



# CAMPUS SECURITY REPORT

2017

## Abstract

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires colleges and universities, both public and private, participating in federal student aid programs to disclose campus safety information, and imposes certain basic requirements for handling incidents of sexual violence and emergency situations. Disclosures about crime statistics and summaries of security policies are made once a year in an Annual Security Report (ASR), and information about specific crimes and emergencies is made publicly available on an ongoing basis throughout the year. This report covers calendar year 2016.

Advisory Committee on Campus Security  
edee@plazacollege.edu

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# Plaza College Security Report 2017

## INTRODUCTION

Plaza College is justifiably proud of its record in maintaining the safety of our community as shown in the enclosed federally reported crime statistics. The Forest Hills campus has been designed with security in mind. Plaza College has a single, dedicated entrance with safety officers prominently stationed to control access to the campus. The new campus is a compact institution with a strong administrative presence. As a College with a transitory commuter population, serious crime has not been an issue at Plaza. Our building has heightened security because of the presence of offices for federal, state and city legislators, which includes camera surveillance of the building front by the NYPD. With the Queens Courthouse and District Attorney’s office within blocks of the College, the safety of our neighborhood benefits with the presence of FEMA, the FBI, the Treasury Department, and Secret Service.

This report is drafted by Institutional Research and is based on statistics compiled annually by the Office of the President, and the Dean of Academic Affairs. The NYPD is asked to provide statistics regarding crimes in and around campus compiled by the police.

## TIMELY WARNINGS

Plaza College has created a number of channels to provide information to the community in the event of an emergency. All members of the College community are automatically enrolled in EMS Text Messaging. The College can also choose to send emails about emergency conditions. Members of the campus community may also call the main number (718) 779-1430 for recorded announcements. Finally, the College has a speaker system, accessible to administrators, to speak to the entire on-campus community in the event of an emergency. The Office of the President is responsible for activating the timely warning system. The system is tested at the beginning of the winter semester.

## ADVISORY COMMITTEE ON CAMPUS SECURITY (NYS 129-a 6431)

In accordance with Article 129-a of the New York State Education Law, Plaza College has appointed the following to Advisory Committee on Campus Security: Administrators (2 male, 1 female), Faculty and Staff (1 male, 2 female), and Students (2 female).

## COUNSELING SERVICES (NYS 129-b 6444) (3)

The numbers below are places where you can find help:

NYS Domestic and Sexual Violence Hotline: 1-800-942-6906

New York City: 1-800-621-HOPE (4673) or dial 311, 1-866-604-5350 (TTY)

112<sup>th</sup> Precinct Domestic Violence Unit (718) 520-9284

NYPD: Sex Crime Unit  
(212) 267-RAPE (7273) (24 Hour)

Rape Intervention Program  
St. Luke’s-Roosevelt  
(212)523-4728

Victim Services Agency  
(718) 899-1233  
(212) 577-7777 (24 Hour)

Safe Horizon Sexual Assault Hotline  
866-689-HELP (4357) (24-Hour Hotline)  
212-267-3000, [www.safehorizon.org](http://www.safehorizon.org)

Mount Sinai School of Medicine / SAVI  
25-10 30th Ave  
Astoria  
Hotline: (212) 423-2140

Sanctuary for Families  
212-349-6009, [www.sanctuaryforfamilies.org](http://www.sanctuaryforfamilies.org)

Barrier-Free Living, Inc.

(212) 577-7777

212-533-4358 (voice / TYY hotline), [www.bfnyc.org](http://www.bfnyc.org)

New York Asian Women's Center  
212-732-5230 (24-Hour Hotline)

New York City Anti-Violence Project  
212-714-1141(24-Hour Hotline), [www.avp.org](http://www.avp.org)  
888-888-7702

Mt. Sinai Hospital  
Sexual Assault Violence Intervention Program  
One Gustav Levy Place  
Main Line: 212-423-2140

For further resources see:

New York State Department of Health Rape Crisis and Sexual Violence Prevention Program:  
[https://www.health.ny.gov/prevention/sexual\\_violence/](https://www.health.ny.gov/prevention/sexual_violence/)

New York State Office for the Prevention of Domestic Violence:  
<http://www.opdv.ny.gov/>

## CODE OF CONDUCT

### Right to Report (New York State Education Law 129-b (6444) (2))

You have the right to make a report to the NYPD, and/or state police or choose not to report; to report the incident to Plaza College; to be protected by Plaza College from retaliation for reporting an incident; and to receive assistance and resources from Plaza College.

### No Contact (New York State Education Law 129-b (6444) (4) (a) (g) (h))

When the accused or respondent is a student, Plaza College will issue a "no contact order" consistent with Plaza policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of the Student Code of Conduct and subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual.

To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with Plaza College policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request.

When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution

### Orders of Protection (New York State Education Law 129-b (6444) (4) (b-e))

Reporting individuals will be assisted by the Plaza officials in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order. Reporting individuals can *receive assistance to call on and assist local law enforcement in effecting an arrest for violating such an order, provided that nothing in this article shall limit current law enforcement jurisdiction and procedures.*

The accused or respondent has the right to receive a copy of the order of protection or equivalent when received by Plaza College and have an opportunity to meet or speak with an appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected

*person or persons*. Additionally, the accused or respondent has the right to an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.

### Emergency Suspension (NYS 129-b 6444 (4) (f))

Upon verbal or written notification of charges, a student may be placed on an emergency suspension pending the hearing and determination of those charges by the ranking administrator, when the student verbally or physically threatens the safety of person or property on the premises of the school; or when the student's presence results in the inability to continue normal College operations.

### Alcohol/Drug Use Amnesty (NYS 129-b 6442)

The health and safety of every student at Plaza College is of utmost importance. Plaza recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Plaza College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Plaza College officials or law enforcement will not be subject to [Plaza's] code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

### Retaliation Prohibited (NYS 129-b 6443)

Retaliation against anyone making a good faith complaint, or participating in a Title IX investigation, is prohibited by the Student Code of Conduct, Staff and Faculty Handbook, and Title IX. Retaliation may also violate state and federal law. If you believe that you have experienced retaliation due to Title IX, please contact Dean Lin Loffert (718-779-1430).

### Sanctions (NYS 129-b 6444 (5) (b))

Students who have violated Title IX, including sexual assault, rape, domestic violence, stalking, or retaliation may be subject to suspension or termination.

## CODE OF CONDUCT BILL OF RIGHTS (NYS 129-b 6443)

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the conduct process and/or criminal justice process free from pressure by Plaza;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from Plaza College courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by Plaza College, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of Plaza College;
9. Access to at least one level of appeal of a determination;

10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the conduct process including during all meetings and hearings related to such process; and

11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of Plaza College

## CONDUCT HEARINGS INVOLVING SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ACTIVITY (NYS 129-b 6444 (5))

*Every institution shall ensure that every student be afforded the following rights:*

*a. The right to request that student conduct charges be filed against the accused in proceedings governed by this article and the procedures established by the institution's rules.*

*b. The right to a process in all student judicial or conduct cases, where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, that includes, at a minimum: (i) notice to a respondent describing the date, time, location and factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions; (ii) an opportunity to offer evidence during an investigation, and to present evidence and testimony at a hearing, where appropriate, and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least five years from such a hearing and may include a transcript, recording or other appropriate record; and (iii) access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest. In order to effectuate an appeal, a respondent and reporting individual in such cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a reporting individual must be similarly provided to a respondent and any rights provided to a respondent must be similarly provided to a reporting individual.*

*c. Throughout proceedings involving such an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, the right:*

*i For the respondent, accused, and reporting individual to be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. Rules for participation of such advisor shall be established in the code of conduct.*

*ii To a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made pursuant to the provisions of this article and the institution's policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.*

*iii To an investigation and process that is fair, impartial and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest.*

*iv To have the institution's judicial or conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.*

*v To review and present available evidence in the case file, or otherwise in the possession or control of the institution, and relevant to the conduct case, consistent with institution policies and procedures.*



vi To exclude their own prior sexual history with persons other than the other party in the judicial or conduct process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.

vii To receive written or electronic notice, provided in advance pursuant to the college or university policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process, at which time the designated hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.

viii To make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

ix To simultaneous (among the parties) written or electronic notification of the outcome of a judicial or conduct process, including the sanction or sanctions.

x To be informed of the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process and the rationale for the actual sanction imposed.

xi To choose whether to disclose or discuss the outcome of a conduct or judicial process.

xii To have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

## INFORMATION FOR CRIME VICTIMS ABOUT DISCIPLINARY PROCEEDINGS (HEA 493 (a) (1) (A))

Plaza College, upon written request, disclose to the alleged victim of any crime of violence or a non-forcible sex offense, the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of the alleged crime or offense, the information shall be provided, upon request, to the next of kin of the alleged victim.

## SEXUAL ASSAULT, DOMESTIC VIOLENCE, AND STALKING PREVENTION (NYS 129-a 6432)

### Sexual Assault

#### Sexual Assault and Rape Information

Sexual assault involves intercourse, unwelcome physical contact, or any other sexual activity with a person who does not give free and full consent. Anyone can be raped, regardless of age, sex, appearance, or way of dressing. No matter what the circumstances, if you have been raped, a vicious crime has been committed against you. You are not to blame!

#### What to Do If You Have Been Sexually Assaulted or Raped

- Go to a safe place.
- Report the assault immediately to the school administration and/or the police at the above numbers.
- Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Contact the resources above for testing for STIs and the availability of emergency contraception.
- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services

off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: <https://ovs.ny.gov/help-crime-victims>

- To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.
- Authorities recommend that you do not change your clothes, wash, shower, brush your teeth, use mouthwash, comb your hair, or urinate. Doing so may eliminate important evidence which could lead to the arrest of your attacker.
- Authorities recommend that you go to a hospital emergency room. Medical evidence is collected there. **NOTE:** You are **not** obligated to press charges; however, this evidence is important if you later decide to prosecute. Bring a full change of clothing as what you were wearing at the time of the attack may be kept as evidence.
- Make sure to seek counseling. Rape is a traumatic experience, and a trained person can help you deal with your feelings. The numbers above will link you to services that will help.

## Domestic Violence

### What to Do If You Are a Victim of Domestic Violence

If you are a victim of domestic violence, inform the police and the Dean of Student Services immediately. If you move to a shelter, inform Student Services not to release any information without your written consent. If you receive an order of protection, please bring a copy of the order and if possible a photo that we can distribute to campus safety officials. Contact the numbers above to link you to services that will help. If the person who is abusing you is a member of the Plaza College community, that person will be sanctioned under the Code of Conduct, which includes the possibility of expulsion.

## Stalking

### What to Do If You Are Being Stalked

If someone repeatedly acts in a manner that makes you fear for your safety, property, mental health, or employment, you are being stalked (see Appendix C for the text of New York law regarding stalking). You should report stalking to the police and Student Services. If you receive an order of protection, please bring a copy of the order and if possible a photo that we can distribute to campus safety officials. Contact the numbers above to link you to services that will help. If the person who is stalking you is a member of the Plaza College community, that person will be sanctioned under the Code of Conduct, which includes the possibility of expulsion.

## AFFIRMATIVE CONSENT (NYS 129-b 6441)

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Community Guidance on Consent (NYS 129-b 6441 (2) (A.-F.))

- a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.*
- b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.*
- c. Consent may be initially given but withdrawn at any time.*
- d. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being*

*involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.*

*e. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.*

*f. When consent is withdrawn or can no longer be given, sexual activity must stop.*

Minors who cannot consent under New York's laws covering age of consent are considered incapacitated for purposes of §6441(2)(d).

Whether all parties consented to sexual activity or contact is to be determined through the student conduct or grievance process. Per Section 6444(5)(c)(ii), respondents have a "right to a presumption that the respondent is 'not responsible' until a finding of responsibility is made pursuant to the provisions of this article." This means that the burden of showing that a student had sexual activity or contact with another without affirmative consent as defined here is on the institution, not on the respondent to prove a negative. Note that the burden is on the institution to develop these facts, not on the reporting individual, who may participate at the level to which he or she is comfortable. Through the process, appropriate officials may listen to witnesses and review available evidence to make a determination, to the best of their ability, whether it is more likely than not that a policy violation occurred.

Individuals who are incapacitated cannot consent to sexual activity or contact. Incapacitation is to be determined by a student conduct hearing based on available evidence, acknowledging that in almost no cases will scientific evidence of alcohol or drug level (such as a breathalyzer taken at the time of the assault) be available. There is no single standard or number of drinks that leads to incapacitation. This level varies for different people, and may depend in part on their age, gender, height, weight, metabolism and whether and how much they have recently eaten. This provision does not mean that individuals cannot affirmatively consent to 10 sexual activity or contact when they have been drinking or using drugs. Such individuals may still affirmatively consent through words or actions that clearly indicate interest in engaging in the activity. Someone who is unconscious, asleep, or involuntarily restrained cannot consent to sexual activity.

## REPORTING A SEX OFFENSE (NYS 129-b 6444)

Contact Dean Lin Loffert (718-505-7137) to report a sex offense. You may contact her by phone at 718-505-7137, by email at [lloffert@plazacollege.edu](mailto:lloffert@plazacollege.edu), or on the Plaza College website at (**ADD LINK**). You have the option to contact law enforcement and file a complaint. You may also file a complaint through the Plaza College Title IX grievance procedure. You may opt for one both, or none of these options. Members of the Sexual Assault Response Team will assist in you contacting law enforcement.

## SEXUAL ASSAULT RESPONSE TEAM [NYS 129-b 6444 (1.b.)]

The Sexual Assault Response Team is called in after any report of sexual assault. This team is made up of the following individuals:

Dean Marie Dolla  
Dean Lin Loffert  
Assistant Director Caroline Callahan  
Dean Dawn Vetrano  
Dean Jonathan Howle  
Assistant Director Candace Nixon  
Assistant Dean Phil Williams

## PLAZA COLLEGE RESPONSE TO REPORTS OF SEXUAL ASSAULT (NYS 129-b 6444 (1) (a-i))

All reporting individuals have these rights. Institutions shall provide these rights consistent with the provisions under the federal Clery Act, 20 U.S.C. 1092 (f)(8)(B)(iii)(III)(aa)-(cc) that require institutions to provide students with three options:

"(aa) notify proper law enforcement authorities, including on-campus and local police;

(bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(cc) decline to notify such authorities.”

Under New York State Education Law 129-b, all reporting individuals have the right to:

- a. Notify local law enforcement, and/or state police;
- b. Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options;
- c. Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
- d. Disclose confidentially the incident and obtain services from the state or local government;
- e. Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- f. File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance. Reports shall be investigated in accordance with institution policy and a reporting individual’s identity shall remain private at all times if said reporting individual wishes to maintain privacy;
- g. Disclose, if the accused is an employee of the institution, the incident to the institution’s human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;
- h. Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court; and
- i. Withdraw a complaint or involvement from the institution process at any time.

## OPTIONS FOR CONFIDENTIAL DISCLOSURE (NYS 129-b 6446)

The Office of the President and the Title IX Coordinator have designated a sole confidential contact. He may be reached at:

Chief of Operations Charles Callahan IV      [cec4@plazacollege.edu](mailto:cec4@plazacollege.edu)      718-779-1430

Even Plaza College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

if a reporting individual discloses an incident to a Plaza employee who is responsible for responding to or reporting domestic violence, dating violence, stalking, or sexual assault but wishes to maintain confidentiality or does not consent to the institution’s request to initiate an investigation, the Title IX Coordinator’s designee must weigh the request against the Plaza’s obligation to provide a safe, non-discriminatory environment for all members of its community. Plaza shall assist with academic, and other reasonable and available accommodations regardless of reporting choices.

If Plaza College determines that an investigation is required, we shall notify the reporting individuals and take immediate action as necessary to protect and assist them (NYS 129-b 6446 (3)).

Declining to consent to an investigation shall be honored unless Plaza College determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Honoring such a request may limit the College’s ability to meaningfully investigate and pursue conduct action against an accused individual. Factors used to determine whether to honor such a request include, but are not limited to:

- a. Whether the accused has a history of violent behavior or is a repeat offender;
- b. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- c. The increased risk that the accused will commit additional acts of violence;
- d. Whether the accused used a weapon or force;
- e. Whether the reporting individual is a minor; and
- f. Whether the College possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group (NYS 129-b 6446 (4)).

## SECTION 504 & TITLE IX GRIEVANCE PROCEDURE

Plaza College has adopted an internal grievance procedure for the timely and equitable resolution of complaints alleging any action prohibited by U.S. Department of Justice, Office of Civil Rights regulations, implementing Section 504 of the Rehabilitation Act of 1973, and Title IX of the Education Amendments of 1972, as amended (29 U.S.C. 794). Section 504 states, in part, that "no otherwise qualified handicapped individual... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..." Title IX prohibits discrimination, exclusion, denial, limitation, or separation based on gender against students and employees of educational institutions.

Complaints should be addressed to: Dean Lin Loffert  
 118-33 Queens Boulevard  
 Forest Hills, New York 11375  
 (718) 505-7137

You may also report Title IX complaints to the following offices:

**New York Office**  
 Office for Civil Rights  
 U.S. Department of Education  
 32 Old Slip, 26th Floor  
 New York, NY 10005-2500  
 Telephone: 646-428-3900  
 FAX: 646-428-3843; TDD: 800-877-8339  
 Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

Or

**The Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice:**

U.S. Department of Justice Civil Rights Division  
 950 Pennsylvania Avenue, N.W.  
 Educational Opportunities Section, PHB  
 Washington, D.C. 20530  
 Email: [education@usdoj.gov](mailto:education@usdoj.gov)  
 Telephone (202) 514-4092 or 1-877-292-3804 (toll-free)  
 Fax (202) 514-8337

1. A complaint should be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations within ten business days after the complainant becomes aware of the alleged violation.
2. An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation shall be conducted by the Provost. These rules outline informal but thorough investigations, affording all interested persons and their representatives,

if any, an opportunity to submit evidence relevant to a complaint. Under the U.S. Department of Justice regulations, Plaza College need not process complaints from applications for employment or from applicants for admission.

3. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the Provost, and a copy forwarded to the complainant no later than ten business days after its filing.
4. The Section 504 and Title IX coordinator shall maintain the files and records of Plaza College relating to the complaints filed.
5. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within five business days to the President of the College.
6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 or Title IX complaint with the responsible federal department or agency. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
7. These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that Plaza College complies with Section 504 and Title IX implementing regulations.

## CAMPUS CLIMATE ASSESSMENTS (NYS 129-b SECTION 6445)

Plaza College will perform a campus climate assessment of students every two years. This survey will be held in winter semester with the outcomes reported at the meeting of the Advisory Committee on Campus Security and will be included in the annual security report. New York State Education Law 129-b, Section 6445 states:

1. Plaza shall conduct, no less than every other year, a campus climate assessment to ascertain general awareness and knowledge of the provisions of this article, including student experience with and knowledge of reporting and college adjudicatory processes, which shall be developed using standard and commonly recognized research methods.
2. The assessment shall include questions covering, but not be limited to, the following:
  - a. the Title IX Coordinator's role;
  - b. campus policies and procedures addressing sexual assault;
  - c. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;
  - d. the availability of resources on and off campus, such as counseling, health and academic assistance;
  - e. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;
  - f. bystander attitudes and behavior;
  - g. whether reporting individuals disclosed to the institution and/or law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;
  - h. the general awareness of the difference, if any, between the institution's policies and the penal law; and
  - i. general awareness of the definition of affirmative consent.
3. Every institution shall take steps to ensure that answers to such assessments remain anonymous and that no individual is identified. Institutions shall publish results of the surveys on their website provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual shall be shared.
4. Information discovered or produced as a result of complying with this section shall not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against an institution, unless, in the discretion of the court, any such information is deemed to be material to the underlying claim or defense.

## CAMPUS CRIME REPORT AND STATISTICS (NYS 129-a 6433)

### Definition of Reportable Crimes

**Criminal Homicide:** Murder and non-negligent manslaughter – The willful (non-negligent) killing of one human being by another.

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

### Forcible Sex Offenses

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

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

**Sexual assault with an object:** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against the person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his or her temporary or permanent mental or physical incapacity.

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

### Non-forcible Sex Offenses

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

**Statutory rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accomplished by the use of a weapon or by a 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 that could and probably would result in serious personal injury if the crime were successfully completed.)

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

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Motor vehicle theft is classified as any case where an automobile is taken by a person not having lawful access, even if the vehicle is later abandoned, including joy riding.)

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

**Hate Crimes:** The law requires the release of statistics by category of prejudice concerning the occurrence of hate crimes in the crime classifications listed in the preceding section and for other crimes involving bodily injury to any person in which the victim is selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim.

In August 2008 the Clery Act was amended to include the following additional crimes under the hate crimes category:

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

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

**Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of Property (Except "Arson"):** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

## DRUG AND ALCOHOL POLICY (HEA Sec. 120(a) (2)(B)-(C))

In compliance with the Drug-Free Schools and Communities Act Amendments of 1989 (PL 101-226), and to ensure a drug-free campus, the administration establishes the following standards of conduct for students and employees.

1. All students and employees are prohibited from the unlawful manufacture, distribution, possession, sale or use of controlled substances on campus.
2. All students and employees are prohibited from such activity during hours away from campus such that it impairs ability in the classroom or on the job, or affects the reputation or integrity of the College.
3. Students or employees who violate any aspect of this policy are subject to disciplinary action, up to and including termination of enrollment or employment according to the College's existing grievance procedures. Additionally, civil authorities will be notified if necessary.

Students and employees who seek help with drug or alcohol problems may refer to the New York City government resources at <http://www1.nyc.gov/site/doh/health/health-topics/alcohol-and-drug-use-services.page>.

### Other Offenses

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

**Drug Law Violations:** The violation of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivative (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

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



# JEANNE CLERY ACT DISCLOSURE OF CAMPUS CRIME STATISTICS (NYS 129-a 6443)

Upon request, Plaza College will provide a written copy of the statistics reported under the Jeanne Clery Act by mail within 10 days of the request. The USDE Web site for campus crime statistics is <http://securityoncampus.org>.

## Area Covered by Crime Statistics

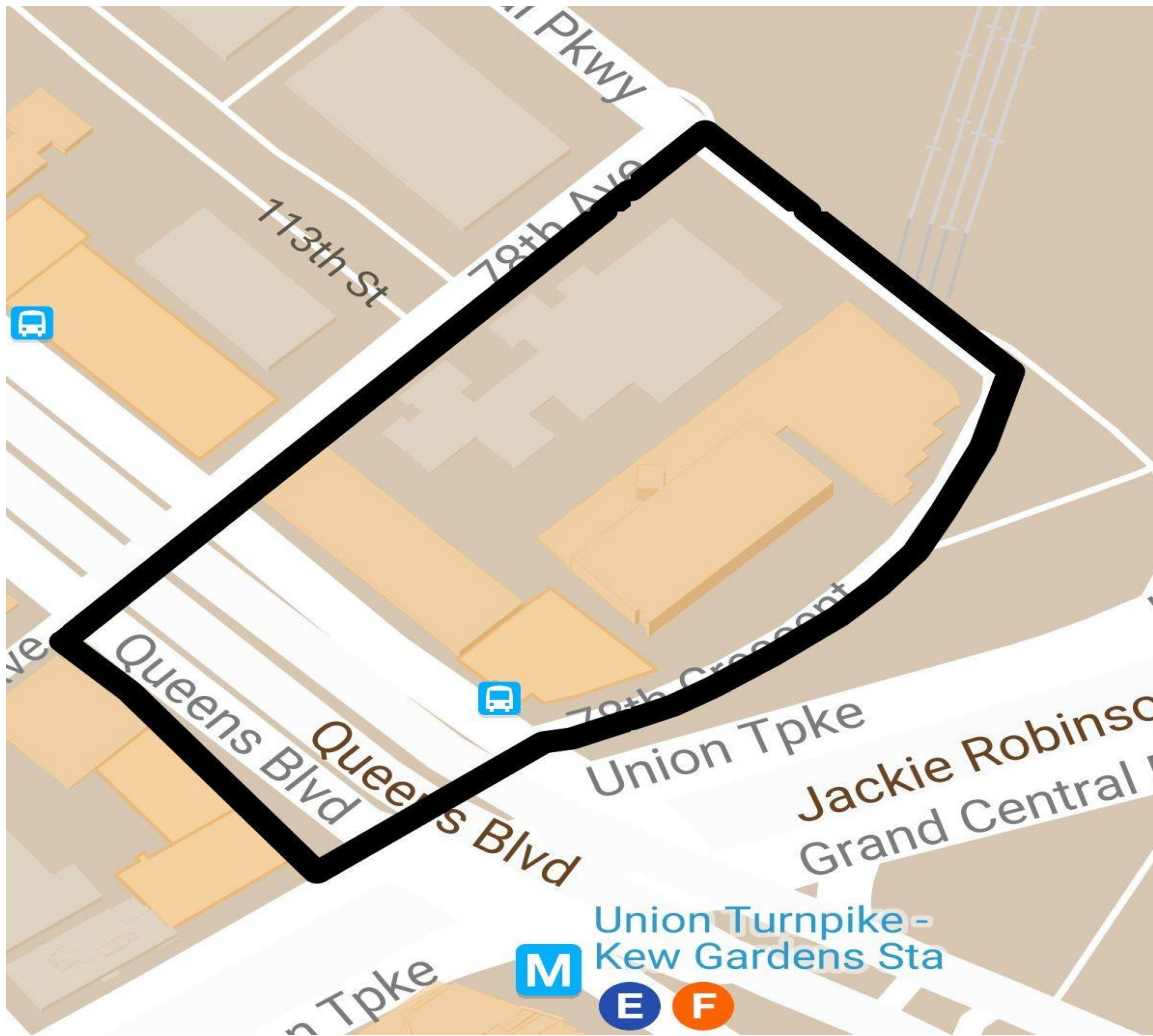
The following area is included in this report:

### Plaza College facilities--118-33 Queens Boulevard

- Parking Garage—Forest Hills Tower, 118-35 Queens Boulevard

### Public property adjacent to the college

- Queens Boulevard from 78<sup>th</sup> Crescent to 78 Avenue (North Side)
- Queens Boulevard from Union Turnpike to 78 Avenue (South Side)
- Grand Central Parkway from 78<sup>th</sup> Crescent to 78 Avenue (North/South Sides)
- Kew Gardens/Union Turnpike Subway station up to fare gates



## Crime Statistics

Criminal Offenses			
Offense	Year	On Campus	Public Property
Murder/ Non-negligent manslaughter	2014	0	0
	2015	0	0
	2016	0	0
Negligent Manslaughter	2014	0	0
	2015	0	0
	2016	0	0
Sex Offenses, Forcible	2014	0	0
	2015	0	0
	2016	0	0
Sex Offenses, Non-Forcible	2014	0	0
	2015	0	0
	2016	0	0
Robbery	2014	0	0
	2015	0	0
	2016	0	0
Aggravated Assault	2014	0	0
	2015	0	0
	2016	0	0
Burglary	2014	0	0
	2015	0	0
	2016	0	0
Motor Vehicle Theft	2014	0	0
	2015	0	0
	2016	0	0
Arson	2014	0	0
	2015	0	0
	2016	0	0

Arrests			
Offense	Year	On Campus	Public Property
Weapons: carrying, possession, etc.	2014	0	0
	2015	0	0
	2016	0	0
Drug Abuse Violations	2014	0	0
	2015	0	0
	2016	0	0
Liquor Law Violations	2014	0	0
	2015	0	0
	2016	0	0

Disciplinary Actions			
Offense	Year	On Campus	Public Property
Weapons: carrying, possession, etc.	2014	0	0
	2015	0	0
	2016	0	0
Drug Abuse Violations	2014	0	0
	2015	0	0
	2016	0	0
Liquor Law Violations	2014	0	0
	2015	0	0
	2016	0	0

Offense	Year	Hate Crimes											
		Race		Religion		Sexual Orientation		Gender		Disability		Ethnicity/National Origin	
		On Campus	Public Property	On Campus	Public Property	On Campus	Public Property	On Campus	Public Property	On Campus	Public Property	On Campus	Public Property
Murder/ Non-negligent manslaughter	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offenses, Forcible	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Sex Offenses, Non-Forcible	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Burglary	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Arson	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Simple Assault	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Larceny, Theft	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Intimidation	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0
Destruction/ Damage/ Vandalism of Property	2014	0	0	0	0	0	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0	0	0	0	0	0
	2016	0	0	0	0	0	0	0	0	0	0	0	0

## CRIME LOG

The Clery Act requires that each institution maintain a crime log that documents the dates that crimes occurred and were reported, the nature of the crime, general location of the crime, and disposition of the complaint, if known. You can access the most recent 60 days of the crime log through the Title IX coordinator.

## TRANSCRIPT NOTATIONS ON CLERY ACT VIOLATIONS (NYS 129-b 6444 (6))

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), Plaza College shall make a notation on the transcript of students found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” Each institution shall publish a policy on transcript notations and appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

## INVESTIGATION OF VIOLENT FELONY OFFENSES AND MISSING PERSONS ON CAMPUS (NYS 129-a 6434)

Plaza College cooperates with the New York City Police Department on the investigation of violent felony offenses. If you have been the victim or witness of a violent felony, contact the NYPD immediately at 911. The College administration will update and inform the College community on developments.

As Plaza College has no dormitories, all missing persons reports originate in the precinct of residence of the missing person, as required by NYPD procedures.

## APPOINTMENT OF PRIVATE SECURITY OFFICERS (NYS 129-a 6435)

Plaza College does not have private security officers. This element of State Law 129-a does not apply.

## BIAS-RELATED CRIME PREVENTION INFORMATION (NYS 129-a 6436)

A bias crime is defined as an offense against a person wholly or primarily because of the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person (see Appendix D for the New York State law). Plaza College is one of the most diverse colleges in the United States\*, located in the most diverse county in the country and celebrates that diversity. Any member of the community who feels mistreated because of a protected status is urged to contact a dean immediately, who will advise the student of his/her options. Members of the community who engage in bias will be sanctioned under the Code of Conduct, which includes penalties up to expulsion. Any complaint of bias-related crime may be reported directly to the NYPD.

The phone numbers on pages 4 and 5 will provide counseling resources.

## CAMPUS SEX CRIMES PREVENTION ACT

The Campus Sex Crimes Prevention Act provides for the tracking of convicted, registered sex offenders enrolled as students, or working, or volunteering at institutions of higher education.

New York State law mandates that anyone required to register as a sex offender do so with both their local law enforcement (municipal or county) agency at their residence and also with the police or security department of any institution of higher learning at which they are enrolled as a student (full-time or part-time), are an employee (full-time or part-time), or reside (or intend to reside or stay) on any property owned or controlled by the institution of higher learning.

Any affiliates who have not done so, but who are required to register by the “New York State Offenders Registration Act”, must contact the 112th Precinct of the New York Police Department and file a report with the Office of the President. Completed forms must be delivered in person (registrants must bring a valid photo ID) in a sealed envelope.

- New York State Registry:

[http://www.criminaljustice.state.ny.us/nsor/search\\_index.htm](http://www.criminaljustice.state.ny.us/nsor/search_index.htm)

- New York Police Department

112<sup>th</sup> Precinct: Domestic Violence Unit (718) 520-9284

<http://www1.nyc.gov/site/nypd/bureaus/patrol/precincts/112th-precinct.page>

## PROHIBITION ON THE MARKETING OF CREDIT CARDS (NYS 129-a 6437)

Plaza College expressly forbids the marketing of credit cards on college property.

## FIRE SAFETY STANDARDS IN COLLEGE-OWNED AND OPERATED HOUSING (NYS 129-a 6438)

Plaza College does not have college-owned or operated housing. This element of State Law 129-a does not apply.

# APPENDIX A

## NEW YORK STATE PENAL LAW

### Article 130--Sex Offenses

#### 130.00 Sex offenses; definitions of terms.

The following definitions are applicable to this article:

1. **“Sexual intercourse”** has its ordinary meaning and occurs upon any penetration, however slight.
2. **“Deviate sexual intercourse”** means sexual contact between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.
3. **“Sexual contact”** means any touching of the sexual or other intimate parts of a person not married to the actor for the purposes of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.
4. **“Female”** means any female person who is not married to the actor. For the purposes of this article **“not married”** means:
  - (a) the lack of an existing relationship of husband and wife between the female and the actor which is recognized by law, or
  - (b) the existence of the relationship of husband and wife between the actor and the female which is recognized by at the time the actor commits an offense proscribed by this article by means of forcible compulsion against the female, and the female and the actor are living apart at such time pursuant to a valid and effective:
    - (i) order issued by a court of competent jurisdiction which by its terms or in its effect requires such living apart, or
    - (ii) decree or judgment of separation, or
    - (iii) written agreement of separation subscribed by them and acknowledged in the form required to entitle a deed to be recorded which contains provisions specifically indicating that the actor may be guilty of the commission of a crime for engaging in conduct which constitutes an offense proscribed by this article against and without the consent of the female.
5. **“Mentally defective”** means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.
6. **“Mentally incapacitated”** means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.
7. **“Physically helpless”** means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
8. **“Forcible compulsion”** means compel by either :
  - (a) use physical force; or
  - (b) a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she, or another person will immediately be kidnapped.
9. **“Foreign object”** means any instrument or article which, when inserted in the vagina, urethra, penis, or rectum, is capable of causing physical injury.

#### 130.05 Sex offenses; lack of consent.

1. Whether or not specifically stated, it is an element of every offense defined in this article, except the offense of consensual sodomy, that the sexual act was committed without the consent of the victim.

2. Lack of consent results from:

(a) forcible compulsion

(b) incapacity to consent

(c) where the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

3. A person is deemed incapable of consent when he is:

(a) less than 17 years old; or

(b) mentally defective; or

(c) mentally incapacitated; or

(d) physically helpless

#### **130.10 Sex offenses; defense.**

In any prosecution under this article in which the victim's lack of consent is based solely upon his incapacity to consent because he was mentally defective, mentally incapacitated, or physically helpless, it is an affirmative defense that the defendant, at the time he engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

#### **130.16 Sex offenses; corroboration.**

A person shall not be convicted of consensual sodomy, or an attempt to commit the same, or of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

(a) establish that an attempt was made to engage the victim in sexual intercourse, deviate sexual intercourse, or sexual contact, as the case may be, at the time of the occurrence; and

(b) connect the defendant with the commission of the offense or attempted offense.

#### **130.26 Sexual misconduct.**

A person is guilty of sexual misconduct when:

1. being a male, he engages in sexual intercourse with a female without her consent; or

2. he engages in deviate sexual intercourse with another person without the latter's consent; or

3. he engages in sexual conduct with an animal or a dead human body.

**Sexual misconduct is a class A misdemeanor (meaning a definite sentence, which shall not exceed one year).**

#### **130.25 Rape in the third degree.**

A person is guilty of rape in the third degree when:

1. he or she engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than 17 years old; or

2. being 21 years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than 17 years old.

**Rape in the third degree is a class E felony (meaning a sentence fixed by court, which shall not exceed four years)**

**130.30 Rape in the second degree.**

A person is guilty of rape in the second degree when, being eighteen years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than 14 years old.

**Rape in the second degree is a class D felony (meaning a sentence fixed by court, which shall not exceed seven years).**

**130.35 Rape in the first degree.**

A male is guilty of rape in the first degree when he engages in sexual intercourse with a female:

1. by forcible compulsion; or
2. who is incapable of consent by reason of being physically helpless; or
3. who is less than 11 years old.

**Rape in the first degree is a class B felony (meaning a sentence fixed by court, which shall not exceed 25 years).**

**130.38 Consensual sodomy.**

A person is guilty of consensual sodomy when he engages in deviate sexual intercourse with another person.

**Consensual sodomy is a class B misdemeanor (meaning a definite sentence, which shall not exceed three months).**

**130.40 Sodomy in the third degree.**

A person is guilty of sodomy in the third degree when:

1. he engages in deviate sexual intercourse with a person who is incapable of consent by reason of some factor other than being less than 17 years old; or
2. being 21 years old or more, he engages in deviate sexual intercourse with a person less than 17 years old.

**Sodomy in the third degree is a class E felony (meaning a sentence fixed by court, which shall not exceed four years)**

**130.45 Sodomy in the second degree.**

A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person to whom the actor is not married less than 14 years old.

**Sodomy in the second degree is a class D felony (meaning a sentence fixed by court, which shall not exceed seven years).**

**130.35 Sodomy in the first degree.**

A person is guilty of sodomy in the first degree when he engages in deviate sexual intercourse with another person:

1. by forcible compulsion; or
2. who is incapable of consent by reason of being physically helpless; or
3. who is less than 11 years old.

**Sodomy in the first degree is a class B felony (meaning a sentence fixed by court, which shall not exceed 25 years).**

**130.55 Sexual abuse in the third degree.**

A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that



(a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old, and

(b) such other person was more than 14 years old, and

(c) the defendant was less than five years older than such other person.

**Sexual abuse in the third degree is a class B misdemeanor (meaning a definite sentence, which shall not exceed three months).**

**130.60 Sexual abuse in the second degree.**

A person is guilty of sexual abuse in the second degree when he subjects another person to sexual contact and when such other person is:

1. incapable of consent by reason of some factor other than being less than 17 years old; or
2. less than 14 years old.

**Sexual abuse in the second degree is a class A misdemeanor (meaning a definite sentence, which shall not exceed one year).**

**130.65 Sexual abuse in the first degree.**

A person is guilty of sexual abuse in the first degree when he subjects another person to sexual contact:

1. by forcible compulsion; or
2. who is incapable of consent by reason of being physically helpless; or
3. who is less than 11 years old.

**Sexual abuse in the first degree is a class D felony (meaning a sentence fixed by court, which shall not exceed seven years).**

**130.70 Aggravated sexual abuse**

1. A person is guilty of aggravated sexual abuse when he inserts a foreign object in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:

- (a) by forcible compulsion; or
- (b) when the other person is incapable of consent by reason of being physically helpless; or
- (c) when the other person is less than 11 years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

**Aggravated sexual abuse is a class B felony (meaning a sentence fixed by court, which shall not exceed 25 years).**

## APPENDIX B

### New York State Penal Law

#### Article 485—530.11 Procedures for family offense matters

1. Jurisdiction. The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree or coercion in the second degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;
- (c) persons formerly married to one another regardless of whether they still reside in the same household;
- (d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; and
- (e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship".

2. Information to petitioner or complainant. The chief administrator of the courts shall designate the appropriate probation officers, warrant officers, sheriffs, police officers, district attorneys or any other law enforcement officials, to inform any petitioner or complainant bringing a proceeding under this section before such proceeding is commenced, of the procedures available for the institution of family offense proceedings, including but not limited to the following:

- (a) That there is concurrent jurisdiction with respect to family offenses in both family court and the criminal courts;
- (b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to stop the violence, end family disruption and obtain protection. That referrals for counseling, or counseling services, are available through probation for this purpose;
- (c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender;
- (d) That a proceeding or action subject to the provisions of this section is initiated at the time of the filing of an accusatory instrument or family court petition, not at the time of arrest, or request for arrest, if any;
- (f) That an arrest may precede the commencement of a family court or a criminal court proceeding, but an arrest is not a requirement for commencing either proceeding.

(h) At such time as the complainant first appears before the court on a complaint or information, the court shall advise the complainant that the complainant may: continue with the proceeding in criminal court; or have the allegations contained therein heard in a family court proceeding; or proceed concurrently in both criminal and family court. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section;

(i) Nothing herein shall be deemed to limit or restrict complainant's rights to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family court act and section 100.07 of this chapter;

2-a. Upon the filing of an accusatory instrument charging a crime or violation described in subdivision one of this section between members of the same family or household, as such terms are defined in this section, or as soon as the complainant first appears before the court, whichever is sooner, the court shall advise the complainant of the right to proceed in both the criminal and family courts, pursuant to section 100.07 of this chapter.

3. Official responsibility. No official or other person designated pursuant to subdivision two of this section shall discourage or prevent any person who wishes to file a petition or sign a complaint from having access to any court for that purpose.

4. When a person is arrested for an alleged family offense or an alleged violation of an order of protection or temporary order of protection or arrested pursuant to a warrant issued by the supreme or family court, and the supreme or family court, as applicable, is not in session, such person shall be brought before a local criminal court in the county of arrest or in the county in which such warrant is returnable pursuant to article one hundred twenty of this chapter. Such local criminal court may issue any order authorized under subdivision eleven of section 530.12 of this article, section one hundred fifty-four-d or one hundred fifty-five of the family court act or subdivision three-b of section two hundred forty or subdivision two-a of section two hundred fifty-two of the domestic relations law, in addition to discharging other arraignment responsibilities as set forth in this chapter. In making such order, the local criminal court shall consider the bail recommendation, if any, made by the supreme or family court as indicated on the warrant or certificate of warrant. Unless the petitioner or complainant requests otherwise, the court, in addition to scheduling further criminal proceedings, if any, regarding such alleged family offense or violation allegation, shall make such matter returnable in the supreme or family court, as applicable, on the next day such court is in session.

5. Filing and enforcement of out-of-state orders of protection. A valid order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction shall be accorded full faith and credit and enforced as if it were issued by a court within the state for as long as the order remains in effect in the issuing jurisdiction in accordance with sections two thousand two hundred sixty-five and two thousand two hundred sixty-six of title eighteen of the United States Code.

(a) An order issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction shall be deemed valid if:

(i) the issuing court had personal jurisdiction over the parties and over the subject matter under the law of the issuing jurisdiction;

(ii) the person against whom the order was issued had reasonable notice and an opportunity to be heard prior to issuance of the order; provided, however, that if the order was a temporary order of protection issued in the absence of such person, that notice had been given and that an opportunity to be heard had been provided within a reasonable period of time after the issuance of the order; and

(iii) in the case of orders of protection or temporary orders of protection issued against both a petitioner, plaintiff or complainant and respondent or defendant, the order or portion thereof sought to be enforced was supported by: (A) a pleading requesting such order, including, but not limited to, a petition, cross-petition or counterclaim; and (B) a judicial finding that the requesting party is entitled to the issuance of the order which may result from a judicial finding of fact, judicial acceptance of an admission by the party against whom the order was issued or judicial finding that the party against whom the order was issued had given knowing, intelligent and voluntary consent to its issuance.

(b) Notwithstanding the provisions of article fifty-four of the civil practice law and rules, an order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, accompanied by a sworn affidavit that upon information and belief such order is in effect as written and has not been vacated or modified, may be filed without fee with the clerk of the court, who shall transmit information regarding such order to the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law; provided,

however, that such filing and registry entry shall not be required for enforcement of the order.

6. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of the criminal procedure law, the family court act and the domestic relations law. Such notice shall be prepared in Spanish and English and if necessary, shall be delivered orally, and shall include but not be limited to the following statement:

“If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangements to take you, and your children to a safe place within such officer’s jurisdiction, including but not limited to a domestic violence program, a family member’s or a friend’s residence, or a similar place of safety. When the officer’s jurisdiction is more than a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency. You have the right to seek legal counsel of your own choosing and if you proceed in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you.

You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which could include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session, you may seek immediate assistance from the criminal court in obtaining an order of protection.

The forms you need to obtain an order of protection are available from the family court and the local criminal court (the addresses and telephone numbers shall be listed). The resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters can be accessed by calling the following 800 numbers (the statewide English and Spanish language 800 numbers shall be listed and space shall be provided for local domestic violence hotline telephone numbers).

Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime.”

The division of criminal justice services in consultation with the state office for the prevention of domestic violence shall prepare the form of such written notice consistent with provisions of this section and distribute copies thereof to the appropriate law enforcement officials pursuant to subdivision nine of section eight hundred forty-one of the executive law.

Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the criminal court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct.

7. Rules of court regarding concurrent jurisdiction. The chief administrator of the courts, pursuant to paragraph (e) of subdivision two of section two hundred twelve of the judiciary law, shall promulgate rules to facilitate record sharing and other communication between the criminal and family courts, subject to applicable provisions of this chapter and the family court act pertaining to the confidentiality, expungement and sealing of records, when such courts exercise concurrent jurisdiction over family offense proceedings.

## APPENDIX C

### New York State Penal Law 120.45

#### Article 120.45--Stalking in the fourth degree

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Stalking in the fourth degree is a class B misdemeanor.

## APPENDIX D

### New York State Penal Law

#### Article 485—Hate Crimes

##### **485.00 Legislative findings.**

“The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York State in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as “hate crimes”, victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation... our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence.”

##### **485.05 Hate Crimes.**

A person commits a hate crime when he or she commits a specified offense and either:

Intentionally selects the person against whom the offense is committed or intended to be committed, or intentionally commits the act or acts constituting the offense in whole, or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

A “**specified offense**” is an offense defined by any of the following provisions of the New York State Penal Law: assault in the first, second or third degree; aggravated assault upon a person less than eleven years old; menacing in the first, second or third degree; reckless endangerment in the first or second degree; manslaughter in the first or second degree; murder in the second degree; stalking in the first, second, third or fourth degree; rape in the first degree; criminal sexual act in the first degree; sexual abuse in the first degree; aggravated sexual abuse in the first or second degree; unlawful imprisonment in the first or second degree; kidnapping in the first or second degree; coercion in the first or second degree; criminal trespass in the first, second or third degree; burglary in the first, second or third degree; criminal mischief in the first, second, third or fourth degree; arson in the first, second, third or fourth degree; petit larceny; grand larceny in the first, second, third or fourth degree; robbery in the first, second or third degree; harassment in the first degree; aggravated harassment in the second degree; or any attempt or conspiracy to commit any of the foregoing offenses.

##### **485.10 Penalties for commission of bias related crimes**

Sentencing

- 1) When a person is convicted of a hate crime pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of the NYSPL, the hate crime shall be deemed a violent felony offense.
- 2) When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant’s conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.
- 3) Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:
  - a) The maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of the NYSPL.
  - b) The term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of the NYSPL.

c) The term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of the NYSPL.

d) The maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of the NYSPL.

4) The maximum term of the indeterminate sentence or term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of the NYSPL.

5) Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall not be less than twenty years.