, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act is in memory of Jeanne Clery, a 19-year-old Lehigh University freshman, who was sexually assaulted and murdered in her dorm room in April 1986. The Jeanne Clery Act was enacted in the belief that crime awareness can prevent campus victimization. This is a federal law that requires colleges and universities to disclose information about campus crime activity and security policies in an annual report. It is generally referred to as the Clery Act.

The law requires colleges and universities receiving federal funding to prepare, publish, and distribute, by October 1 of each year, campus security policies and crime statistics. These campus security policies and crime statistics must be distributed through appropriate publications or mailings, to all current students and employees, and made available to any applicant for enrollment or employment upon request.

In 2013, President Obama signed a bill that strengthened and reauthorized the Violence Against Women Act. Included in the bill was the Campus Sexual Violence Elimination Act (Campus Save), which amends the Clery Act and affords additional rights to campus victims of sexual violence, dating violence, domestic violence, and stalking. More information about the Clery Act can be found at: [The Clery Act \(clerycenter.org\)](http://clerycenter.org)

## PREPARING THE ASR

The district prepares this report annually to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. This report is prepared by the West Valley-Mission Community College District Police Department in cooperation with local law enforcement agencies surrounding our main campuses and alternate sites. Each reporting entity provides updated information to comply with the Act.

The statistics contained in this report, which includes specific on-campus crimes, adjacent public areas, and some off-campus locations, are collected by the West Valley-Mission Community College District Police Department. In preparation for annual reporting, the neighboring law enforcement agencies are surveyed for knowledge of crimes that may not have been reported to West Valley-Mission Community College District Police Department. These agencies include, but are not limited to the Santa Clara Police Department, Campbell Police Department, San Jose Police Department, Los Gatos-Monte Sereno Police Department, Foothill-DeAnza District Police Department, and the Santa Clara County Sheriff's Office. West Valley-Mission Security Authorities (CSAs) report crimes to the District Police throughout the year to be included in this report and for timely warning consideration. These CSAs are campus staff and faculty with significant responsibility for student and campus activities and include, but are not limited to the Dean of Student, Athletics staff, Student Club advisors and Student Affairs personnel.

The presentation of statistics in this report is designed to enable the reader to compare specific crimes committed during the past three years. Crimes reported as occurring at locations outside the physical boundaries of the Colleges are generally investigated by the agency having primary jurisdiction over the location where the crime occurred. Crime statistics for non-campus buildings or property is requested by the District Police and is published when available; however external police agencies are not required by law to provide the requested information.

The federal definition of each crime may differ from the definition of comparable crimes under California statutes and District policy. The Clery Act also requires the reporting of hate crimes where prejudice due to race, gender, religion, sexual orientation, ethnicity, national origin, gender identity or disability with evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. If a CSA has knowledge of a reportable crime that was not reported for investigation or disciplinary action, that person is required, in most instances, to report the crime to the District Police Department for inclusion in the statistics.

Under the Clery Act, a crime is "reported" when it is brought to the attention of a Campus Security Authority, the West Valley-Mission Community College District Police Department or local law enforcement personnel by a victim, witness, other third party or even the offender. It does not matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution. If a CSA receives a report, that person must include it as a crime report for consideration of

inclusion into the Annual Security Report. It is not necessary for the crime to have been investigated by the police, nor must it have to be prosecuted by the Santa Clara County District Attorney's Office, or other appropriate prosecutor, to be included in the report.

Institutions of higher education must include four distinct categories of crime in their ASR crime data:

#### Criminal Offenses

- Criminal homicide: murder and non-negligent manslaughter, manslaughter by negligence
- Sexual assault: rape, fondling, incest, statutory rape
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson

#### Hate Crimes (any of the above-mentioned offenses, and any incidents of)

- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property

#### VAWA Offenses

- Domestic violence
- Dating violence
- Stalking

#### Arrests and Referrals for Disciplinary Action

- Weapons law violations
- Drug abuse violations
- Liquor law violations

## REPORTING A CRIME

West Valley-Mission community members should file a report in a timely manner whenever they observe anything suspicious, believe they have discovered a crime, or come across a situation which could cause a safety hazard.

#### - Telephone

FOR **ALL EMERGENCIES** OR TO REPORT A **CRIME IN PROCESS** DIAL **9-1-1**. If you have an emergency and are using a **cellular phone** dial **408-299-3233** - Santa Clara County Communications Dispatch Center (24 hours a day) and ask for a West Valley-Mission District police officer.

To report a **non-emergency** or a **prior criminal incident** that would require the assistance of a police officer contact the Santa Clara County Communications Dispatch Center by dialing **408-299-2311** (24 hours a day). Request a West Valley-Mission Community College District Police Officer.

When you call **9-1-1** or the non-emergency Santa Clara County Communications dispatch center telephone number at **408-299-2311**, you will speak with dispatchers or call takers who are not district employees, and only provide dispatching services for the West Valley-Mission Community College District Police Department. The County Communications dispatch center is located in a remote off campus. When calling, request a West Valley-Mission Community College District Police Officer.

**Non-Emergencies:**

Business, Records Office Phone: **408-741-2092** (West Valley campus)

Business, Parking & Traffic Office: **408-855-5435** (Mission campus)

Dispatch (24 hours) Santa Clara County Communications Non-Emergency **408-299-2311**

**- In Person**

**West Valley College**, 14000 Fruitvale Avenue, Saratoga, CA 95070

Campus Center Walk at East College Circle next to the PE Building/Aquatics Center

408-741-2092

The Business and Records Office is located at the West Valley College office.

**Regular Hours:**

Monday - Friday

9:30 A.M. - 5:00 P.M.

**Call for current hours of operation**

**Live Scan Hours:**

Monday through Friday 9:30 A.M. - 12:30 P.M.

and 2:30 P.M. – 4:30 P.M.

Evening available by appointment only.

408-741-2685 / [livescan@wvm.edu](mailto:livescan@wvm.edu)

**Call for current hours of operation**

**Mission College**, 3000 Mission College Boulevard, Santa Clara, CA 95054

Campus Center Building (1st Floor)

408-855-5435

The Parking Services Office is located at the Mission College office.

**Regular Hours:**

Monday - Fridays

9:00 A.M. - 5:00 P.M.

The police business and parking offices are closed on Saturdays, Sundays, and all college district observed holidays. Our office staff can assist you with non-emergency general police business, lost property, campus safety escorts, and parking information.

You may submit an on-line report for the following crimes by going to <http://www.wvm.edu/police/> and clicking the contact tab:

- Harassing Phone Calls
- Identity Theft
- Lost, Stolen, or Vandalized Property

- Non-Injury Traffic Collision or Hit and Run Traffic Collisions
- Vehicle Tampering

### **Anonymous Tips - TipNow**

TipNow allows anyone to send anonymous tips about criminal activity, suspicious circumstances or safety issues to the campus police via a secure text-based system. This is accomplished by using one of the TipNow links or phone numbers assigned to each campus (See below). More information about the service can be seen at: <http://www.tipnow.com/>.

**DO NOT USE TIPNOW FOR CRIMES IN PROGRESS CALL 9-1-1**

#### **West Valley College**

Anonymous Tip  
 email: [westvalley@tipnow.com](mailto:westvalley@tipnow.com)  
 Anonymous voice mail:  
 Text: 408-414-7908

#### **Mission College**

Anonymous Tip  
 email: [mission@tipnow.com](mailto:mission@tipnow.com)  
 Anonymous voice mail:  
 Text: 408-550-7982

As part of our commitment to provide a safe and secure campus, each department, deans and Office of Student Services encourages students to report any sexual assaults, domestic violence, or stalking, both on and off campus. Reports can be made confidentially to the following entities on each campus:

- District Police Department
- Campus Health Services
- Office of Student Services
- Campus Counseling Services

### **Local Law Enforcement**

*Reference: California Education Code Section 67381*

*Each college or center of the District shall enter into a written agreement with local law enforcement agencies. The agreement shall clarify operational responsibilities for investigations of Part I violent crimes, defined by law as willful homicide, forcible rape, robbery, and aggravated assault, occurring at each location.*

*The written agreement shall designate which law enforcement agency shall have operational responsibility for violent crimes and delineate the specific geographical boundaries of each agency's operational responsibility, including maps as necessary.*

The West Valley-Mission Community College District Police Department maintains written agreements with the Santa Clara County Sheriff's Office and the City of Santa Clara in compliance with the Education Code and the Kristen Smart Campus Safety Act.



## KRISTIN SMART CAMPUS SAFETY ACT of 1998

This interagency operations and protocol agreement, between the West Valley-Mission Community College District Police Department and neighboring agencies is to clarify agency jurisdiction and response responsibility as required by the Kristin Smart Campus Safety Act of 1998.

The California Legislature under this Act also reaffirms that campus law enforcement agencies have primary authority for providing law enforcement service on their campus.

This Act also requires law enforcement agencies to designate operational responsibility and define specific geographical boundaries of response for the investigation of Part I violent crimes of homicide, forcible rape, robbery and aggravated assaults on campus property and property controlled by the college.

The West Valley-Mission Community College District Police Department has primary responsibility for law enforcement response and investigations of criminal activity on District property. The West Valley- Mission Community College District Police Department has a Memorandum of Understanding (MOU) with both Santa Clara County Sheriff's Office and the City of Santa Clara authorizing the West Valley-Mission Community College District Police Department to request assistance when needed. Further, these agencies may assume control over investigations for serious violent Part I crimes that may be beyond the resources of the West Valley-Mission Community College District Police Department in accordance with existing Mutual Aid procedures.



## EDUCATION AND PREVENTION

The District Police encourages members of the community to assist in preventing crime by minimizing opportunities of becoming a victim and by using good judgment and safety practices. On the District web page there are links found under District Services for both crime prevention and emergency preparedness.

The District Emergency Services program maintains a web site on the West Valley-Mission Community College District Police Department: <http://www.wvm.edu/emergency/> and on the WVM web portal for students and staff. On this site you will find a series of educational links for classes, information regarding current emergency preparedness, and procedures along with free training classes offered to the campus communities.

### **Emergency Response and Evacuation Procedures**

The WVM District maintains an Emergency Operations Plan (EOP) that identifies roles and responsibilities and outlines emergency responses to all hazards that could affect the campuses. This plan dictates that if there is an immediate or potential threat to the health and safety of students or employees, occurring on campus, the college presidents or district administrators may implement the EOP operational protocols. This plan is reviewed and revised annually and remain current to the evolving environment of the individual college campus. For more information visit: <http://www.wvm.edu/emergency/>

## EMERGENCY NOTIFICATION

In an effort to provide notice to the West Valley-Mission community, in the event of a serious incident which may pose an ongoing threat to members of the WVM community, an emergency notification would be distributed to the campus community. As circumstances allow the decision to distribute an emergency notice will be based on the judgment of the Chief of Police, Chancellor, each College President, or designee.

An emergency notification is triggered by an event that is occurring or imminently threatening the campus. A significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus would trigger such emergency notification.

Any of the following may be used to issue immediate warnings about serious emergencies on campus:

### **Text message alerts via (WVM RAVE ALERT SYSTEM)**

- Classroom Emergency Telephones
- Broadcast email and voicemail.
- Fire Alarm
- Building Safety Team members

## TIMELY WARNINGS

As required by federal law (20 U.S.C. § 1092(f)), the District will issue a Timely Warning to the affected college community when a Clery reportable crime occurs on campus or in an area surrounding the campus, when the Chief of Police (or designee) determines that the situation represents a serious or continuing threat to the campus community. The decision to issue a Timely Warning will be made on a case-by-case basis. Persons authorized to initiate and send Timely Warnings will do so in a timely manner. The persons authorized to send Emergency Notifications are the individuals authorized to send Timely Warnings.

The level of detail included in a Timely Warning will vary depending on the type of crime. The name(s) of a victim(s) will not be published in the Timely Warning. Where possible, information that might identify the victim will also be excluded. Other details may be excluded from a Timely Warning if, in the professional judgment of responsible authorities, the information would compromise law enforcement's efforts to assist a victim or contain, respond to, or otherwise mitigate the emergency: WVM RAVE ALERT SYSTEM

Timely Warnings will most often be distributed via email; however, additional messaging methods may be employed. Timely warnings may also be distributed via the Emergency Notifications methods.

The decision to issue a Timely Warning for sex offenses involving persons who are acquaintances will be made on a case-by-case basis. Factors which will be considered when making this decision include: the level of force and violence used to commit the crime, the potential use of a drug to commit the crime, and the existence of multiple crimes of a similar nature occurring in close proximity, either in time or location. The District Chief of Police and the affected college president and or District Title IX Coordinator are responsible for determining if a Timely Warning will be issued for non-stranger sexual assaults; either may make this determination. Consultation with other college staff persons may occur on a need-to-know basis.

Timely Warnings are triggered by crimes that have already occurred but may represent an ongoing threat. Timely Warnings are for any Clery crime committed or reported to your campus security authorities or a local law enforcement agency and is considered by the institution to represent a serious or continuing threat to students and employees.

Any of the following may be used to issue Timely Warning notices.

- Postings on the District, West Valley or Mission College websites,
- District or College email,
- Student and staff web portals,
- Fliers and other informational materials may also be posted on campus buildings to inform students, faculty, and staff of ongoing safety concerns.

## MASS NOTIFICATIONS: EMERGENCY NOTIFICATION OR TIMELY WARNING?

	Emergency Notification	Timely Warning
<b>Recipients</b>	The entire campus	The entire campus
<b>Triggering incident</b>	Any situation thought to pose an immediate threat to the safety and security of the campus community	Clery-reportable crimes believed to present an ongoing threat
<b>Timeline for sending a message</b>	As soon as first responders confirm significant emergency or dangerous situation	As soon as pertinent information is available
<b>Follow-up message required?</b>	Yes	No

## SAFETY OF BUILDINGS AND GROUNDS

The district buildings and property are patrolled by officers of the West Valley-Mission Community College District Police Department. The District Police regularly patrols each campus and reports malfunctioning lights and other unsafe physical conditions to District Facilities for service or correction. Possession and use of **all** weapons are prohibited on both West Valley and Mission campuses (*5.19 Student Conduct Policy & District Administrative Procedure 3530*)

### **BP 3530 WEAPONS ON CAMPUS**

#### **References:**

Penal Code Sections 626.9 and 626.10

The District strives to provide employees, visitors, and students with a safe environment in which to work, learn, and visit; therefore, the District does not tolerate violence or threats of violence within the District. Firearms or other weapons shall be prohibited on any college or District center or in any facility of the district except for activities conducted under the direction of District officials or as authorized by an official law enforcement agency.

**Date Adopted: January 17, 2012**

**Reviewed: January 2020**

## Access to Campus Facilities

During business hours (generally 6 AM to 11 PM), the District will be open to the public. During non-business hours access to all District facilities is by key and or access card. In the case of periods of extended closing, the District will determine access controls. Some facilities may have individual hours, which may vary at different times of the year. Examples include, Physical Education facilities, Theater, and Hospitality Management. In these cases, the facilities will be secured according to schedules developed by the department responsible for the facility. Notification of extended or adjusted hours should be directed to District Facilities and District Police. During the academic year, the Facilities Safety Committee on each campus will meet to discuss campus security, safety and access issues of pressing concern such as: general safety issues, alarms, locks, landscaping, lighting, and communications. Emergencies may necessitate changes or alterations to any posted schedules.

## Campus Security for Satellite Location and Occasional Instruction Sites Non-Campus Locations

The District Police does not patrol at off-campus locations but does work cooperatively with the local law enforcement agency on any report of an incident or crime. The district maintains a facility in the City of Campbell, Campbell Educational Development Center, 1 West Campbell Av. Suite J-66, which is served by the Campbell Police Department.

As of Fall Semester 2016 the district maintains a facility in the city of Sunnyvale, Foothill Sunnyvale Center located at the Moffett Business Park 1070 Innovation Way, which is served by the Foothill-DeAnza CCD Police Department.

The District also holds some classes at:

- Los Gatos High School in the City of Los Gatos, which is served by Los Gatos-Monte Sereno Police Department
- Saratoga High School in the City of Saratoga, which is served by the Santa Clara County Sheriff's Department.
- Lynbrook High School, Del Mar and Leigh High School located in the City of San Jose, which is served by San Jose Police Department.

## VIOLENCE AGAINST WOMEN ACT (VAWA)

<https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act>

On March 7th, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. L. 113-4), which, among other provisions, amended section 485(f) of the HEA, otherwise known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act requires institutions of higher education to comply with certain campus safety- and security-related requirements as a condition of their participation in the title IV, HEA programs. Notably, VAWA amended the Clery Act to require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports.

On July 22, 2015, the Department of Education issued a Letter providing an overview of the final regulations to the Clery Act, released in October 2014.

Every post-secondary institution participating in Title IV financial aid programs will be required to:

- compile statistics of incidents of sexual assault, domestic violence, dating violence, and stalking that occur within Clery geography and are reported to campus security authorities
- include within its Annual Security Report a statement of policy regarding:
  - its programs to prevent domestic violence, dating violence, sexual assault, and stalking
  - the procedures that will be followed once an incident of these crimes has been reported, including a statement of the standard of evidence that will be used during any institutional conduct proceeding arising from the report
  - educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include primary prevention and awareness programs for incoming students and new employees, as well as ongoing prevention and awareness programs for students and faculty.

## DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

The West Valley-Mission Community College District does not discriminate on the basis of sex in its educational programs and sexual harassment nor tolerate sexual violence, which is a type of sex discrimination. Other acts can also be forms of sex-based discrimination and are also prohibited whether gender based or not and include dating violence, domestic violence, and stalking. The West Valley-Mission District informs the community of our plan in addressing sexual misconduct; educational programs and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus, and how these events are reported to a college official. West Valley-Mission Community College District prohibits the offenses of domestic violence, dating violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the college community. District Administrative Procedure 3540 specifically prohibits these acts:

### **BP 3540 SEXUAL AND OTHER ASSAULTS**

#### **References:**

Education Code Sections 67382, 67385, and 67386;  
20 U.S. Code Section 1092(f);  
34 Code of Federal Regulations Section 668.46(b)(11)

Any sexual assault or physical abuse, including, but not limited to rape, domestic violence, dating violence, sexual assault, or stalking, as defined by California law, whether committed by an employee, student or member of the public, that occurs on District property, in connection with all the academic,

educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities or at another location, or on an off-campus site or facility maintained by the District, or on grounds or facilities maintained by a student organization, is a violation of District policies and procedures, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. Students, faculty, and staff who may be victims of sexual and other assaults shall be treated with dignity and provided comprehensive assistance.

The Chancellor shall establish administrative procedures that ensure that students, faculty, and staff who are victims of sexual and other assaults receive appropriate information and treatment, and that educational information about preventing sexual violence is provided and publicized as required by law.

The procedures shall meet the criteria contained in Education Code Sections 67385, 67385.7, and 67386, and 34 Code of Federal Regulations Section 668.46

**Date Adopted: January 17, 2012**

**Date Revised: April 21, 2015**

**Reviewed: January 2020**

## DEFINING SEXUAL ASSAULT/ RAPE, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

**Sexual Assault:** Sexual assault occurs when a person engages in sexual intercourse or deviate sexual intercourse with a complainant without the victim's consent.

### **Consent**

Consent must be informed, freely given and mutual. If coercion, intimidation, threats, or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent: this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. Inducement of incapacitation of another with the intent to affect the ability of an individual to consent or refuse to consent to sexual contact almost always, if not always, negates consent. Silence does not necessarily constitute consent. Whether a person has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.

**Rape:** Is 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. Rape also occurs when a person engages in sexual intercourse with a person by forcible compulsion or the threat of forcible compulsion that would prevent resistance by a person of reasonable resolution, or when a person is unconscious or where the person knows that the victim is unaware that the act is occurring.

- Is an act of sexual intercourse accomplished with a person, whether or not they are the spouse of the perpetrator, under any of the following circumstances:
- Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the

person committing the act.

- Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.
- Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
- Where a person is at the time unconscious of the nature of the act, and this is known to the accused. "Unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:
  - Was unconscious or asleep.
  - Was not aware, knowing, perceiving, or cognizant that the act occurred or of the essential characteristics of the act due to the perpetrator's fraud in fact.

Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief. When the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. "Threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

#### **Domestic Violence Resources:**

Victims of domestic violence have a right to go to Superior Court and File a petition requesting orders for relief. Victims have the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses. The victim has the right to ask the landlord to change the locks with 24 hours. The victims should report incidents to their local law enforcement agency. The agency will file a report with the District Attorney's Office so a charging decision can be made of criminal charges. The victim is entitled to a free copy of the police report from the agency taking the report.

For further information and assistance for victims of domestic violence call the Victim **Witness Assistance Center in Santa Clara County at 408-295-2656** or the **California Victim Compensation Board at 1 800 777-9229**.

**Definition Domestic Violence:** (42USC / 13925) includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or 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.

### What is Title IX?

Title IX requires that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." As such, Title IX of the Education Amendments of 1972 prohibits discrimination based on the gender of students and employees of educational institutions that receive federal financial assistance. West Valley-Mission Community College District ("WVMCCD" or "the District") is governed by Title IX.

### WHO IS COVERED BY TITLE IX?

All educational institutions that receive federal financial assistance are affirmatively required to adhere to Title IX regulations. Even if only one of the institution's programs or activities receives federal funding, all of the programs within the institution must comply with Title IX regulations.

### FACTS ABOUT TITLE IX

Athletic departments are not the only component of college life governed by Title IX. The regulations prohibit sex discrimination in regard to all programs, including:

- Course offerings, classroom access, grading, and other academics
- Student counseling and academic support
- Hiring and retention of employees (staff, faculty, and administration)
- Job related benefits and leave
- Pregnancy

In addition to sex discrimination, Title IX also prohibits sexual misconduct (which includes sexual harassment, gender harassment, and sexual violence). Additional information regarding what behaviors may constitute sexual harassment and other forms of sexual misconduct is available in WVMCCD's Title IX Policy located on its website and in its student, faculty, and employee handbooks. Title IX serves to protect the rights of men and women. Title IX requires that males and females receive fair and equal treatment in all educational and employment areas.

Title IX also protects individuals who report sex discrimination and sexual misconduct from retaliation by individuals or by institutions. The reporting of incidents of discrimination is integral to the effective enforcement of Title IX law. Therefore, the protection of complainants, as well as the accused, is important. Retaliation against any individual who reports or makes a complaint about a Title IX violation will not be tolerated at WVMCCD. The district will impose appropriate corrective action against any individual found to have engaged in acts or threats of retaliation.

### COMPLIANCE WITH TITLE IX – WHO IS RESPONSIBLE?

Certain employees of the Colleges and District are required to report instances of alleged violations of Title IX. Without exception, if an employee is not sure if a situation warrants reporting, he/she must seek guidance from the Title IX Coordinator. It is essential that

institutions receiving federal financial assistance operate in a nondiscriminatory manner. To ensure compliance with the law, adherence to Title IX regulations is everyone's responsibility. The penalty for failure to comply with Title IX, in the extreme circumstances, can include the termination of all or part of an institution's federal funding including grants and student loans. It can also result in the termination of a college or District employee or the dismissal of a student.

## REPORTING COMPLAINTS UNDER TITLE IX

Any member of the WVMCCD community, who believes he/she has been the victim of sex discrimination, sexual misconduct, or who has witnessed such conduct, should report such misconduct, or file an informal or formal complaint with the College's Title IX Coordinator.

Students who believe they have been or are victims of sex discrimination or sexual harassment, including sexual assault or sexual violence on or off campus, whether by College employees, contracted services employees, other students, or non-community members, are encouraged to request immediate personal support and assistance from any member of the Office of Student Services or the Title IX Coordinator. Student complaints against other students concerning sexual assault, sexual violence or other sexual misconduct may be made on an informal or formal basis with the College's Title IX Coordinator or WVMCCD's Police Department. All complaints filed with or received by the Police Authority will be forwarded to the Title IX Coordinator, who will direct that an appropriate investigation be conducted.

Employees who believe they are being harassed or discriminated against on account of their gender should promptly make a report to the Title IX Coordinator, to his/her supervisor, to the Associate Vice Chancellor of Human Resources and Director, Compliance, Training & Employee Relations: a campus President. All reports made to the employee's supervisor, campus President or the WVMCCD Police Authority must, in turn, be immediately forwarded to the District Associate Vice Chancellor of Human Resources and the Director, Compliance, Training & Employee Relations.

## IMPORTANT FACTS

1. WVMCCD will utilize its best efforts to protect all College community members from sex discrimination, gender-based harassment, sexual harassment, sexual assault, and sexual violence.
2. WVMCCD will take affirmative and corrective action whenever it becomes aware of possible sex discrimination, sexual assault, sexual violence, or other sexual misconduct within the College community, whether or not a complaint has been made.
3. In order to meet its Title IX obligations and to the extent possible, every effort will be made to keep the details of complaints confidential if requested to do so by a victim of sexual misconduct and to follow the district's procedures for conducting an investigation and recommendations. However, the District's ability to strictly observe confidentiality may be compromised where the safety of members of the community is judged to be at risk.
4. The safety and security of all members of the College community is a priority matter.
5. The internal investigation of a complaint will be conducted, and a decision rendered, no matter the timeline or outcome of case adjudication by external authorities. Expanded

information concerning sex discrimination, sexual harassment, sexual assault, sexual violence, and WVMCCD's Title IX Policy and Procedures Governing the Reports and Investigation of Title IX Complaints, can be found in WVMCCD's student, faculty and employee handbooks, as well as on the College's website.

#### WHAT FEDERAL AGENCY ENFORCES TITLE IX?

The United States Department of Education's Office for Civil Rights (OCR) is in charge of enforcing Title IX. Information regarding OCR can be found at [www.ed.gov/about/offices/list/ocr/index.html](http://www.ed.gov/about/offices/list/ocr/index.html)

#### Report an Incident

West Valley-Mission Community College District encourages everyone to report all forms of gender-based discrimination and sexual misconduct to the College, District and/or the police. Making a report means telling someone in a position of authority what happened – this can be in person, over the phone, or in an email. Contact the Title IX Coordinator or submit an online complaint form [Title IX Incident Report](#).

Please note the Title IX Coordinators deal specifically with gender-based discrimination and harassment. You can report all other forms of unlawful discrimination or harassment by submitting a completed complaint form to the Director of Compliance, Training & Employee Relations.

#### Who Can File a Report?

Anyone (students, faculty, or staff) can report gender-based discrimination or sexual misconduct to the college. It does not matter if you were personally involved in an incident or if you witnessed something happening to someone else. West Valley-Mission Community College District follows a See Something, Say Something, Do Something model. This means we expect community members to look out for each other and report misconduct that affects all members of our campus community.

#### When Should I File a Report?

You should report incidents of gender-based discrimination and sexual misconduct as soon as possible. While it is never too late to report sexual harassment, sexual assault, stalking, or dating or domestic violence, it is much easier to conduct a thorough investigation if a report is made in a timely manner. Reporting instances of sexual misconduct as soon as possible allows the college to help you (and other affected parties) connect with valuable support services.

#### Where Should I File My Report?

You have the choice to report sexual misconduct to Mission College, West Valley College, District Human Resources, or District Police or local Police. You can file a report with the District and still decline to file a report with local law enforcement agencies. If you are unsure of where to file your report, contact the College's Title IX Coordinator to discuss your reporting options, and help you file a report with the WVMCCD District Police if you so desire. Report all instances of gender-based discrimination and sexual harassment to the Title IX Coordinator.

Filing a Report with the College

To file a formal complaint, complete the [Title IX Incident Report](#) form and e-mail a completed copy to the College's Title IX Coordinator.

**The Title IX Coordinator at Mission College is:**

Omar Murillo Ed. D., Vice President of Student Services

Mission College Student Services

3000 Mission College Blvd

Santa Clara, CA 95054

Phone: (408) 855-5195

Email: [omar.murillo@missioncollege.edu](mailto:omar.murillo@missioncollege.edu)

**The Title IX Coordinator at West Valley College is:**

Debra Griffith Ed.D., Vice President, Student Services, Diversity, and Inclusion

West Valley College Student Services

14000 Fruitvale Avenue

Human Resources Department

Saratoga, CA 95070

Phone: (408) 741-2438

Email: [debragriffith@westvalley.edu](mailto:debragriffith@westvalley.edu)

**The District Title IX Compliance Officer at WVMCCD is:**

Samantha Folb, District-Director, Compliance, Training & Employee Relations

Human Resources Department

14000 Fruitvale Avenue

Saratoga, CA 95070

Phone: (408) 741-2194 Fax: (408) 867-9059

Email: [samantha.folb@wvm.edu](mailto:samantha.folb@wvm.edu)

## MARSY'S LAW- VICTIM BILL OF RIGHTS

On November 4, 2008, the voters of the State of California approved Proposition 9, the Victims' Bill of Rights Act of 2008: Marsy's Law, a measure to provide all victims with rights and due process. Additional information can be found at: [http://oag.ca.gov/victimservices/marsys\\_law](http://oag.ca.gov/victimservices/marsys_law)

*Resources – Santa Clara County*

### **VICTIMS' BILL OF RIGHTS ACT OF 2008**

On November 4, 2008, the voters of California voted Proposition 9 into law. This measure amends the California Constitution. The amendment contains victims' rights now known as Marsy's Law. The Santa Clara County District Attorney's Office will implement policies and procedures which are in legal accord with these rights.

#### **MARSY'S RIGHTS**

California Constitution, Article I, Section 28 (b)

In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:

- (1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
- (2) To be reasonably protected from the defendant and persons acting on behalf of the defendant.
- (3) To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant
- (4) To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family, or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
- (5) To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
- (6) To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
- (7) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

(8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

(9) To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

(10) To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

(11) To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

(12) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

(13) To restitution.

(A) It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.

(B) Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.

(C) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

(14) To the prompt return of property when no longer needed as evidence.

(15) To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

(16) To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.

(17) To be informed of the rights enumerated in paragraphs (1) through (16).

## MISSING STUDENT NOTIFICATION

If a person has not returned home, failed to appear for work, class, an appointment as anticipated, or there is a belief that something is suspicious about his or her presence, report the situation to law enforcement.

You need not and should not wait 24+hours to report a missing person. Anyone can file a missing person report, but Campus Officials who become aware of a potentially missing student must report information immediately to West Valley- Mission Community College District Police Department.

Pursuant to California Penal Code 14205(a), a law enforcement agency must take a missing person report without delay. When a report is filed with West Valley- Mission Community College District Police Department, a complete and thorough investigation surrounding the incident will be conducted by the appropriate jurisdiction.

In compliance with federal law, during registration, students have the option to specify contact(s) to be notified in the event the police determine someone is a missing person. This contact information is kept confidential and only accessible by authorized college officials for disclosure to law enforcement personnel during a missing person investigation.

Federal law also requires the college to inform students that an emergency contact will be notified within 25 hours of a person being determined as missing. For non-emancipated minors, a custodial parent or guardian will be notified in addition to ant listed emergency contact(s).

The college may make additional notifications as necessary, and as provided for by FERPA, to resolve a safety emergency, including notifying parents or guardians, even when they were not specifically listed by a student as an emergency contact.

**13700 PC Domestic Violence - Defined**

Abuse committed against an adult or fully emancipated minor who is the spouse, former spouse, cohabitant, former cohabitant, who has a dating relationship, former dating relationship, engagement relationship, former engagement relationship, or parties having a child in common.

**273.5 PC Spousal Abuse or Cohabitant Abuse**

- Willfully inflicts corporal injury upon
- Spouse or Cohabitant or Parties with a Child in Common
- Results in a Traumatic condition
- Verifiable Injury (Officer's observation or medical exam)

**243(e) (1) PC Battery**

- Willfully and unlawfully use force or violence against,
- Spouse, cohabitant, parties with a child in common, non-cohabiting former spouse or fiancé/fiancée or a person with whom the defendant currently has or has previously had a dating relationship regardless of sexual orientation
- Visible injury not necessary

**422 PC Terrorist Threats**

- Threat to commit a crime which will result in Death or Great Bodily Injury
- Must be unequivocal, unconditional, immediate, and specific
- Causes sustained fear for safety
- To a person or their immediate family

**646.9 PC Stalking**

- Willfully, maliciously and repeatedly follows or harasses
- Makes a credible threat (Pattern of conduct by suspect, taken in totality, so that a reasonable person would fear for their safety or that of their immediate family)

**591 PC Malicious Destruction of Phone Lines**

- Unlawfully and maliciously
- Takes down, removes, injures, or obstructs
- Any telephone, telegraph or cable TV line, or any other line used to conduct electricity.

**273.6 PC Violation of Domestic Violence Protective Order**

- Intentionally and knowingly violate a Domestic Violence Protective Order (including Emergency Protective Order, Temporary Restraining Order and Restraining Order

**Dating Violence:** Means violence committed by a person-(a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship.
- The type of relationship.
- The frequency of interaction between the persons involved in the relationship.

Common signs of abusive behavior in a relationship According to the National Domestic Violence Hotline, one feature shared by most abusive relationships is that an abusive partner tries to establish or gain power and control through many different methods, at different moments. Even one or two of the following behaviors is a red flag that a partner may be abusive.

- Showing extreme jealousy of friends or time spent away from a partner.
- Preventing or discouraging one's partner from spending time with friends, family members, or peers.
- Insulting, demeaning, or shaming a partner, especially in front of other people.
- Preventing one's partner from making their own decisions about working or attending school.
- Controlling finances in the household without discussion, including taking a partner's money or refusing to provide money for necessary expenses.
- Pressuring one's partner to have sex or perform sexual acts they are not comfortable with.
- Pressuring a partner to use drugs or alcohol.
- Threatening to harm or take away a partner's children or pets. • Intimidating one's partner with weapons
- Destroying a partner's belongings or home

If you notice warning signs in your relationship or that of someone you care about, remember there are support resources available on your campus, including individuals with whom you can speak confidentially and who can assist you with making a safety plan. A good starting place for a list of resources is your campus Title IX webpage. You can also contact the National Domestic Violence Hotline at 1-800-799-SAFE (7233), which is free and confidential.

[Source: National Domestic Violence Hotline]

Abusive behaviors can be difficult to recognize in a relationship, even if you are the one engaging in them. In addition to some of the common signs of abusive behavior outlined above, ask yourself if your partner:

- Seems nervous around you,
- Seems afraid of you,
- Flinches, cringes, or retreats when you are emotional,
- Seems scared, or unable to contradict you or speak up around you, and/or
- Restricts their own interactions with friends, family, coworkers, or others in order to avoid upsetting you

If you recognize the behaviors above in yourself, or in how your partner reacts, these could be signs that you are hurting them. This can be a difficult realization to come to but it's vital that you do so if you want to change and stop harming your partner. By acknowledging that your actions are harmful and taking responsibility for them, you can continue to progress on the path toward correcting them. You could consider contacting the psychological counseling center on your campus to speak with a counselor confidentially, or you could contact the National Domestic Violence Hotline at 1-800-799-SAFE (7233), which is free and confidential.

[Source: <https://www.thehotline.org/identify-abuse/domestic-abuse-warning-signs/> ]

**Stalking:** (42USC/13925) Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress. A person commits the crime of stalking when the person either:

- (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
- (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

### Respecting boundaries

If someone tells you that they do not want you to contact them or do something like visit their home or send them gifts, or if they have stopped interacting with you, respect their choice. Everyone has the right to set boundaries.

Recognizing stalking behaviors, A person who engages in stalking may:

- Repeatedly call or send other unwanted communication such as text messages, emails, social media messages, letters, etc.
- Follow the person and seem to “show up” wherever they are.
- Send unwanted gifts.
- Damage home, car, or other property.
- Monitor phone calls or computer use.
- Drive or linger near the home, school, or work of the person they are stalking.
- Use other people to try and communicate with the person they are stalking, like children, family, or friends.

[Source: [Stalking - Victim Connect Resource Center](#) ]

Below are some tips from the Stalking Prevention Awareness and Resource Center (SPARC) regarding steps one can take if they are experiencing stalking.

- Trust your instincts – if you/someone feels they are in immediate danger or fear a threat of harm, **call 9-1-1**
- Keep a record or log of each contact with the stalker
- Save evidence when possible, such as emails, text messages, postings on social media, etc.

Know that there are support resources available on each WVMCCD campus, including individuals with whom individuals can speak confidentially and who can assist in making a safety plan and/or seeking a protective order. A good starting place for a list of resources is your campus Title IX webpage.

**California Penal Code 646.9** (a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

## SEXUAL ASSAULT AWARENESS AND PREVENTION

These programs consist of guest speakers, films, and printed materials. To obtain further information please contact the West Valley-Mission Community College District Police Department, Health Services, or Student Services. Counseling assistance is available through Health Services and Counseling Department. The West Valley- Mission Community College District will vigorously prosecute and discipline persons identified as responsible for sexual assaults. In addition to criminal prosecution, the College District will impose discipline against students, student organizations, college faculty or staff identified as committing or participating in sexual assaults. College discipline includes expulsion from the college; suspension for a specific time period; or probation for a specific time period.

Discipline proceedings involving students will be processed through the Office of the Vice President of Student Services. Discipline proceedings involving faculty or staff members will be processed through the District Human Resources Office. Both the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding. Both the accuser and the accused shall be informed of the outcome of any campus proceeding alleging a sexual assault.

### **Reporting Sexual Assault**

As soon as possible, the victim should report incidents of sexual assault, including date or acquaintance rape to the West Valley-Mission Community College District Police Department, the local police (if the victim is unable to contact the West Valley-Mission Community College District Police Department), or a college faculty or staff member who can aid in contacting the proper authorities. The Counseling Department and Health Services can also help in contacting the proper authorities. The victim should make every attempt to preserve any physical evidence of the assault. This may include not showering or bathing, not cleaning the scene of the incident, and not disposing of any damaged clothing, or other items. The District Police will immediately initiate a criminal investigation into on-campus sexual assaults.

The victim will be given information on counseling and support groups. If the victim wishes to change an academic schedule, the appropriate steps will be taken to accommodate the victim to the full extent possible. The colleges also encourage persons reporting to seek the support and assistance of friends or family when needed, in presenting their concerns. Santa Clara County offers 24-hour counseling for victims of crimes. The *Santa Clara County Valley Rape Crisis Center* may be reached at 1-408-287-3000.

## **Confidential reporting may also be made to Campus Security Authorities (CSA)**

**What is a CSA?** A CSA is a person referred to as a campus security authority by the Clery Act. CSA's are a vital part of data collection for the annual safety and security report. The Clery Act requires each college to provide an annual safety and security report. In addition to input from law enforcement, certain staff positions are designated as Campus Security Authorities (CSA) for the purpose of providing information for this report. CSAs are usually found in departments responsible for, but not limited to, student and campus activities, safety/security, discipline, housing, athletics, health services, human resources, or judicial proceedings. This designation also includes any individual who has been specified by the colleges to receive and report offenses. CSA's are responsible for reporting the number of crimes and incidents as described in the Clery Act that occur in their department to the District Police Department. These numbers are then included in the federally mandated Clery Report, which is distributed every year in the beginning of October.

### **VOLUNTARY CONFIDENTIAL REPORTING**

If crimes are never reported, little can be done to help prevent other members of the community from also being victimized.

If you are the victim of a crime and do not want to pursue action within the District's System or through the criminal justice system, you may still want to consider making a confidential report. With your permission, the Human Resources Department (employees) or the Vice President of Student Services (students) can file a report on the details of the 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. This information allows the district to keep an accurate record of the number of incidents involving students, determines crime patterns with 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 Security Report. In limited circumstances, the police department may not be able to assure confidentiality and will inform you in those cases.

The West Valley-Mission Community College District Police Department encourages anyone who is the victim or witness to any crime to promptly report the incident to the police. Because police reports are public records under state law, the West Valley-Mission Community College District Police Department cannot hold every crime report confidential. The identity of victim information involving particular crimes such as sexual assault can be protected upon request of the victim. Confidential reports for purposes of inclusion in the annual disclosure of crime statistics can generally be made to other campus security authorities as identified below. Confidential reports of crime may also be made to the District Human Resources Department (employees), Vice President of Student Services (students) or Health Services on either campus.

### **PREVENTION AND EDUCATIONAL AWARENESS**

West Valley-Mission Community College District takes a comprehensive institutional approach to address prohibited Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking. It also ensures that appropriate education and support services create an environment that does not tolerate Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking.

Trained facilitators provide presentations, workshops, and other educational events and programs to the WVM community. Multi-week awareness programs, training, primary prevention programs, bystander intervention training, and ongoing prevention and awareness campaigns are offered during the Academic Year for the campus community. Some are voluntary and others are mandatory.

Staff and faculty are required by the WVM District to complete various trainings to identify, prevent, and report sexual harassment and sexual misconduct, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking. Primary prevention and awareness training programs are required to be completed by all new employees and annually by all employees via an on-line course. In addition, Title IX office provides Sexual Misconduct training available to all faculty and staff throughout the year.

Descriptions of some of these programs offered to the campus community are:

Program Type	Audience	Number of Programs Held (frequency)	Description
<p>Student Health 101 Mission College Web Based  <a href="https://missioncollege.campuswell.com/">https://missioncollege.campuswell.com/</a></p>	<p>Student, Staff, Faculty &amp; Community</p>	<p><a href="#">What is the Title IX office and how can it help me? - CampusWell</a>  <a href="https://www.campuswell.com/ask-counselor-abusive-roommate/">https://www.campuswell.com/ask-counselor-abusive-roommate/</a>  <a href="https://www.campuswell.com/how-to-deal-with-toxic-friends/">https://www.campuswell.com/how-to-deal-with-toxic-friends/</a>  <a href="https://www.campuswell.com/ask-counselor-unhealthy-dependency/">https://www.campuswell.com/ask-counselor-unhealthy-dependency/</a>  <a href="https://www.campuswell.com/dealing-with-anxious-thoughts/">https://www.campuswell.com/dealing-with-anxious-thoughts/</a>  <a href="https://www.campuswell.com/prevent-sexual-assault-respect/">https://www.campuswell.com/prevent-sexual-assault-respect/</a>  <a href="https://www.campuswell.com/ask-counselor-find-romantic-relationship/">https://www.campuswell.com/ask-counselor-find-romantic-relationship/</a>  <a href="https://www.campuswell.com/ask-counselor-traumatic-event/">https://www.campuswell.com/ask-counselor-traumatic-event/</a></p>	<p>Education on sexual assault, drugs and alcohol, bystander intervention, hate &amp; bias, diversity and inclusion, sexual assault prevention, and hazing prevention education. Ongoing awareness on dating violence, mental health, domestic violence related to gender, and stalking.</p>
<p>FERPA Adjudication Workshop</p>	<p>Staff &amp; Faculty</p>	<p>Twice- Spring Semester</p>	<p>Education on FERPA a federal law that protects the privacy of student education records.</p>
<p>Women of Wonder (WOW)</p>	<p>Student, Staff, Faculty &amp; Community</p>	<p>Ongoing</p>	<p>Training on how to be empowered regarding relationships, social competencies, attitude and personal development.</p>

Program Type	Audience	Number of Programs Held (frequency)	Description
Personal Safety and Awareness	Student, Staff, Faculty & Community	Ongoing	Provide trainings on primary prevention and best practices for response and creating an informed environment.
Mental Health First Aid	Student, Staff & Faculty	Ongoing	8 hr course teaches participants how to help someone who is developing a mental health problem or experiencing a mental health crisis
New Student Convocation for Students	Incoming Students	Once – Fall Semester	All students and parents who attend receive information on consent, safety & resources. A presentation on Sexual Assault/Dating Violence, Academic Stress and Success Strategies are presented. Title IX info is provided.
Suicide Prevention Presentations <a href="https://qprinstitute.com/">https://qprinstitute.com/</a>	Student, Staff, Faculty & Community	Ongoing	75 Minute Suicide Prevention Training Sessions by arrangement
Dating Violence Presentations <a href="https://www.joinonelove.org/act/escalation-workshop/">https://www.joinonelove.org/act/escalation-workshop/</a>	Student, Staff, Faculty & Community	Ongoing	85 Minute Training Sessions on dating violence by arrangements
Suicide Prevention Week	Student, Staff, Faculty & Community	Annual	National Suicide Prevention Week is an annual week-long campaign in the United States to inform and engage health professionals and the general public about suicide prevention and warning signs of suicide.
Domestic Violence Awareness Month	Student, Staff, Faculty & Community	Annual	Topics that our covered during workshop sessions: -What is Domestic Violence -What is gender difference -How to recognize the signs -What can a person do to get out of a DV situation -What are the available resources
Alcohol and Drug Awareness	Student, Staff, Faculty & Community	Ongoing	Alcohol and Drug Information & Prevention Workshops
Human Resource Trainings	Onboarding PT/FT Faculty, Administrators & Classified Employees	Ongoing	These are mandatory training programs that must be completed by all new employees. Orientation materials include campus safety, Clery, VAWA training materials

## West Valley-Mission Community College District 2020 Year-Round Staff Training

Training Topic	Type	Format	Targeted Staff Type
FERPA	Orientation	Online	All Employees
Mandated Reporting	Orientation	Online	All Employees
VAWA/CLERY	Orientation	Online	All Employees
Sexual Harassment: Staff to Staff	Orientation	Online	Supervisors, Managers & Administrators
Sexual Harassment: Policy and Prevention	Orientation	Online	Supervisors, Managers & Administrators
Title IX	Orientation	Online	All Employees
Legal Compliance & Best Practices in the Area of Bullying & Title IX	One Session	Classroom	Supervisors, Managers & Administrators
Title IX Compliance- Putting it into Practice	One Session	Classroom	Supervisors, Managers & Administrators
Association of Title IX Administrator Level One Certificate	One Session	Classroom	Administrators



## THE FEDERAL CAMPUS SEX CRIMES PREVENTION ACT

### (Megan's Law)

The Federal Campus Sex Crimes Prevention Act requires the WVM District to inform the campus community where to find information on registered sex offenders. California law requires sex offenders to register with their local police or sheriff, which places their names in a state-wide database.

The State of California Registered Sex Offenders database can be accessed at <http://www.meganslaw.ca.gov>

### Sex Offender Registration

California Penal Code Section 290.01 requires every person who was convicted of a sex offense to register with the Campus Police Department of a College or University within Five (5) days where he/she is:

1. Enrolled as a Full-time student.
2. Enrolled as a Part-time Student.
3. Employed as a Full-time Staff, Faculty, or Instructor.
4. Employed as a Part-time Staff, Faculty, or Instructor.
5. Employed as a Full-time or Part-time Classified employee.
6. Employed as a volunteer.
7. A contractor who is contracted by the College or University to work on campus.
8. A carrier driver who delivers to that College or University more than 14 consecutive days or 30 days in a calendar year (i.e., Water delivery, Mail, VTA drivers, Outreach drivers, Armored car drivers, Telephone, Gas, and Electricity technicians, Computer technicians, Office supply drivers, and others).

This section does not relieve the person to register as a Sex Offender with the jurisdiction where he/she is residing. The registrations as a Sex Offender with a College or University Police Departments are in addition to the registration with the local police and sheriff's departments.

Anyone needing to register per Section 290 of the California Penal Code must call the Records Office to make an appointment at 1-408-741-2092.

## ASSISTANCE AND SAFETY ESCORTS

The District Police will provide you with assistance in unlocking your vehicle, providing jumper cables, or summoning a tow truck or locksmith to assist you. In general, we will not attempt to open vehicles which have electric locks or windows. We will also assist family members in contacting students who are in class if there is a serious family emergency.

There is an escort service at both colleges from Monday through Thursday evenings. Escorts can be reached by dialing 2092 on the **West Valley College** campus or 1- 408-741-2092 from a non-campus line. Escorts can be reached by dialing 5435 on the **Mission College** campus or 1- 408-855-5435 from a non-campus line. After 5 PM call County Communications, 1-408-299- 2311 and ask for a West Valley-Mission police officer and request an escort on campus.

Times can be arranged in advance so the escorts can meet students at their classes. We do not provide escorts to off campus locations.

### Alcoholic Beverages

The possession, sale, or furnishing of alcohol on West Valley-Mission district property is governed by District Policy and California state laws. Violators are subject to disciplinary action and criminal prosecution. West Valley-Mission prohibits the possession of open containers of alcoholic beverages on any district property, with the exception for those circumstances outlined in WVM Administrative Police 3560.

### Drug Free Campus

- Both the abuse and moderate use of alcohol and illegal drugs can result in injury and death. While chronic problems are associated with long-term abuse, damage can occur from moderate or even a single experimental use of a substance. Alcohol and drug use seriously impair learning and motivation; disrupts the classroom; jeopardizes our physical and mental health; subjects us to criminal penalties; injures our families; erodes our relationships; and inhibits our ability to benefit from an education. West Valley- Mission Community College District therefore asks you to support, maintain, and promote actively a drug-free learning environment by being aware and informing others of college policies, referral sources for help, and the substantial legal, personal, and health consequences associated with use. If you or someone you know is having problems with alcohol or drugs, seek out confidential assistance on-campus, or from one of the community agencies listed on this sheet. (West Valley-Mission Community College District Policy BP 3550)

## BP 3550 DRUG FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM

### References:

Drug Free Schools and Communities Act, 20 U.S. Code Section 1145g;  
34 Code of Federal Regulations Sections 86.1 et seq.;  
Drug Free Workplace Act of 1988, 41 U.S. Code Section 702

The District shall be free from all drugs and shall prohibit the unlawful use, possession, sale, or distribution of alcohol, narcotics, dangerous or illegal drugs, or other controlled substances, as defined in California statutes, on District property or at any function sponsored by the District or Colleges.

Any student or employee who violates this policy will be subject to disciplinary action (consistent with local, state, or federal law), which may include referral to an appropriate rehabilitation program, suspension, demotion, expulsion, or dismissal.

The Chancellor shall assure that the District distributes annually to each student and employee the information required by the Drug Free Schools and Communities Act Amendments of 1989 and complies with other requirements of the Act.

The Colleges will provide information pertaining to the health risks and effects associated with alcohol and narcotics or other dangerous or illegal drugs. Students may be referred to

various on campus programs or outside agencies for support, information, and/or enrollment in a drug recovery program.

**Date Adopted: January 17, 2012**

**Date Revised: December 10, 2019**

Item 5.19 *Student Conduct Policy* prohibits the use, distribution, sale or possession of controlled substances on college property or at events sponsored by the college. All state and federal laws pertaining to unlawful use and possession of drugs and alcohol are enforced on the campuses.

### **Health Consequences**

Even experimental use of a substance may result in:

- Impaired learning due to poor concentration, fatigue, drowsiness, anxiety, altered perception, confusion, indifference, depersonalization, memory loss, panic attacks, and drug-induced psychiatric problems.
- Impaired judgment leading to driving under the influence of alcohol/drugs.
- The intravenous use of drugs can result in hepatitis, tetanus, abscesses, and AIDS.
- The use of stimulants can lead to cardiac fibrillation, heart attack, seizures, respiratory cardiac arrest and death.

The most common negative health consequences from occasional drinking are:

- Trauma-related (i.e., auto accidents, violent and abusive acts) and involve both the drinker and non-drinking victims.
- Long-term alcohol abuse can cause brain damage, cirrhosis of the liver, hepatitis, permanent in coordination, ulcer disease, gastritis, pancreatitis, heart disease, stroke, anemia, sexual dysfunction, cancers, and many other health problems.
- The Health Services Office provides drug and alcohol abuse education programs and confidential assistance.

### **SMOKING AND THE USE OF E-CIGARETTE DEVICES ON CAMPUS**

References:

- WVM District Policy BP 3570
- Government Code Sections 7597.1

The district shall provide a safe learning and working environment for students and employees. It is the intent of the district to provide a smoke-free and vapor-free environment to the greatest extent possible. This policy applies to, without limitation, traditional tobacco-based products, such as cigarettes, cigars, and pipe tobacco, and to electronic devices, such as e- cigarettes, e-pipes, and e-hookahs that deliver vapor for inhalation.

Smoking and the use of e-cigarette devices are prohibited in all indoor locations within the district. Smoking and the use of e-cigarette devices are prohibited in any enclosed place of employment on campus, including lobbies, lounges, waiting areas, stairwells, and restrooms that

are a structural part of any building that is a place of employment. Smoking and the use of e-cigarette devices are prohibited in all areas of the Mission and West Valley campuses except in parking lot areas that are at least twenty-five (25) feet away from buildings and pathways.

### **Legal Sanctions**

As a college student or employee, you are subject to both college rules and regulations and the laws and penalties of the State of California for alcohol/drug offenses. As a student, if you are under the influence of alcohol and/or drugs, or if you are discovered selling, or dispensing drugs on campus or at any college function, you can be suspended, expelled, and criminally prosecuted. If you are an employee or volunteer at West Valley-Mission Community College District you may be placed on probation, terminated, and criminally prosecuted for the use, sale, or possession of illegal drugs and/or alcohol on campus, or at college-sponsored events.

## **BP 3570 SMOKING AND THE USE OF E-CIGARETTE DEVICES ON CAMPUS**

### **References:**

Government Code Sections 7597.1

The District shall provide a safe learning and working environment for students and employees. It is the intent of the District to provide a smoke-free and vapor-free environment to the greatest extent possible. This policy applies to, without limitation, traditional tobacco-based products, such as cigarettes, cigars, and pipe tobacco, and to electronic devices, such as e-cigarettes, e-pipes, and e-hookahs that deliver vapor for inhalation.

Smoking and the use of e-cigarette devices are prohibited in all indoor locations within the District. Smoking and the use of e-cigarette devices are prohibited in any enclosed place of employment on campus, including lobbies, lounges, waiting areas, stairwells, and restrooms that are a structural part of any building that is a place of employment.

Smoking and the use of e-cigarette devices are prohibited in all areas of the Mission and West Valley campuses except in parking lot areas that are at least twenty-five (25) feet away from buildings and pathways.

The Chancellor shall establish administrative procedures that address notification of the policy, the posting of signs, the provision of education and training, and responsibility for enforcement.

It is the responsibility of all students and employees to observe the policy on smoking and e-cigarettes. Failure to comply with this policy will be treated in the same manner as other violations of District policy and may result in disciplinary action.

This policy does not supersede more restrictive policies that may be in force under state or federal regulations.

To enforce regulations and procedures, the Chancellor is authorized to:

- Set enforcement standards for all District sites and campuses.

- Impose a fine for a first, second, and third offense and for each subsequent offense. The amount of any fines will not exceed one hundred dollars (\$100). Funds shall be allocated to include, but not be limited to, the designated 32 enforcement agency, education and promotion of the policy, and tobacco and vapor cessation treatment options.
- Direct that the District post signs stating its smoking, tobacco, and use of ecigarette devices policy on campus, as follows:
  - the locations at which smoking, tobacco, or e-cigarette device use is prohibited on campus
  - the locations at which smoking, tobacco, or e-cigarette device use is permitted on campus
  - Inform employees and students of the smoking, tobacco, and use of e-cigarette devices policy and enforcement measures.

See Administrative Procedure 3570

**Date Adopted: January 17, 2012**

**Date Revised: April 21, 2015**

**Reviewed: January 2020**

## DISTRICT & COLLEGE SERVICE OFFICES

The following listing provides telephone numbers of campus units that deal with issues of personal health, safety, and empowerment; substance abuse prevention, assessment, and treatment; and student legal assistance.

### FOR FREE CONFIDENTIAL ASSISTANCE

Contact the following services on campus:

- |  |                |
|--|----------------|
| • Mission College Student Health Services                      | 1-408-855-5140 |
| <b>Location:</b> SEC - 104<br>(Across from the Welcome Center) |                |
| • West Valley College Student Health Services                  | 1-408-741-2027 |
| • <b>Location:</b> Student Services Center                     |                |
| • Mission College Counseling Services                          | 1-408-855-5555 |
| <b>Location:</b> Student Engagement Center SEC 139             |                |
| • West Valley College Counseling Services                      | 1-408-741-2009 |
| <b>Location:</b> Student Services Center                       |                |

For assistance off-campus, call:

- |  |                |
|--|----------------|
| • Alcoholics Anonymous                     | 1-408-374-8511 |
| • Narcotics Anonymous                      | 1-408-998-4200 |
| • National Council on Alcoholism, Bay Area | 1-415-296-9047 |

For a more comprehensive list of off-campus referrals contact the Campus Health Services.

## BYSTANDER INTERVENTION

West Valley-Mission Community College District and the campuses provide training on 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 misconduct/sexual assault, sexual exploitation, 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. Information about bystander intervention is included in a variety of prevention, outreach, and awareness programs across the West Valley-Mission Community College District. This training encourages employees and students to:

- Notice the Event
- Interpret the Event as a Problem
- Assume Personal Responsibility
- Learn How to Help
- And Step Up by utilizing the “4 Ds” – Direct, Distract, Delegate, and Delay
  - o Direct – Directly addressing the situation.
  - o Distract – Making a simple (or elaborate) distraction to diffuse the situation.
  - o Delegate – Finding someone else to address the concern.
  - o Delay – Checking in with the person after to see if you can do anything to support them

## CRIME STATISTICS - INFORMATION

The crime statistics were compiled by West Valley-Mission Community College District Police Department, campus officials having responsibility for oversight of student activities, and relevant local agencies. Crime definitions are from the Uniform Crime Reporting (UCR) Handbook and sex offense definitions are from the National Incident Based Reporting System (NIBRS) edition of the Uniform Crime Reporting Program. For statistical purposes, crime statistics reported to any of these sources are recorded in the calendar year the crime was reported. A written request for statistical information is made on an annual basis to surrounding jurisdictions that surround the two college campuses.

All of the statistics are gathered, compiled, and reported to the West Valley-Mission Community College District community via this report. This information is available at the West Valley-Mission Community College Police Department website at: <http://wvm.edu/police/>. West Valley-Mission Community College campus authorities submit the annual crime statistics published in this report to the United States Department of Education (DOE). The statistical information gathered by the United States Department of Education is available to the public through the DOE website.

The criminal law definitions (California) found in Appendix A.

## DEFINITIONS OF CLERY ACT CRIMES

*(Crime Definitions from the Uniform Crime Reporting Handbook and Sex Offenses Definitions from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program)*

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

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

**Sex Offenses–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. Such as forcible rape (date/acquaintance), forcible sodomy, sexual assault with an object, forcible fondling.

**Sex Offenses–Non-forcible:** Unlawful, non-forcible sexual intercourse. Such as incest, or statutory rape.

**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. May include a weapon, simulated weapon or by force or fear or intimidation.

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

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

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

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

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

**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances

include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

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

## HATE CRIMES - DEFINITIONS

**Hate Crimes:** Crimes that manifest evidence that the victim was intentionally selected because of the victim's race, gender, religion, sexual orientation, ethnicity/national origin, or disability. West Valley-Mission College District is required to report statistics for hate (bias) related crimes by the type of bias as defined below for the following classifications: murder/non-negligent manslaughter, negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug violations and/or illegal weapons possession and larceny, vandalism, intimidation, and simple assault, and any crimes involving bodily injury to any person.

**Larceny:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

**Vandalism:** 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.

**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.

**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.

If a hate crime occurs where there is an incident involving intimidation, vandalism, larceny, simple assault or other bodily injury, the law requires that the statistic be reported as a hate crime even though there is no requirement to report the crime classification in any other area of the compliance document.

Non-Campus crime is defined as crime that occurred on property owned or operated by the college.

Public Property Crime is defined as crime occurring on property immediately adjacent to the college.

**Hate Crimes** There were no reported hate crimes for the years, 2019, 2020 and 2021 on either campus.

WVM campus authorities submit the annual crime statistics published in this report to the United States Department of Education (DOE).

The statistical information gathered by the United States Department of Education is available to the public through the DOE website: <http://www.ed.gov/>.

## LOCATIONS- CLERY DEFINITIONS

**Campus:** “Any building or property owned or controlled by an institution with in the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and “Any building or property that is within or reasonably contiguous to paragraph(1) of this definition that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes.” (34 CFR 668.46(a))

**Non-campus:** “Any building or property owned or controlled by a student organization that is off campus and recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not with in the same reasonably contiguous geographic area of the institution”(34 CFR 668.46(a)).

**Public property:** “All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus” (34 C.F.R. 668.46(a)). These statistics were provided by the law enforcement agency having jurisdiction where the property is located and Campus Security Authorities, where applicable.



**WEST VALLEY COLLEGE 2021 CRIME STATISTICS: CLERY DATA**

<b>WEST VALLEY COLLEGE</b>	<b>2019</b>			<b>2020</b>			<b>2021</b>		
<b>OFFENSES</b>	<b>On-Campus</b>	<b>Public Property</b>	<b>Non-Campus</b>	<b>On-Campus</b>	<b>Public Property</b>	<b>Non-Campus</b>	<b>On-Campus</b>	<b>Public Property</b>	<b>Non-Campus</b>
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0
Burglary	2	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
<b>Sex Offenses Non-forcible</b>	<b>On-Campus</b>	<b>Public Property</b>	<b>Non-Campus</b>	<b>On-Campus</b>	<b>Public Property</b>	<b>Non-Campus</b>	<b>On-Campus</b>	<b>Public Property</b>	<b>Non-Campus</b>
Fondling	1	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0
<b>Sex Offenses - Forcible</b> (Including sodomy, sexual assault, w/object, oral copulation)	0	0	0	0	0	0	0	0	0
<b>VAWA OFFENSES</b>									
Domestic Violence	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0
Stalking	2	0	0	4	0	0	0	0	0
<b>ARREST</b>									
Weapons	1	0	0	0	0	0	0	0	0
Drugs	12	0	0	1	0	0	3	0	0
Alcohol	2	1	0	0	0	0	0	0	0
<b>REFERRALS</b>									
Weapons	0	0	0	0	0	0	1	0	0
Drugs	0	0	0	0	0	0	0	0	0
Alcohol	1	0	0	1	0	0	0	0	0
<b>HATE CRIMES</b>									
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Sex Offenses - Forcible	0	0	0	0	0	0	0	0	0
Sex Offenses - Non-forcible	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
Larceny	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0
Vandalism	0	0	0	0	0	0	0	0	0

**MISSION COLLEGE 2021 CRIME STATISTICS: CLERY DATA**

MISSION COLLEGE	2019			2020			2021		
	On-Campus	Public Property	Non-Campus	On-Campus	Public Property	Non-Campus	On-Campus	Public Property	Non-Campus
<b>OFFENSES</b>									
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Robbery	1	0	0	0	0	0	0	0	0
Aggravated Assault	1	0	0	0	0	0	0	0	0
Burglary	2	0	0	4	0	0	8	0	0
Motor Vehicle Theft	0	0	0	1	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
<b>Sex Offenses Non-forcible</b>	On-Campus	Public Property	Non-Campus	On-Campus	Public Property	Non-Campus	On-Campus	Public Property	Non-Campus
Fondling	1	0	0	0	0	0	0	0	0
Incest	0	0	0	0	0	0	0	0	0
Statutory Rape	1	0	0	0	0	0	0	0	0
<b>Sex Offenses - Forcible</b> (including sodomy, sexual assault, w/object, oral copulation)	0	0	0	2	0	0	1	0	0
<b>VAWA OFFENSES</b>									
Domestic Violence	0	0	0	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	1
<b>ARREST</b>									
Weapons	0	0	0	1	0	0	0	0	0
Drugs	5	0	0	2	0	0	0	0	0
Alcohol	2	0	0	1	0	0	1	0	0
<b>REFERRALS</b>									
Weapons	0	0	0	1	0	0	0	0	0
Drugs	1	0	0	0	0	0	0	0	0
Alcohol	0	0	0	0	0	0	0	0	0
<b>HATE CRIMES</b>									
Murder/Non-negligent Manslaughter	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0
Sex Offenses - Forcible	0	0	0	0	0	0	0	0	0
Sex Offenses - Non-forcible	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0	0	0	0
Burglary	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0
Larceny	0	0	0	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0
Vandalism	0	0	0	0	0	0	0	0	0

# Community Resources

<p><b>Asians Americans for Community Involvement (AACI)</b></p> <p>749 Story Road, Suite 50 San Jose, CA 95122          Phone: 408-975-2730 HOTLINE  <a href="http://www.aaci.org/">http://www.aaci.org/</a>          email: <a href="mailto:info@aaci.org">info@aaci.org</a></p> <p>AACI is Santa Clara County's largest community-based organization focused on the Asian American community</p>	<p><b>Mothers Against Drunk Driving (MADD)</b></p> <p>7027 Dublin Blvd, # 110          Dublin, CA 94568          Phone: 925-452-8752          FAX 925-452-8738  <a href="http://www.madd.org/">http://www.madd.org/</a>          email: <a href="mailto:bayarea.ca@madd.org">bayarea.ca@madd.org</a></p> <p>MADD provides victim assistance, case watching, education, public awareness and monitoring legislation issues as they apply to drinking and driving. "If you drink, don't drive - Stay Alive..."</p>
<p><b>Next Door - Solutions to Domestic Violence</b></p> <p>Address: 234 E. Gish Road, Suite 200, San Jose, CA 95112          Office phone: 408-501-7550          email: <a href="mailto:info@nextdoor.org">info@nextdoor.org</a></p> <p><b>24-HOUR Crisis Hotline: 408-279-2962</b>  <a href="#">Next Door Solutions – to Domestic Violence</a></p> <p>Next Door provides counseling, emergency shelter, legal assistance, a 24-hour hotline, and other services for victims of domestic violence.</p>	<p><b>Parents of Murdered Children</b></p> <p>215 Liberty Street Santa Cruz, CA 95060          Phone: 831-426-0874</p> <p>Parents of Murdered Children is a self-help organization that provides on-going professional support to survivors of homicide victims through meetings, peer counseling, telephone friends and a newsletter.</p>
<p><b>Santa Clara County (SART)</b></p> <p>Sexual Assault Response Team          Santa Clara Valley Medical Center          751 South Bascom Avenue          Bldg. H12          San Jose, CA 95128          Phone: 408-885-6466</p> <p>SART provides emergency comprehensive medical / forensic victim examinations and expert witness testimony following allegations of adult sexual assault.</p>	<p><b>Santa Clara County District Attorney</b></p> <p>70 West Hedding Street          San Jose, CA 95110          Phone: 408-299-7500          FAX: 408-286-5437          email: <a href="mailto:publicinformation@dao.sccgov.org">publicinformation@dao.sccgov.org</a>  <a href="http://www.santaclara-da.org">www.santaclara-da.org</a></p> <p>The DA's office has specialized teams to enhance services to victims, including Domestic Violence, Robbery, Assault, Vehicular Crime, Child Abduction, Elder and Child Abuse, Consumer Fraud, Homicide and Sexual Assault.</p>
<p><b>Santa Clara County Probation Department          Juvenile Services Division</b></p> <p>840 Guadalupe Parkway          San Jose, CA 95110          Phone: 408-278-5800 Fax: 408-294-4391  <a href="#">Santa Clara County Probation Department Web Site:</a>  <a href="https://www.sccgov.org/sites/probation/jps/Pages/default.aspx">https://www.sccgov.org/sites/probation/jps/Pages/default.aspx</a></p> <p>The Restorative Justice Project works to implement a balanced approach to the justice system: Protection of primary/secondary victims, accountability for offenders, and increased competency for youthful offenders.</p>	<p><b>Santa Clara County Social Services Agency</b></p> <p>Department of Child and Family Services          353 W Julian Street          San Jose, CA 95110</p> <p>Phone 408-755-7100  <a href="https://www.sccgov.org/sites/ssa/Pages/ssa.aspx">https://www.sccgov.org/sites/ssa/Pages/ssa.aspx</a></p> <p>Child and Family Services provides intervention and advocacy to at-risk children and to families in danger of child abuse and neglect</p>

**Continuation: Community Resources**

<p><b>Support Network for Battered Women (YWCA)</b>          375 South Third Street          San Jose, CA 95112</p> <p>Phone: 408-295-4011</p> <p>FAX: 408-295-0608          24-hr Hotline: (800) 572-2782  <a href="https://ywca-sv.org/school-based-prevention-programs/">https://ywca-sv.org/school-based-prevention-programs/</a></p> <p>The Support Network provides assistance to victims of Domestic Violence through crisis counseling, emergency shelter service, a 24-hour bilingual hotline, legal services and children's services.</p>	<p><b>SV FACES/Victim Witness Assistance Program</b>          70 W Hedding Street          West Wing          San Jose, CA 95110          Phone: 408-286-9663          Victim Witness Assistance: 408-295-2656          FAX 408-287-8061      email: <a href="mailto:info@svfaces.org">info@svfaces.org</a></p> <p><a href="http://www.svfaces.org">www.svfaces.org</a>          Help for Crime Victims and Witnesses - Crisis Counseling, follow-up care, assistance in court, recovery of loss services and assistance.</p>
<p><b>U.S. Attorney's Office, Victim &amp; Witness Assistance</b></p> <p>US Attorney's Office          Heritage Bank Building          150 Almaden Blvd., Suite 900          San Jose, CA 95113          Main Office: 408-535-5061          FAX 408-535-5081</p> <p>Victims and Witnesses of federal crimes receive direct services including notification, referrals, court accompaniment and other assistance.</p>	<p><b>Violence Intervention Program (VIP)</b></p> <p>Santa Clara Valley Medical Center</p> <p>751 South Bascom Avenue          Bldg. H12          San Jose, CA 95128</p> <p>Phone: 408-885-6466</p> <p>VIP provides emergency, comprehensive medical/forensic victim examinations and expert witness testimony following allegations of domestic violence.</p>
<p><b>YWCA Valley Rape Crisis Center</b></p> <p>Phone: 408-295-4011 ext: 200          24-hr Hotline: 650-493-7273</p> <p><u>YWCA of Silicon Valley</u></p> <p>The Valley Rape Crisis Center provides a 24-hr crisis line, in-person counseling, accompaniment to hospitals, police departments and court, support groups, self-defense, and prevention programs.</p> <p>Fax: 408-295-0608</p>	<p><b>Santa Clara County Office of Women's Policy – Restraining Orders</b></p> <p>2460 North First Street, Suite 220          San Jose, CA 95131</p> <p>Phone: 408-678-1499          Fax: 408-609-5994</p>

## RELEVANT STATE AND FEDERAL WEBSITES

U.S. Department of Education – Campus Security

<http://www2.ed.gov/admins/lead/safety/campus.html>

U.S. Department of Education – Higher Education Center

<http://www2.ed.gov/admins/lead/safety/campus.html>

Safety and Security Data Analysis Cutting Tool

<http://ope.ed.gov/security/>

U.S. Department of Justice – Office on Violence Against Woman

<https://www.justice.gov/ovw>

U.S. Department of Education – Family Educational Rights and Privacy Act (FERPA)

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

California Codes Education Code – Sections 67380-67385.7

<http://leginfo.legislature.ca.gov/>

State of California Department of Justice – Megan’s Law Home

<http://www.meganslaw.ca.gov/>

California Community Colleges Chancellor’s Office

<http://www.cccco.edu/>

California Community Colleges Emergency Preparedness

<https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/College-Finance-and-Facilities-Planning/Emergency-Preparedness>

Security on Campus – Information regarding the Clery Act

<https://clerycenter.org>

### IMPORTANT DISTRICT TELEPHONE NUMBERS

(Recommend programing into cell phones)

EMERGENCY: **9-1-1**

CELL PHONES FOR EMERGENCIES:

**408-299-3233**

(County Communications)

District Police Department Business / Records:

408-741-2092

District Police Department Live Scan (Fingerprinting):

408-741-2685

District Police Department Parking Services:

408-855-5435

COUNTY COMMUNICATIONS 24 HOUR NON-EMERGENCY:

408-299-2311

(Request a West Valley-Mission Community College District Police Officer)

### REPORTING CRIMES AND EMERGENCIES

Potential criminal actions and other emergencies on or near campus can be reported to the District Police by any student, faculty, staff or visitor by dialing **9-1-1**. Cell phones for emergencies:

**408-299-3233.**

When reporting an emergency let the dispatcher know where you are and the nature of the emergency. These numbers are usable 24 hours a day.



**SANTA CLARA COUNTY LAW ENFORCEMENT AGENCIES**

Non-Emergency Numbers

WEST VALLEY-MISSION CCD POLICE DEPARTMENT	408-741-2092 408-855-5435 408-299-2311	Business Office <b>West Valley</b> Business Office <b>Mission</b> <b>Dispatch Non-Emergency</b>
CALIFORNIA HIGHWAY PATROL	408-467-5400 707-648-5550	Business Office Dispatch
CHP-SAN JOSE OFFICE	408-467-5400	Business Office
CAMPBELL POLICE	408-866-2121 408-866-2101	Business Office Dispatch
DE ANZA COLLEGE CAMPUS SECURITY	408-864-5555	Business Office
FOOTHILL-DE ANZA CCD POLICE	650-949-7313 650-949-7911	Business Office Dispatch
GILROY POLICE	408-848-0350	Dispatch
LOS ALTOS POLICE	650-948-8223 650-947-2770	Business Office Dispatch
LOS GATOS-MONTE SERENO POLICE	408-354-5257 408-354-8600	Business Office Dispatch
MILPITAS POLICE	408-586-2400	Dispatch
MORGAN HILL POLICE	408-776-7300 408-779-2101	Business Office Dispatch
MOUNTAIN VIEW POLICE	650-903-6344 650-903-6395	Business Office Dispatch

**SANTA CLARA COUNTY LAW ENFORCEMENT AGENCIES**

SANTA CLARA POLICE DEPARTMENT	408-615-4700 408-615-5580	Business Office Dispatch
SANTA CLARA COUNTY SHERIFF WEST VALLEY CUPERTINO SUBSTATION	408-808-4400 408-868-6600	Business Office Business Office
SANTA CLARA DISTRICT ATTORNEY'S OFFICE – INVESTIGATIONS	408-299-7400	Business Office
STANFORD UNIVERSITY POLICE	650-723-9633 650-329-2413	Business Office Dispatch
PALO ALTO POLICE	650-329-2413	Dispatch
SAN JOSE-EVERGREEN CCD POLICE	408-270-6468	Dispatch
SAN JOSE POLICE DEPARTMENT	408-277-8900	Dispatch
SAN JOSE STATE UNIV POLICE	408-924-2222	Dispatch
SUNNYVALE, DEPT. OF PUBLIC SAFETY	408-730-7100	Dispatch

West Valley-Mission Community College District  
14000 Fruitvale Avenue, Saratoga, CA 95070

<http://www.missioncollege.edu/>

<http://www.westvalley.edu/>

## APPENDIX A: JURISDICTIONAL DEFINITIONS

Rape (CA Penal Code Chapter 1 Section 261)

(a) Rape is an act of sexual intercourse accomplished under any of the following circumstances:

(1) If a person who is not the spouse of the person committing the act is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent. This paragraph does not preclude the prosecution of a spouse committing the act from being prosecuted under any other paragraph of this subdivision or any other law.

(2) If it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) If a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) If a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) If a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) If the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to

kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) For purposes of this section, the following definitions apply:

"Duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) Menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another.

### **Sodomy (CA Penal Code Chapter 1 Section 286)**

Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision

(h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

#### **Oral Copulation (CA Penal Code Chapter 1 Section 287)**

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of oral copulation upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (A) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (B) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (C) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

**Bigamy, Incest, and the Crime against Nature (CA Penal Code Chapter 1 Section 285 and Section 289)**

**Section 285**

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

## Section 289

(a) (1) (A) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division

5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration

with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in a county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over 21 years of age who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

**Fondling (CA Penal Code Chapter 9. Section 243.4, Assault and Battery)**

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(e)(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars (\$3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars (\$2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Civil Rights Department for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars (\$2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), “touches” means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.

(3) “Seriously disabled” means a person with severe physical or sensory disabilities.

(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) “Minor” means a person under 18 years of age.

(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars (\$10,000). Statutory Rape (CA Penal Code, Chapter 1, Section 261.5)

(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator if the person is a minor. For the purposes of this section, a “minor” is a person under the age of 18 years and an “adult” is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

**Incest (CA Penal Code, Chapter 1, Section 285)**

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

**Abuse: (CA Family Code, 6203 (definitions) and 6211)**

(a) For purposes of this act, “abuse” means any of the following:

(1) To intentionally or recklessly cause or attempt to cause bodily injury.

(2) Sexual assault.

(3) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(4) To engage in any behavior that has been or could be enjoined pursuant to Section 6320.

(b) Abuse is not limited to the actual infliction of physical injury or assault.

“Domestic violence” is abuse perpetrated against any of the following persons:

(a) A spouse or former spouse.

(b) A cohabitant or former cohabitant, as defined in Section 6209.

(c) A person with whom the respondent is having or has had a dating or engagement relationship.

(d) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part

3 (commencing with Section 7600) of Division 12).

(e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(f) Any other person related by consanguinity or affinity within the second degree.

**Domestic Violence/Dating Violence (CA Penal Code, Chapter 2, Section 273.5 and Section 243)**

(a) Any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000), or by both that fine and imprisonment.

(b) Subdivision (a) shall apply if the victim is or was one or more of the following:

(1) The offender's spouse or former spouse.

(2) The offender's cohabitant or former cohabitant.

(3) The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship.

(4) The mother or father of the offender's child.

**CA Penal Code 243(e)**

(1) When a battery (willful and unlawful use of force or violence upon the person of another) is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment.

**Stalking: CA Penal Code, Chapter 2, Section 646.9**

Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

## **Stalking: CA Penal Code, Chapter 2, Section 653m**

(a) Every person who, with intent to annoy, telephones or makes contact by means of an electronic communication device with another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith.

(b) Every person who, with intent to annoy or harass, makes repeated telephone calls or makes repeated contact by means of an electronic communication device, or makes any combination of calls or contact, to another person is, whether or not conversation ensues from making the telephone call or contact by means of an electronic communication device, guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith or during the ordinary course and scope of business.

### **Consent to Sexual Activity (CA Penal Code, Chapter 1, section 261.6 and section 261.7)**

- a) Consent is positive cooperation in act or attitude pursuant to an exercise of free will. The Person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.
- b) A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under section 261, 286, 287, or 289, or former section 262 or 288a
- c) This section shall not affect the admissibility of evidence or the burden of proof on the issue of consent.

In prosecutions under Section 261, 286, 287, or 289, or former Section 262 or 288a, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent