

**Reporting Chart for  
Offenses committed on School Property or School Functions  
Under 14 Delaware Code Section 4112**

**Misdemeanor Offenses that must be reported**

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Assault 3<sup>rd</sup> Degree</b>	Intentionally or recklessly causes physical injury to another person;  OR  With criminal negligence the person causes physical injury to another person by means of a deadly weapon or a dangerous instrument	Only over age 8.	In all cases.
<b>Criminal mischief</b> Pecuniary loss up to \$1,500.00	Intentionally or recklessly:  (1) Damages tangible property of another person;  OR  (2) Tamper with tangible property of another person so as to endanger(ing) person or property	No.	In all cases.
<b>Criminal Trespass</b>	Knowingly enters or remains unlawfully upon real property.	No.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Disorderly conduct</b>	<p>The person intentionally causes public inconvenience, annoyance or alarm to any other person, or creates a risk thereof by:</p> <ul style="list-style-type: none"> <li>a. Engaging in fighting or in violent, tumultuous or threatening behavior; or</li> <li>b. Making an unreasonable noise or an offensively coarse utterance, gesture or display, or addressing abusive language to any person present; or</li> <li>c. Disturbing any lawful assembly or meeting of persons without lawful authority; or</li> <li>d. Obstructing vehicular or pedestrian traffic; or</li> <li>e. Congregating with other persons in a public place and refusing to comply with a lawful order of the police to disperse; or</li> <li>f. Creating a hazardous or physically offensive condition which serves no legitimate purpose; or</li> <li>g. Congregating with other persons in a public place while wearing masks, hoods or other garments rendering their faces unrecognizable, for the purpose of and in a manner likely to imminently subject any person to the deprivation of any rights, privileges or immunities secured by the Constitution or laws of the United States of America.</li> </ul> <p style="text-align: center;">OR</p> <p>The person engages with at least 1 other person in a course of disorderly conduct as defined above which is likely to cause substantial harm or serious inconvenience, annoyance or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer to the participants.</p>	No.	In all cases.
<b>Engaging in a crap game</b>	A person takes part in or is knowingly present at the form of gambling commonly known as crap, in which money or other valuable things are played for by means of dice.	No.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<p><b>Forgery</b> Written instrument is or purports to be:</p> <p>1. A public record, or an instrument filed or required to be filed in or with a public office or public servant; or</p> <p>2. A written instrument officially issued or created by a public office, public servant or governmental instrumentality; or</p>	<p>Intending to defraud, deceive or injure another person, or knowing(ingly) facilitating a fraud or injury to be perpetrated by anyone, the person:</p> <p>Alters any written instrument of another person without the other person's authority;</p> <p style="text-align: center;">OR</p> <p>Makes, completes, executes, authenticates, issues or transfers any written instrument which purports to be the act of another person, whether real or fictitious, who did not authorize that act, or to have been executed at a time or place or in a numbered sequence other than was in fact the case or to be a copy of an original when no original existed;</p> <p style="text-align: center;">OR</p> <p>Possesses a written instrument, knowing that it was made, completed or altered under circumstances constituting forgery.</p>	No.	In all cases.
<p><b>Gambling</b></p>	<p>All forms of gambling are prohibited in this State except the following:</p> <p>(a) Lotteries under State control for the purpose of raising funds,</p> <p>(b) Lotteries (other than slot machines, roulette, craps and baccarat games) provided that each is sponsored and conducted under the limitations of Section 17B of the Constitution of the State of Delaware by companies, organizations or societies which have been in existence for at least 2 years; provided, however, that no person who shall not have attained the age of 18 years shall participate in any lottery (where money is the prize) otherwise authorized by the article,</p> <p>(c) Wagering or betting by the use of pari-mutuel machines or totalizators on horse races conducted at racetracks within or without the State, provided that such wagering or betting may be conducted only either:</p> <p>(1) within the enclosure of any racetrack licensed under the laws of the State to conduct a race meeting, or</p> <p>(2) within the enclosure of any racetrack licensed under the laws of the State to receive and accept wagers or bets on electronically televised simulcasts of horse races.</p> <p>(d) Bingo games as conducted under the limitations of Section 17A.</p>	No.	In all cases.
<p><b>Graffiti</b></p>	<p>Damages public or private real or personal property without the permission of the owner by knowingly, purposely or recklessly drawing, painting or making any significant mark or inscription thereon.</p>	No.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Indecent exposure</b>	<p>A male is guilty of indecent exposure in the second degree if he exposes his genitals or buttocks under circumstances in which he knows his conduct is likely to cause affront or alarm to another person.</p> <p style="text-align: center;">OR</p> <p>A male is guilty of indecent exposure in the first degree if he exposes his genitals or buttocks to a person who is less than 16 years of age under circumstances in which he knows his conduct is likely to cause affront or alarm.</p> <p>A female is guilty of indecent exposure in the second degree if she exposes her genitals, breast or buttocks under circumstances in which she knows her conduct is likely to cause affront or alarm to another person.</p> <p style="text-align: center;">OR</p> <p>A female is guilty of indecent exposure in the first degree if she exposes her genitals, breast or buttocks to a person who is less than 16 years of age under circumstances in which she knows her conduct is likely to cause affront or alarm.</p>	No.	In all cases.
<b>Offensive touching</b>	<p>Intentionally touches another person either with a member of his or her body or with any instrument, knowing that the person is thereby likely to cause offense or alarm</p> <p style="text-align: center;">OR</p> <p>Intentionally strikes another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.</p>	Against staff only and over age 8.	In all cases.
<b>Possessing a gambling device</b>	A person is guilty of possessing a gambling device when the person knowingly manufactures, sells, transports, keeps, exhibits, manages, places, possesses or conducts or negotiates any transaction affecting or designed to effect ownership, custody or use of a slot machine or any other gambling device.	No.	In all cases.
<b>Sexual harassment</b>	<p>The person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or</p> <p>(2) The person suggests, solicits, requests, commands, importunes or otherwise attempts to induce another person to have sexual contact or sexual intercourse or unlawful sexual penetration with the actor, knowing that the actor is thereby likely to cause annoyance, offense or alarm to that person.</p>		
<b>Tampering with public records 2<sup>nd</sup> degree</b>	Knowing that the person does not have the authority of anyone entitled to grant it, the person knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in or otherwise constituting a record of a public office or public servant.	No.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Terroristic threatening</b>	<p>Threatens to commit any crime likely to result in death or in serious injury to person or property;</p> <p style="text-align: center;">OR</p> <p>Makes a false statement or statements:</p> <p>a. Knowing that the statement or statements are likely to cause evacuation of a building, place of assembly, or facility of public transportation; or</p> <p>b. Knowing that the statement or statements are likely to cause serious inconvenience; or</p> <p>c. In reckless disregard of the risk of causing terror or serious inconvenience;</p> <p style="text-align: center;">OR</p> <p>Commits an act with intent of causing an individual to believe that the individual has been exposed to a substance that will cause the individual death or serious injury.</p>	Against staff only and over age 8.	In all cases.
<b>Theft</b> Property received, retained or disposed of is less than \$1,000.00	Person takes, exercises control over or obtains property of another person intending to deprive that person of it or appropriate it.	No.	Only if the property taken is property of the School District.
<b>Trespassing with intent to peer or peep into a window or door of another</b>	Knowingly enters upon the occupied property or premises of another utilized as a dwelling, with intent to peer or peep into the window or door of such property or premises and who, while on such property or premises, otherwise acts in a manner commonly referred to as "Peeping Tom."	No.	In all cases.
<b>Unlawful Sexual Contact 3<sup>rd</sup> Degree</b>	Has sexual contact with another person or causes the victim to have sexual contact with the person or a third person and the person knows that the contact is either offensive to the victim or occurs without the victim's consent.	Only over age 8.	In all cases.

**Felony Offenses**

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Abuse of a pregnant female</b>	<p>in the course of or in furtherance of the commission or attempted commission of assault third degree or any violent felony against or upon a pregnant female, or while in immediate flight therefrom, the person recklessly and without her consent causes the unlawful termination of her pregnancy.</p> <p style="text-align: center;">OR</p> <p>in the course of or in furtherance of the commission or attempted commission of assault third degree any violent felony against or upon a pregnant female, or while in immediate flight therefrom, the person intentionally and without her consent causes the unlawful termination of her pregnancy.</p>	In all cases.	In all cases.
<b>Arson</b>	Intentionally damages a building by starting a fire or causing an explosion.	In all cases.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Assault I /II</b>	<p>Recklessly or intentionally causes serious physical injury to another person;</p> <p style="text-align: center;">OR</p> <p>Recklessly or intentionally causes physical injury to another person by means of a deadly weapon or a dangerous instrument;</p> <p style="text-align: center;">OR</p> <p>Intentionally causes physical injury to a law-enforcement officer or a volunteer or full-time firefighter or correctional officer or sheriff or deputy sheriff who is acting in the lawful performance of duty;</p> <p style="text-align: center;">OR</p> <p>Recklessly or intentionally causes physical injury to another person who is 62 years of age or older;</p> <p style="text-align: center;">OR</p> <p>Intentionally assaults a law-enforcement officer while in the performance of the officer's duties, with any disabling chemical spray, or with any aerosol or hand sprayed liquid or gas with the intent to incapacitate such officer and prevent the officer from performing such duties;</p> <p style="text-align: center;">OR</p> <p>Intentionally causes physical injury to any state employee or officer when that employee or officer is discharging or attempting to discharge a duty of employment or office.</p>	In all cases.	In all cases.
<b>Bombs, incendiary devices, Molotov cocktails, and explosive devices.</b>	Manufacturers, transfers, uses, possesses or transports any of the named devices or any device designed to explode or produce uncontained combustion with the intent to cause bodily harm or damage to any property or thing.	In all cases.	In all cases.
<b>Burglary 3rd degree</b>	Knowingly enters or remains unlawfully in a building with intent to commit a crime therein.	No.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Burglary 2nd</b>	Knowingly enters a building and when in effecting entry or while in the building or in immediate flight therefrom, the person or another participant in the crime (a) is armed with explosives or a deadly weapon; or (b) causes physical injury to any person who is not a participant in the crime.	In all cases.	In all cases.
<b>Carjacking</b>	Knowingly and unlawfully takes possession or control of a motor vehicle from another person or from the immediate presence of another person by coercion, duress or otherwise without the permission of the other person.	In all cases.	In all cases.
<b>Carrying a concealed deadly weapon</b>	A person is guilty of carrying a concealed deadly weapon when the person carries concealed a deadly weapon upon or about the person without a license to do so.	In all cases.	In all cases.
<b>Conspiracy 1<sup>st</sup> Degree.</b>	When intending to promote or facilitate the commission of a class A felony, the person:  Agrees with another that they or one or more people will engage in conduct constituting the felony or an attempt for solicitation to commit the felony.  OR  Agrees to aid another person or persons in the planning or commission of the felony, and the person or another person with whom the person conspired commits an overt act in pursuance of the conspiracy.	In all cases.	In all cases.
<b>Continuous sexual abuse of a child</b>	either residing in the same home with the minor child or having recurring access to the child, the person intentionally engages in 3 or more acts of sexual conduct with a child under the age of 14 years over a period of time, not less than 3 months in duration.	In all cases.	In all cases.
<b>Criminal mischief</b> Pecuniary loss 1,500.00 or more	Intentionally or recklessly: Damages tangible property of another person;  OR Tampers with tangible property of another person so as to endanger person or property;	No.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Dangerous crime against a child</b>	Any criminal sexual conduct against a minor under the age of 14 years as defined in §§ 770-773 or §§ 1108-1112A of title 11. For purposes of this section only, and § 762(a) of this title to the contrary notwithstanding, the defendant may use as an affirmative defense that the defendant believed that the victim of the crime was over the age of 16 years of age	In all cases.	In all cases.
<b>Delivery of Drug paraphernalia to a Minor.</b> Means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance	Any person who is 18 years of age or older who delivers, conveys, offers for sale, drug paraphernalia to a person under the age of 18.	In all cases.	In all cases.
<b>Distribution, delivery, or possession of controlled substance within 1,000 feet of school property</b>	Any person eighteen years of age or older who distributes, delivers or possesses a controlled substance or counterfeit controlled substance listed.	In all cases.	In all cases.
<b>Extortion</b>	Compels or induces another person to deliver property to the person or to a third person by means of instilling in the victim a fear.  Compels another person to engage in any sexual act by instilling fear in the victim (known as Sexual Extortion).	No.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Hate Crimes</b>	<p>Any person who commits, or attempts to commit any crime defined by the laws of this State and who intentionally:</p> <p>Commits the crime for the purpose of interfering with the victim’s free exercise or enjoyment of any right or privilege or immunity protected by the First Amendment of the United State Constitution, or commits the crime because the victim has exercised or enjoyed said rights;</p> <p style="text-align: center;">OR</p> <p>Selects the victim because of the victim’s race, religion, color, disability, sexual orientation, national origin or ancestry.</p>	In all cases.	In all cases.
<b>Kidnapping 2<sup>nd</sup> degree</b>	<p>unlawfully restrains another person with any of the following purposes:</p> <p>(1) To hold the victim for ransom or reward; or</p> <p>(2) To use the victim as a shield or hostage; or</p> <p>(3) To facilitate the commission of any felony or flight thereafter; or</p> <p>(4) To inflict physical injury upon the victim, or to violate or abuse the victim sexually; or</p> <p>(5) To terrorize the victim or a third person; or</p> <p>(6) To take or entice any child less than 16 years of age from the custody of the child's parent, guardian or lawful custodian;</p> <p>and the actor voluntarily releases the victim alive, unharmed and in a safe place prior to trial.</p>	In all cases.	In all cases.
<b>Kidnapping 1<sup>st</sup> degree</b>	<p>unlawfully restrains another person with any of the following purposes:</p> <p>(1) To hold the victim for ransom or reward; or</p> <p>(2) To use the victim as a shield or hostage; or</p> <p>(3) To facilitate the commission of any felony or flight thereafter; or</p> <p>(4) To inflict physical injury upon the victim, or to violate or abuse the victim sexually; or</p> <p>(5) To terrorize the victim or a third person; or</p> <p>(6) To take or entice any child less than 16 years of age from the custody of the child's parent, guardian or lawful custodian;</p> <p>and the actor does not voluntarily release the victim alive, unharmed and in a safe place prior to trial.</p>		

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Possession of child pornography</b>	<p>Knowingly possesses any visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;</p> <p style="text-align: center;">OR</p> <p>Knowingly possesses any visual depiction, which has been created, adapted, modified or edited so as to appear that a child is engaging in a prohibited sexual act or in the simulation of such an act.</p>	In all cases.	In all cases.
<b>Possessing a destructive weapon</b>	A person is guilty of possessing a destructive weapon when the person sells, transfers, buys, receives or has possession of a bomb, bombshell, firearm silencer, sawed-off shotgun, machine gun or any other firearm or weapon which is adaptable for use as a machine gun.	In all cases.	In all cases.
<b>Possession of a deadly weapon during commission of a felony</b>	A person who is in possession of a deadly weapon during the commission of a felony is guilty of possession of a firearm during the commission of a felony.	In all cases.	In all cases.
<b>Possession of a firearm during commission of a felony</b>	A person who is in possession of a firearm during the commission of a felony is guilty of possession of a firearm during the commission of a felony	In all cases.	In all cases.
<b>Possession of a weapon in a Safe School and Recreation Zone</b>	<p>Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof;</p> <p style="text-align: center;">OR</p> <p>(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university;</p> <p>Section 1442. Carrying a concealed deadly weapon; class G felony; class E felony.</p> <p>Section 1446. Unlawfully dealing with a switchblade knife; unclassified misdemeanor.</p> <p>Section 1448. Possession and purchase of deadly weapons by persons prohibited; class F felony.</p> <p>Section 1452. Unlawfully dealing with knuckles-combination knife; class B misdemeanor.</p> <p>Section 1453. Unlawfully dealing with martial arts throwing star; class B misdemeanor</p>	In all cases.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Possession, delivery or intent to deliver a controlled or counterfeit controlled substance.</b>	Person who manufactures, delivers or possesses with intent to manufacture or deliver a controlled substance or a counterfeit controlled substance classified in Schedule I, II, III, IV, or V controlled substance.	In all cases.	In all cases.
<b>Rape 4<sup>th</sup> degree</b>	<p>Intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her sixteenth birthday.</p> <p style="text-align: center;">OR</p> <p>Intentionally engages in sexual intercourse with another person, and the victim has not yet reached his or her eighteenth birthday, and the person is 30 years of age or older, except that such intercourse shall not be unlawful if the victim and person are married at the time of such intercourse</p> <p style="text-align: center;">OR</p> <p>Intentionally engages in sexual penetration with another person under any of the following circumstances:</p> <p style="margin-left: 40px;">a. The sexual penetration occurs without the victim's consent; or</p> <p style="margin-left: 40px;">b. The victim has not reached his or her sixteenth birthday</p> <p style="text-align: center;">OR</p> <p>Intentionally engages in sexual intercourse or sexual penetration with another person, and the victim has reached his or her sixteenth birthday but has not yet reached his or her eighteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.</p>	In all cases.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Rape 3<sup>rd</sup> degree</b>	<p>Intentionally engages in sexual intercourse with another person, and the victim has not reached his or her sixteenth birthday and the person is at least 10 years older than the victim, or the victim has not yet reached his or her fourteenth birthday and the person has reached his or her nineteenth birthday and is not otherwise subject to prosecution pursuant to § 772 or § 773 of title 11.</p> <p style="text-align: center;">OR</p> <p>Intentionally engages in sexual penetration with another person under any of the following circumstances:</p> <p style="padding-left: 40px;">a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or</p> <p style="padding-left: 40px;">b. The victim has not reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim.</p>	In all cases.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Rape 2<sup>nd</sup> degree</b>	<p>Intentionally engages in sexual intercourse with another person, and the intercourse occurs without the victim's consent; or</p> <p>(2) Intentionally engages in sexual penetration with another person under any of the following circumstances:</p> <p>a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or</p> <p>b. The sexual penetration occurs without the victim's consent, and was facilitated by or occurred during the course of the commission or attempted commission of:</p> <p>1. Any felony; or</p> <p>2. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion or criminal trespass in the first, second or third degree; or</p> <p>c. The victim has not yet reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes serious physical injury to the victim; or</p> <p>d. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or dangerous instrument; or</p> <p>e. The victim has not yet reached his or her sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person displays what appears to be a deadly weapon or a dangerous instrument; or</p> <p>f. The sexual penetration occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or</p> <p>g. The victim has not yet reached his or her twelfth birthday, and the defendant has reached his or her eighteenth birthday; or</p> <p>h. The victim has not yet reached his or her sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.</p>	In all cases.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Rape 1<sup>st</sup> degree</b>	<p>intentionally engages in sexual intercourse with another person and any of the following circumstances exist:</p> <p>(1) The sexual intercourse occurs without the victim's consent and during the commission of the crime, or during the immediate flight following the commission of the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or</p> <p>(2) The sexual intercourse occurs without the victim's consent and it was facilitated by or occurred during the course of the commission or attempted commission of:</p> <p>a. Any felony; or</p> <p>b. Any of the following misdemeanors: reckless endangering in the second degree; assault in the third degree; terroristic threatening; unlawfully administering drugs; unlawful imprisonment in the second degree; coercion; or criminal trespass in the first, second or third degree; or</p> <p>(3) In the course of the commission of rape in the second, third or fourth degree, or while in the immediate flight therefrom, the defendant displayed what appeared to be a deadly weapon or dangerous instrument; or</p> <p>(4) The sexual intercourse occurs without the victim's consent, and a principal-accomplice relationship within the meaning set forth in § 271 of this title existed between the defendant and another person or persons with respect to the commission of the crime; or</p> <p>(5) The victim has not yet reached his or her twelfth birthday, and the defendant has reached his or her eighteenth birthday; or</p> <p>(6) The victim has not yet reached his or her sixteenth birthday and the defendant stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.</p>		
<b>Reckless endangering 1<sup>st</sup> degree.</b>	Recklessly engages in conduct, which creates a substantial risk of death to another person.	In all cases.	In all cases.
<b>Riot</b>	<p>When the person participates with 2 or more persons in a course of disorderly conduct:</p> <p>(1) With intent to commit or facilitate the commission of a felony or misdemeanor; or</p> <p>(2) With intent to prevent or coerce official action; or</p> <p>(3) When the accused or any other participant to the knowledge of the accused uses or plans to use a firearm or other deadly weapon.</p>	In all cases.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Robbery</b>	In the course of committing theft, the person uses or threatens the immediate use of force.	In all cases.	In all cases.
<b>Sexual extortion</b>	intentionally compels or induces another person to engage in any sexual act involving contact, penetration or intercourse with the person or another or others by means of instilling in the victim a fear that, if such sexual act is not performed, the defendant or another will: (1) Cause physical injury to anyone; (2) Cause damage to property; (3) Engage in other conduct constituting a crime; (4) Accuse anyone of a crime or cause criminal charges to be instituted against anyone; (5) Expose a secret or publicize an asserted fact, whether true or false, intending to subject anyone to hatred, contempt or ridicule; (6) Falsely testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or (7) Perform any other act which is calculated to harm another person materially with respect to the other person's health, safety, business, calling, career, financial condition, reputation or personal relationships.		
<b>Stalking</b>	Intentionally engages in a course of conduct directed at a specific person which would cause a reasonable person to fear physical injury to self, a friend or associate, or to a member of his/her household or to a third person.	In all cases.	In all cases.
<b>Theft</b>	Person takes, exercises control over or obtains property of another person intending to deprive that person of it or appropriate it. Property received, retained or disposed of is \$1,000 or greater.  The victim is 62 years of age or older, or an "infirm adult".	No (but see Board Policy).	In all cases.
<b>Trafficking in marijuana, cocaine</b>	Any person who, on any single occasion, knowingly sells, manufactures, delivers or brings into this State, or who is knowingly in actual or constructive possession of, in excess of 5 pounds of marijuana.  Any person who, on any single occasion, knowingly sells, manufactures, delivers or brings into this State, or who is knowingly in actual or constructive possession of, 5 grams or more of cocaine or of any mixture containing cocaine, as described in § 4716(b)(4) of this title.	In all cases.	In all cases.

Offense	Elements	Report	
		Police	DOE
<b>Unlawfully dealing in child pornography</b>	<p>The person knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any "book, magazine, periodical, pamphlet, video or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;</p> <p>(2) The person knowingly receives for the purpose of selling or sells any magazine, photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly receives for the purpose of selling or sells any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;</p> <p>(3) The person knowingly distributes or disseminates, by means of computer or any other electronic or digital method, or by shows or viewings, any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or the simulation of such an act. The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination;</p> <p>(4) The person, by means of a computer, intentionally compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses any photograph, image, file, data or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act. For the purposes of this subsection, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if such photograph, image, file or data was compiled, entered, accessed, transmitted, received, exchanged, disseminated, stored, made, printed, reproduced or otherwise possessed by, through or with any computer located within Delaware and the person was aware of circumstances which rendered the presence of such computer within Delaware a reasonable possibility; or</p> <p>(5) The person knowingly advertises, promotes, presents, describes, transmits or distributes any visual depiction, exhibition, display or performance with intent to create or convey the impression that such visual depiction, exhibition, display or performance is or contains a depiction of a child engaging in a prohibited sexual act or in the simulation of such an act.</p>	In all cases.	In all cases.
<b>Unlawful imprisonment 1<sup>st</sup> degree</b>	A person is guilty of unlawful imprisonment in the first degree when the person knowingly and unlawfully restrains another person under circumstances which expose that person to the risk of serious physical injury.		

Offense	Elements	Report	
		Police	DOE
<b>Unlawful sexual contact I/II</b>	<p>Intentionally has sexual contact with another person who is less than 16 years of age or causes the victim to have sexual contact with the person or a third person.</p> <p style="text-align: center;">OR</p> <p>In the course of committing unlawful sexual contact in the second degree, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury to the victim or the person displays what appears to be a deadly weapon or dangerous instrument.</p>	In all cases.	In all cases.
<b>Vehicular assault 1<sup>st</sup> degree</b>	when while in the course of driving or operating a motor vehicle and under the influence of alcohol or drugs, as defined by § 4177 of Title 21, the person's negligent driving or operation of said vehicle causes serious physical injury to another person.	In all cases.	In all cases.
<b>Vehicular homicide.</b>	<p>While in the course of driving or operating a motor vehicle, the person's criminally negligent driving or operation of said vehicle causes the death of another person; or</p> <p>(2) While in the course of driving or operating a motor vehicle, under the influence of alcohol or drugs, as defined by § 4177 of Title 21, the person's negligent driving or operation of said vehicle causes the death of another person.</p> <p>while in the course of driving or operating a motor vehicle under the influence of alcohol or drugs, as defined by § 4177 of Title 21, the person's criminally negligent driving or operation of said vehicle causes the death of another person.</p>	In all cases.	In all cases.

### Other Offenses

Offense	Elements	Report	
		Police	DOE
<b>Tampering with public records in the first degree</b>	With intent to defraud, and knowing that the person does not have the authority of anyone entitled to grant it, the person knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in or otherwise constituting a record of a public office or public servant.	No.	In all cases.

<b>Offense</b>	<b>Elements</b>	<b>Report</b>	
		<b>Police</b>	<b>DOE</b>
<b>Transfer of recorded sounds</b>	No person shall knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds recorded on a phonograph record, disc, wire, tape, film or other article upon which sounds are recorded, with the intent to sell or cause to be sold, or to use for profit through public performance, or to use to promote the sale of any product, such article on which sounds are so transferred, without consent of the owner; provided, that such owner is domiciled or has its principal place of business in a country which is a signatory to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (executed on October 29, 1971, Geneva).	No.	In all cases.
<b>Unauthorized access of Computer</b>	Knowing that the person is not authorized to do so, the person accesses or causes to be accessed any computer system without authorization.	No.	In all cases.
<b>Theft of computer services.</b>	Person accesses or causes to be accessed or otherwise uses or causes to be used a computer system with the intent to obtain unauthorized computer services, computer software or data.	No.	In all cases
<b>Misuse of computer system information.</b>	(1) As a result of accessing or causing to be accessed a computer system, the person intentionally makes or causes to be made an unauthorized display, use, disclosure or copy, in any form, of data residing in, communicated by or produced by a computer system; (2) That person intentionally or recklessly and without authorization: a. Alters, deletes, tampers with, damages, destroys or takes data intended for use by a computer system, whether residing within or external to a computer system; or b. Interrupts or adds data to data residing within a computer system; (3) That person knowingly receives or retains data obtained in violation of subdivision (1) or (2) of this section; or (4) That person uses or discloses any data which that person knows or believes was obtained in violation of subdivision (1) or (2) of this section.	No.	In all cases.
<b>Destruction of computer equipment.</b>	Person, without authorization, intentionally or recklessly tampers with, takes, transfers, conceals, alters, damages or destroys any equipment used in a computer system or intentionally or recklessly causes any of the foregoing to occur.	No.	In all cases

Offense	Elements	Report	
		Police	DOE
<b>Obscenity</b>	<p>Knowingly:</p> <p>Sells, delivers or provides any obscene picture, writing, record or other representation or embodiment of the obscene.</p> <p style="text-align: center;">OR</p> <p>Presents or directs an obscene play, dance or performance or participates in that portion thereof which makes it obscene.</p> <p style="text-align: center;">OR</p> <p>Publishes, exhibits or otherwise makes available any obscene material.</p> <p style="text-align: center;">OR</p> <p>Possesses any obscene material for purposes of sale or other commercial dissemination.</p> <p style="text-align: center;">OR</p> <p>Permits a person under the age of 12 to be on the premises where material harmful to minors, as defined by § 1365 of title 11, is either sold or made available for commercial distribution and which material is readily accessible to or easily viewed by such minors.</p> <p>Any material covered by this paragraph shall not be considered readily accessible to or easily viewed by minors if it has been placed or otherwise located 5 feet or more above the floor of the subject premises or if the material is concealed so that no more than the top 3 inches is visible to the passerby.</p>	No.	IN all cases.

Offense	Elements	Report	
		Police	DOE
<b>Unrequested or unauthorized electronic mail or use of network or software to cause same.</b>	<p>(1) When that person, without authorization, intentionally or recklessly distributes any unsolicited bulk commercial electronic mail (commercial E-mail) to any receiving address or account under the control of any authorized user of a computer system. This section shall not apply to electronic mail that is sent between human beings, or when the individual has requested said information. This section shall not apply to the transmission of electronic mail from an organization to its members or where there is a preexisting business relationship. No Internet/interactive service provider shall be liable for merely transmitting an unsolicited, bulk commercial electronic mail message in its network. No Internet/interactive service provider shall be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any unsolicited, bulk electronic mail which it believes is, or will be, sent in violation to disconnect or terminate the service of any person that is in violation of this article; or</p> <p>(2) When a person uses a computer or computer network without authority with the intent to: Falsify or forge electronic mail transmission information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers; or</p> <p>(3) When a person sells, gives or otherwise distributes or possesses with the intent to sell, give or distribute software which:</p> <p>a. Is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information;</p> <p>b. Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or</p> <p>c. Is marketed by that person or another acting in concert with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.</p> <p>(4) For the purposes of this section, conduct occurring outside of the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if the receiving address or account was under the control of any authorized user of a computer system who was located in Delaware at the time he or she received the electronic mail or communication and the defendant was aware of circumstances which rendered the presence of such authorized user in Delaware a reasonable possibility.</p> <p>History</p>	No.	In all cases
<b>Sale of transferred recorded sounds</b>	No person shall knowingly, or with reasonable grounds to know, advertise or offer for sale or resale, or sell or resell, distribute or possess for such purposes, any article that has been produced in violation of § 920 of this title.	No.	In all cases.

## **APPENDIX B DEFINITIONS**

**"Intentionally"**. A person acts intentionally with respect to an element of an offense when:

- (1) If the element involves the nature of the person's conduct or a result thereof, it is the person's conscious object to engage in conduct of that nature or to cause that result; and
- (2) If the element involves the attendant circumstances, the person is aware of the existence of such circumstances or believes or hopes that they exist.

**"Knowingly"**. A person acts knowingly with respect to an element of an offense when:

- (1) If the element involves the nature of the person's conduct or the attendant circumstances, the person is aware that the conduct is of that nature or that such circumstances exist; and
- (2) If the element involves a result of the person's conduct, the person is aware that it is practically certain that the conduct will cause that result.

**"Recklessly"**. A person acts recklessly with respect to an element of an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the element exists or will result from the conduct. The risk must be of such a nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto.

**"Criminal negligence"**. A person acts with criminal negligence with respect to an element of an offense when the person fails to perceive a risk that the element exists or will result from the conduct. The risk must be of such a nature and degree that failure to perceive it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

**"Negligence"**. A person acts with negligence with respect to an element of an offense when the person fails to exercise the standard of care which a reasonable person would observe in the situation.

**"Dangerous instrument"** means any instrument, article or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury, or any disabling chemical spray, as defined in subdivision (7) of this section.

**"Deadly weapon"** includes a firearm, as defined in subdivision (11) of this section, a bomb, a knife of any sort (other than an ordinary pocketknife carried in a closed position), switchblade knife, billy, blackjack, bludgeon, metal knuckles, slingshot, razor, bicycle chain or ice pick or

any dangerous instrument, as defined in subdivision (4) of this section, which is used, or attempted to be used, to cause death or serious physical injury. For the purpose of this definition, an ordinary pocketknife shall be a folding knife having a blade not more than 3 inches in length.

**"Firearm"** includes any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable, loaded or unloaded. It does not include a BB gun.

**"Fraud"** means an intentional perversion, misrepresentation or concealment of truth.

**"Physical injury"** means impairment of physical condition or substantial pain.

**"Serious physical injury"** means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ, or which causes the unlawful termination of a pregnancy without the consent of the pregnant female.

**"Physical force"** means any application of force upon or toward the body of another person.

**"Vehicle"** includes any means in or by which someone travels or something is carried or conveyed or a means of conveyance or transport, whether or not propelled by its own power.

**A person "enters or remains unlawfully"** in or upon premises when the person is not licensed or privileged to do so. A person who, regardless of intent, enters or remains upon premises which appear at the time to be open to the public does so with license and privilege unless the person defies a lawful order not to enter or remain, personally communicated by the owner of the premises or another authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.

**A person "enters" upon premises** when the person introduces any body part or any part of any instrument, by whatever means, into or upon the premises.

**"Written instrument"** means any instrument or article containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information or constituting a symbol or evidence of value, right, privilege or identification.

**"Computer"** means a programmable, electronic device capable of accepting and processing data.

**"Computer network"** means:

- a. A set of related devices connected to a computer by communications facilities;
- b. A complex of 2 or more computers, including related devices, connected by communications facilities; or

c. The communications transmission facilities and devices used to interconnect computational equipment, along with control mechanisms associated thereto.

**"Computer program"** means a set of instructions, statements or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

**"Computer services"** includes, but is not limited to, computer access, data processing and data storage.

**"Computer software"** means 1 or more computer programs, existing in any form, or any associated operational procedures, manuals or other documentation.

**"Computer system"** means a computer, its software, related equipment and communications facilities, if any, and includes computer networks.

**"Data"** means information of any kind in any form, including computer software.

**"Person"** means a natural person, corporation, trust, partnership, incorporated or unincorporated association and any other legal or governmental entity, including any state or municipal entity or public official.

**"Private personal data"** means data concerning a natural person which a reasonable person would want to keep private and which is protectable under law.

**"Property"** means anything of value, including data.

**"Electronic mail" or "e-mail"** means any message that is automatically passed from an originating address or account to a receiving address or account.

**"Originating address" or "originating account"** means the string used to specify the source of any electronic mail message (e.g. `company@sender.com`).

**"Receiving address" or "receiving account"** means the string used to specify the destination of any electronic mail message (e.g. [person@receiver.com](mailto:person@receiver.com)).

**"Electronic mail service provider"** means any person who:

- a. Is an intermediary in sending and receiving electronic mail; and
- b. Provides to end-users of electronic mail services the ability to send or receive electronic mail.

**"Gambling device"** means any device, machine, paraphernalia or equipment which is used or usable in the playing phases of any gambling activity, whether the activity consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices.

**"Slot machine"** means a gambling device which, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of a physical act by the player, in such manner that, depending upon elements of chance, it may eject something of value.

**"Gambling offense"** means any offense defined in §§ 1401-1431 of title 11.

**"Call service"** means the furnishing of information upon request therefor or by prearrangement over general telegraphic, telephonic or teletypewriter exchange or toll service.

**"Dissemination"** means the act of transmitting, distributing, advising, spreading, communicating, conveying or making known.

**"Private wire"** means service equipment, facilities, conduits, poles, wires, circuits, systems by means of which service is furnished for communication purposes, either through the medium of telephone, telegraph, Morse, teletypewriter, loudspeaker or any other means, or by which the voice or electrical impulses are sent over a wire, and which services are contracted for or leased for services between 2 or more points specifically designated, and are not connected to or available for general telegraphic, telephonic or teletypewriter exchange or toll service, and includes such services known as "special contract leased wire service," "leased line," "private line," "private system," "Morse line," "private wire," but does not include the usual and customary telephone or teletypewriter service by which the subscriber may be connected at each separate call to any other telephone or teletypewriter designated by the subscriber only through the general telephone or teletypewriter exchange system or toll service.

(g) **"Public utility"** means a person, partnership, association or corporation owning or operating in this State equipment or facilities for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

**"Obstruction"** means a door, window, shutter, screen bar or grating of unusual strength, or any unnecessary number of doors, windows or obstructions other than what is usual and ordinary in the normal or usual use of a building, apartment or place, by which access to any building, apartment or place is barred.

**"Dangerous instrument"** means any instrument, article or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury, or any disabling chemical spray includes mace, tear gas, pepper spray or any other mixture containing quantities thereof, or any other aerosol spray or any liquid, gaseous or solid substance capable of producing temporary physical discomfort, disability or injury through being vaporized or otherwise dispersed in the air, or any cannister, container or device designed or intended to carry, store or disperse such aerosol spray or such gas or solid.

**"Firearm"** includes any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable, loaded or unloaded. It does not include a BB gun.

**"Deadly weapon"** includes a firearm, as defined in subdivision (11) of this section, a bomb, a knife of any sort (other than an ordinary pocketknife carried in a closed position), switchblade knife, billy, blackjack, bludgeon, metal knuckles, slingshot, razor, bicycle chain or ice pick or any dangerous instrument, as defined in subdivision (4) of this section, which is used, or attempted to be used, to cause death or serious physical injury. For the purpose of this definition, an ordinary pocketknife shall be a folding knife having a blade not more than 3 inches in length.

4/9/03