

5. Burglary. Burglary is *the unlawful entry of a structure to commit a felony or a theft*. **Count one offense per each distinct operation.**

Classify as Burglary:

- Offenses that are classified by local law enforcement agencies as Burglary (any degree); unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts at these offenses.
- Forcible Entry. All offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony. This rule applies when a thief gains entry by using tools; breaking windows; forcing windows, doors, transoms or ventilators; cutting screens, walls or roofs; and where known, using master keys, picks, unauthorized keys, celluloid, a mechanical contrivance of any kind (e.g., a passkey or skeleton key) or other devices that leave no outward mark but are used to force a lock. This

includes burglary by concealment inside a building followed by exiting the structure.

- **Unlawful Entry–No Force.** The entry of a structure in this situation is achieved by use of an unlocked door or window. The element of trespass to the structure is essential in this category, which includes thefts from open garages, open warehouses, open or unlocked dwellings (such as dorm rooms) and open or unlocked common basement areas in apartment houses where entry is achieved by someone other than the tenant who has lawful access.
- **Attempted Forcible Entry.** A situation where a forcible entry into a locked structure is attempted but not completed.

Do not classify as Burglary:

- Thefts from automobiles, whether locked or not.
- Shoplifting from commercial establishments.
- Thefts from coin boxes or coin-operated machines.
- Thefts from areas of open access. If a perpetrator steals an item from an area of open access (i.e., there is no unlawful trespass), the incident is classified as Larceny, not Burglary. For example, if a student leaves his backpack under the table in a campus dining hall and another student takes it, it's a Larceny. However, if a student leaves his backpack under the table in a campus dining hall and another student breaks into the building after hours and steals the backpack, that's a Burglary.
- Robbery. A structure can be burglarized, but it cannot be robbed. It is possible, however, for an attempted burglary to become a robbery. For example, a student returns to her dorm room and surprises a burglar. The burglar physically attacks the student, steals her purse and flees. Because the burglar attacked the student and took her property, classify this incident as a Robbery. If the student had not been physically confronted by the burglar and merely observed the burglar leaving her room, the incident would be classified as a Burglary, even if the burglar left empty-handed.

If a perpetrator steals an item from an area of open access (i.e., there is no unlawful trespass), the incident is classified as Larceny, not Burglary.

- A forcible entry or unlawful entry in which no theft or felony occurs, but acts of vandalism, malicious mischief, etc., are committed, provided investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft.

An incident must meet **three conditions** to be classified as a Burglary:

1) There must be evidence of unlawful entry (trespass). This means that the person did not have the right to be in the structure at the time the incident occurred.

Examples of lawful access include:

- A student uses her keycard to enter her dorm. She lets five other students who do not have keycards for that dorm into the building. All six of the students have lawful access to the building.
- A student has a party in her dorm room with four guests. All five students have lawful access to the dorm room.
- A faculty member has an office in the science building. Students are in and out of the office while the science building is open. Anyone from the campus community going in the office during this time has lawful access.

Examples of unlawful access include:

- A student uses her keycard to enter a dorm. Without her knowing, a student without a keycard to the building walks in after her. The student without the keycard does not have lawful access to the building.
- A student has a party in her dorm room with four invited guests. When the party is over the host asks everyone to leave. She leaves the door unlocked while she goes to visit another student. One of the students who was at the party opens the door and takes some money off of the desk. That student does not have lawful access to the room.
- A faculty member has an office in the science building. One night when the science building is locked, a maintenance worker who does not have a work order for the building, uses a maintenance key

to unlock the building and then unlock the faculty member's door and steal a computer. The maintenance worker does not have lawful access to the office.

2) The unlawful entry must occur within a **structure**, which is defined as *having four walls, a roof, and a door*.

The UCR definition of a structure includes:

- Apartment, barn, cabin, church, condominium, dwelling house, factory, garage, house trailer or houseboat (used as permanent dwelling), mill, office, other building, outbuilding, public building, railroad car, room, school, stable, storage facility, vessel (ship) and warehouse.
- Any house trailer or other mobile unit that is permanently fixed as an office, residence or storehouse.

The UCR definition of a structure does not include:

- Motor vehicles.
- Tents, tent trailers, motor homes, house trailers or other mobile units that are being used for recreational purposes.
- A telephone booth.
- A gym locker or cubby.

3) The structure was unlawfully entered to commit a felony or a theft. If the intent was not to commit a felony or a theft, do not classify the incident as Burglary. For example, if someone unlawfully entered a structure to write graffiti on the walls, do not classify the incident as Burglary.

Special rules for counting Burglaries

Burglaries in individual student rooms: Because residents of rooms in student housing facilities are not considered transient, the Burglary of each room is a separate offense. This means that if an offender unlawfully enters five dorm rooms on one floor of a student housing facility for the purpose of taking something, you should count this as five Burglaries.

Burglaries in suites: Each bedroom in a student housing facility suite is considered a separate dwelling. Count the Burglary of four bedrooms and the common room in a suite during a single incident as five Burglaries.

Burglaries in private academic offices: Unlike a student housing facility in which each room is considered to be a separate dwelling, the various rooms within an academic building are typically under the control of a single firm (the college or university). Count the burglary of an academic structure as one offense, regardless of the number of interior rooms entered or items stolen if the rooms were all burglarized during the same time frame. (If, however, the rooms were burglarized within different time frames, for example one office on Monday and a second office the following day, count this as two Burglaries.)

Burglaries in patient rooms in campus or noncampus medical centers: Because residents in patient rooms in hospitals or medical centers are transient, offenses are most likely to be reported to law enforcement by the institution. Count the burglary of a number of patient rooms as a single offense.

Examples of Burglary

Scenario 1: A room in an on-campus dormitory is broken into and a laptop is stolen by a student living down the hall. Because the student unlawfully entered the room, classify the incident as one on-campus Burglary and one on-campus student housing facility Burglary.

Scenario 2: A student living in an on-campus dormitory invites another student into her room. The invited student takes a ring from the top of a dresser when the owner leaves to use the restroom. Because the perpetrator was invited into the room, there is no element of trespass. Classify this incident as a Larceny. Do not include this incident in your Clery statistical disclosures.

Scenario 3: A perpetrator enters five on-campus dorm rooms without permission on the same night looking to steal money. He takes a wallet from one room, but takes nothing from the other four rooms. Classify this as five Burglaries in both the on-campus category and on-campus student housing facility category.

Scenario 4: Someone enters an unlocked dorm room on campus and steals a student's wallet. Investigation determines that the student's roommate did not take the wallet. Because no one else had lawful access to the dorm room at the time the wallet was taken, it had to have been taken by someone who did not have lawful access. Classify this incident as one on-campus Burglary and one on-campus student housing facility Burglary.

Examples of Burglary (Continued)

Scenario 5: A patient in a hospital room in an on-campus medical center reports a stolen watch. Police investigate and cannot determine who took the watch. Because there is no evidence that someone unlawfully entered the room to steal the watch, classify this incident as a Larceny. Do not include this incident in your Clery statistical disclosures.

Scenario 6: A school is bordered by a municipal parking garage that has four walls, a roof and a door. Parking is allowed by permit only. Someone without a permit enters the garage and steals a GPS from a car. Classify this as one public property Burglary.

Scenario 7: A school is bordered by a parking garage that has four walls, a roof and a door. Anyone who pays can park there. Someone enters the garage and steals a GPS from a car. Because the garage has open access there was no element of trespass. Do not include this incident in your Clery statistical disclosures because it is a Larceny.

Scenario 8: After his team practice session a member of the football team breaks into the locker of a teammate and takes his wallet. Because a locker is not a structure, classify this as a Larceny and do not include it in your Clery statistical disclosures.

Scenario 9: A member of the football team climbs through an open window in the campus gym after hours and then breaks into a teammate's locker looking for drugs. He leaves empty-handed. Because the perpetrator trespassed into the gym with the intention of stealing drugs, classify this as one on-campus Burglary.

Scenario 10: The registrar reports that money was taken from her desk while she was out of her office for 15 minutes. Campus police investigate and determine that neither of the other two individuals who have lawful access to the office took the money. The perpetrator is unknown, however, because investigation has determined that no one with lawful access took the money, classify the incident as one on-campus Burglary.

Scenario 11: A maintenance worker with a work order used his keys to enter an on-campus office to fix an air conditioner, and while he was there he decided to steal a laptop. Classify this incident as a Larceny because the maintenance worker had a right to be in the office at the time of the theft. He didn't enter the office with the intent of stealing the laptop. Do not include this incident in your statistical disclosures.

Scenario 12: A maintenance worker without a work order used his keys to enter a locked on-campus office to search for something to steal. Classify this as one on-campus Burglary because the maintenance worker did not have a right to be in the office at the time of the theft. He unlawfully entered the office with the intent to steal something. (Because the intent was to steal something, it's a burglary even if the maintenance worker leaves empty-handed.)

Scenario 13: A maintenance worker unlawfully entered an on-campus office to write graffiti on a wall. Do not classify this as a Burglary because the intent wasn't to commit a felony or a theft.