

Arizona Peace Officer Standards and Training

Basic Curriculum Model Lesson Plan

LESSON TITLE: SUBSTANTIVE CRIMINAL LAW 2.11

SUBJECT:	Substantive Criminal Law
AZ POST DESIGNATION:	2.11 Chapter 12 Assault
HOURS:	1.5
COURSE CONTENT:	An analysis of the most frequently used statutes in this chapter.
PERFORMANCE OBJECTIVES:	Upon completion of this course of instruction, students using notes, handouts and other support materials as references, within the allotted time, will: 2.11.12.1 Given a written, verbal or visual description depicting the possible commission of the following crime(s), identify if a crime occurred and, if so, the common crime name and classification: A. Assault and related offenses (A.R.S. Title 13, Chapter 12).

DATE FIRST PREPARED: November 2000

PREPARED BY: SME Committee

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REVIEWED – REVISED:	Sgt. George Sloane, Tucson P.D.	DATE: August 2002
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AZ POST – APPROVAL:	Lori Wait	DATE: January 2022

INSTRUCTOR REFERENCES: A.R.S. Title 13

CLASS LEVEL: Student

TRAINING AIDS: <http://www.azleg.gov/ArizonaRevisedStatutes.asp>

INSTRUCTIONAL STRATEGY: Interactive lecture.

SUCCESS CRITERIA: 70% or higher on a written, multiple-choice examination.

COMPUTER FILE NAME: 2-11 Ch 12 Assaults and related

DATE RELEASED TO SHARE FILE: May 27, 2022

I. INTRODUCTION

- A. Instructor – (self) introduction.
- B. Preview of performance objectives. **INSTRUCTOR NOTE:** *This lesson plan can be taught as a “stand alone” lesson plan.*

II. 13-1201 – ENDANGERMENT

P. O. 2.11.12.1A

- A. A person commits endangerment by recklessly endangering another person with a substantial risk of IMMEDIATE DEATH OR PHYSICAL INJURY.
- B. If we can show that there was a substantial risk of DEATH then endangerment becomes a felony.
- C. If we can only show that there was a substantial risk of PHYSICAL INJURY then it is a misdemeanor.
- D. You will note that in this statute there is no requirement that anyone actually be injured even the slightest.
 - 1. This statute is based upon the RECKLESS conduct of a person which is at least likely to cause physical injury, but does not actually do so.
 - 2. We must not try to go so far as to arrest a person for ATTEMPTED ASSAULT in some circumstances because no one can ATTEMPT to act RECKLESSLY. **INSTRUCTOR NOTE:** *In a prosecution for endangerment the identity of the victim is not an element of the offense. it is sufficient to prove that some unidentified person was endangered by the defendant’s conduct. (State v. Vilages-Rojas) 2012 WL 4478412 (9/28/12)*
 - a. A person who throws a rock through a window of a house without knowing or caring whether anyone is in the room at the time is guilty of RECKLESSLY causing physical injury (assault) if such is the result, but if no one is injured, he/she is not guilty of ATTEMPTED ASSAULT. He/she would be guilty of endangerment.
 - b. A person cannot intend to act recklessly or with criminal negligence toward a result and, therefore, cannot commit a criminal attempt for a crime having one (1) of these types of culpability as its essential mental state.
- E. Examples of endangerment:
 - 1. Discharging a firearm in public.
 - 2. Pointing firearms at others.
- F. In order to arrest for endangerment, it is not necessary to show that certain acts were directed towards one (1) particular person; all that is necessary is to show a certain degree of risk to

another person in general. (People v. Grahn, 1973, 41 A.D. 2d 226, 342 N.Y.S. 2d 361.

- G. The defendant's conduct in pointing the pistol at the victim's chest and pulling the trigger, even though there was no bullet in the chamber, warranted a conviction of endangerment (felony).

III. 13-1202 – THREATENING OR INTIMIDATING

P. O. 2.11.12.1A

- A. A person commits threatening or intimidating if such person threatens or intimidates by word or conduct:

1. To cause physical injury to another person or serious damage to the property of another;
or
2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly or transportation facility; or
3. To cause physical injury to another person or damage to the property of another in order to promote, further, or assist in the interests of, or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.

- B. This statute is directed towards BOMB THREATS, but can cover other circumstances.

INSTRUCTOR NOTE: Note that it would not cover the false reporting of a fire- this is covered under another statute.

1. Violation of A (1) and (2) are misdemeanors, or if committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity. **INSTRUCTOR NOTE:** Although still in the statute, AZ courts have ruled this is unconstitutional.
2. Violation of A (3) is a felony.

- C. **From the Model Penal Code**, Section 211.3 – this section: "Proscribes threats that cause serious alarm for personal safety or the disruption of public services or activities.

- D. This activity is an offense against the individual of substantial magnitude and danger, even allowing for the lack of any actual harm since threats of this nature generally cause substantial psychological trauma and public inconvenience.

- E. People who are attempting to avoid what they believe to be immediate serious harm may often take action so precipitous as to harm themselves. . . ."

- F. Question: If a person goes into a theater and yells "FIRE," more than likely we have what kind of crime?

1. Even though this fits perfectly into this statute, we might be better off with felony endangerment.
2. You, as the investigating officer, must use your investigative skills to determine which crime was committed (if any) and which one to use.
 - a. How many people were in the theater?
 - b. Was there really a fire?
 - c. Was anyone hurt?
 - d. What was the suspect's mental state?

IV. 13-1203 – ASSAULT

P. O. 2.11.12.1A

- A. A person commits assault by:
1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
 2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
 3. Knowingly touching another person with the intent to injure, insult or provoke such a person.
 - a. Subsection 1: This discusses the intentional, knowing or reckless infliction of any bodily injury on another person. **WITHOUT SOME BODILY INJURY, THERE IS NO ASSAULT** under this Subsection.
 - b. Subsection 2: This penalizes someone who puts another in apprehension of harm. This **LOOKS** a lot like endangerment, but the mental states requirements are different.
 - c. Subsection 3: This section punishes injurious, insulting or provoking physical touching. The definitions for these results will depend upon a case-by-case adjudication.
- B. Discuss with the students what would, in our society, be considered an insulting touch.
- C. All assaults are misdemeanors, but the degree depends upon the assailant's mental state.

V. 13-1204 – AGGRAVATED ASSAULT

P. O. 2.11.12.1A

- A. A person commits aggravated assault if such person commits assault as defined in A.R.S. §13-1203 under any of the following circumstances:

1. If such person causes serious physical injury to another; or
2. This paragraph concentrates upon the amount of injury done. The amount separates this crime from assault. Assault requires only physical injury while aggravated assault requires, under this paragraph, SERIOUS PHYSICAL INJURY.
3. It is very important that students have a good understanding of the difference between the meanings of “physical injury” and “serious physical injury.” **INSTRUCTOR NOTE:** *Students should look back on the definitions in ARS 13-105.*
4. If such person uses a deadly weapon or dangerous instrument; or
5. This paragraph punishes the use of a deadly weapon or a dangerous instrument in an assault. **INSTRUCTOR NOTE:** *“Dangerous instrument” means anything that 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. “Deadly weapon” means anything designed for lethal use, including a firearm.*
 - a. Note that it does not require that injury actually be sustained by the victim – mere use, display, etc., can sometimes qualify as an aggravated assault.
 - b. To sustain a charge of aggravated assault, it is only necessary to prove that the victim had reasonable apprehension of receiving bodily harm from the person who is using the deadly weapon. (People v. Hoggs, 1974, 17Ill App3d 67N.E. 2d 800 and People v. Graham, 1975, 25Ill. App 3d 853, 323 N.E. 2d 441.)
 - c. Assault that is made with an unloaded gun is made with a deadly weapon.
 - d. Review the definitions of “deadly weapon” and “dangerous instrument”.
6. If the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.
7. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired. **INSTRUCTOR NOTE:** *This is a double edged sword as a LEO who hits a suspect in handcuffs may be charged with Aggravated Assault.*
8. If such person commits the assault after entering the private home of another with the intent to commit the assault; or
9. This paragraph punishes those who trespass upon the sanctity of one’s home in order to commit an assault.

- a. Note that this paragraph DOES NOT say that any assault that occurs in a private home automatically becomes aggravated -- we must show that the suspect entered WITH THE INTENT to commit the assault and did, in fact, commit the assault.
 - b. If you have a poker party at your house and you get into verbal argument with one of the invited guests and he hits you, it would be considered an assault only.
 - c. However, if you are on the sidewalk in front of your house and you are having an argument with your neighbor and he ends up chasing you into your house and he assaults you inside the house, then it becomes aggravated.
10. If such person is 18 years of age or more (an adult) and commits the assault upon a child the age of 15 years or under; or
11. This paragraph covers those circumstances where you have an adult suspect and a victim who is 15 years old or younger. Caution: A lot of people believe that an assault on a JUVENILE by an adult is aggravated – NOT NECESSARILY SO.
- a. The problem with this paragraph is that we could have circumstances where it is a mutual combat situation and the adult and the person 15 years old or younger is about the same size. ENFORCE THE SPIRIT OF THE LAW, NOT THE LETTER.
 - b. The obvious intent of the legislature with this paragraph is to protect the young or small from those who are older and/or larger. (common sense should dictate.)
12. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624. **INSTRUCTOR NOTE:** *The suspect must knowingly assault the peace officer. If an officer is out of uniform, off-duty, and sitting in a bar having a drink when the assault occurs- it is simple assault. The citizen who is summoned or directed to assist an officer, and while that citizen is engaged in the performance of.*
13. If the person commits the assault knowing, or having reason to know, that the victim is any of the following:
- a. A public servant listed in subsections (a)(b)(c)(f)(g)(h)(i) and (j), if the victim engaged in the execution of any official duties or if the assault results from the execution of the public servants official duties:
 - i. A peace officer.
 - ii. A constable.
 - iii. A firefighter, fire investigator, fire inspector, emergency medical

- technician or paramedic.
 - iv. A prosecutor.
 - v. A code enforcement officer.
 - vi. A state or municipal park ranger.
 - vii. A public defender.
 - viii. A judicial officer.
 - b. A teacher or other person employed by any school and the teacher or other employee is on the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.
 - c. The employee must be either on school grounds, grounds adjacent to the school, on school business, et.
 - d. Note: The assault can be committed by anyone, not just students.
 - e. A licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. This subdivision does not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with Alzheimer's disease or related dementia.
14. If the person knowingly takes or attempts to exercise control over a **peace officer's**:
- a. Firearm **and** the person knows or has reason to know that the victim is a peace officer **and** is engaged in the execution of any official duties.
 - b. Any weapon other than a firearm that is being used or being attempted to use, and the person knows or has reason to know that the victim is a peace officer and is engaged in the execution of any official duties.
 - c. Any implement that is being used or attempting to be used, **and** the person knows or has reason to know that the victim is a peace officer **and** is engaged in the execution of any official duties. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. The implement does not include handcuffs.

15. It is also a violation of 9 (a) (b) and (c),
 - a. If the person is imprisoned or otherwise subject to the custody of the (i) state department of corrections (adult or juvenile), (ii) a law enforcement agency, (iii) a county or city jail or detention facility (adult or juvenile), or (iv) any other entity that is contracting with the entities identified in (i) (ii) or (iii) or the federal bureau of prisons or other federal agency responsible for sentenced or unsentenced prisoners **and**
 - b. The person commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities listed in 10(a).
 - c. Note: The assault must be committed by someone who is jailed or is subject to being jailed.
 - i. Inmate.
 - ii. Inmate on work furlough, etc.

16. If a person uses a simulated deadly weapon.

- B. A person commits aggravated assault if the person commits assault by either intentionally, knowingly or recklessly causing any physical injury to another person, intentionally placing another person in reasonable apprehension of imminent physical injury or knowingly touching another person with the intent to injure the person and both the following occur:
 1. The person intentionally or knowingly impedes the normal breathing or circulation of blood of another person by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or through use of an instrument.
 2. Any of the circumstances exist that are set forth in section 13-3601, subsection A, paragraph 1,2,3,4,5 or 6. (Domestic violence offenses)
- C. Aggravated assault is always a felony offense, but the degree depends upon which Subsection of the statute was committed.

VI. 13-1205 – UNLAWFULLY ADMINISTERING INTOXICATING LIQUORS, NARCOTIC DRUGS OR DANGEROUS DRUGS P. O. 2.11.12.1A

- A. A person commits unlawfully administering intoxicating liquors, a narcotic drug or dangerous drug if, for a purpose other than lawful medical or therapeutic treatment, such person knowingly introduces, or causes to be introduced, into the body of another person, without consent of such person, intoxicating liquors, a narcotic drug or a dangerous drug.
- B. If the victim of the crime is an adult, the crime is a Class 6 felony.

- C. If the victim of the crime is a minor, the crime is a Class 5 felony.
- D. "Slipping someone a mickey" would be covered under this statute. (Discuss the slang terms)

VII. 13-1206 – DANGEROUS OR DEADLY ASSAULT BY A PRISONER P. O. 2.11.12.1A

- A. A person, while in the custody of the state Department of Corrections, **the Department of Juvenile Corrections**, a law enforcement agency, or county or city jail, who commits an assault involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or who intentionally or knowingly inflicts serious physical injury upon another person is guilty of a Class 2 felony.

VIII. 13-1207 – PRISONERS WHO COMMIT ASSAULT WITH INTENT TO INCITE TO RIOT OR PARTICIPATE IN A RIOT P. O. 2.11.12.1A

- A. A person, while in the custody of the state Department of Corrections or a county or city jail, who commits assault upon another person with the intent to incite to riot or who participates in a riot is guilty of a Class 2 felony.

IX. 13-1208 – ASSAULT; VICIOUS ANIMAL

- A. A person who intentionally or knowingly causes any dog to bite and inflict serious physical injury on a human being or otherwise cause serious physical injury to a human being is guilty of a class 3 felony, unless the person would be justified in using physical force or deadly physical force in self-defense or defense of a third person pursuant to chapter 4 of this title. **INSTRUCTOR NOTE:** *A person who owns an aggressive dog must exercise reasonable care to confine to your property and control, when off your property, the dog in order to prevent it from biting a person or domestic animal. Failure to do so is a misdemeanor. ARS 11-1014.01*
- B. A person who owns a dog that the owner knows or has reason to know has a history of biting or a propensity to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and that bites, inflicts physical injury on or attacks a human being while at large is guilty of a class 5 felony.
- C. A person who owns or who is responsible for the care of a dog that the owner or responsible person knows or has reason to know has a history of biting or a propensity to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and who does not take reasonable care to prohibit the dog from escaping to the outside of a residence or enclosed area, yard or structure is guilty of a class 1 misdemeanor.
- D. This does not apply to police dogs that are owned or used by a law enforcement agency and that are used in the performance of police work.

X. 13-1209 – DRIVE BY SHOOTING

P. O. 2.11.12.1A

- A. A person commits a drive-by shooting by intentionally discharging a weapon from a motor vehicle at a person, another occupied motor vehicle or an occupied structure.
- B. Motor vehicles that are used in violation of this section are subject to seizure for forfeiture in the manner provided for in Chapter 39 of this title.
- C. Notwithstanding Title 28, Chapter 8, the judge shall order the surrender to the judge of any driver's license of the convicted person and, on surrender of the license, shall invalidate or destroy the license and forward the abstract of conviction to the Department of Transportation with an order of the court revoking the driving privilege of the person for a period of at least one year, but not more than five years.
- D. Drive-by shooting is a Class 2 felony.

XI. 12-1210 – ASSAULTS ON PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS; DISEASE TESTING

P. O. 2.11.12.1A

- A. **Permits a court to order testing, at the request of the involved public safety employees and volunteers or the employing agency, for HIV, common blood-borne diseases and other diseases specified in the order, if there are reasonable grounds to believe that the officer has been exposed, and:**
 - 1. The person responsible for the exposure is charged in any criminal complaint alleging that the person interfered with the public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the public safety employee or volunteer.; or
 - 2. There is probable cause to believe that the person interfered with the official duties of **the public safety employee or volunteer** by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the public safety employee or volunteer **and the person is deceased.**
- B. "Public safety employee or volunteer" means a law enforcement officer, any employee, contractor or volunteer of a state or local law enforcement agency, or correctional facility, a probation officer, a surveillance officer, an adult or juvenile correctional service officer, a detention officer, a private prison security officer, a firefighter or an emergency medical technician, or any other person who is authorized to perform official duties or be present within a correctional facility.

XII. 13-1211 – DISCHARGING A FIREARM AT A STRUCTURE

P. O. 2.11.12.1A

- A. A person who knowingly discharges a firearm at a residential structure is guilty of a Class 2 felony.
- B. A person who knowingly discharges a firearm at a non-residential structure is guilty of a Class 3

felony.

XIII. 13-1212 – PRISONER ASSAULT WITH BODILY FLUIDS

P. O. 2.11.12.1A

- A. A prisoner commits this crime by throwing or projecting any bodily fluids at, or onto, a correctional facility employee or private prison security officer who the prisoner knows, or reasonably should know, is an employee of the facility or prison.
- B. This is a Class 6 felony.

XIV 13-1213 – AIMING A LASER POINTER AT A PEACE OFFICER

P. O. 2.11.12.1A

- A. A person commits this crime by aiming a laser pointer at a peace officer, if the person intentionally or knowingly directs the beam of light from an operating laser pointer at another person and knows, or reasonably should know, that the other person is a peace officer.
- B. This is a Class 1 misdemeanor.
- C. Laser pointer – means any device that consists of a high- or low-powered visible light beam used for aiming, targeting or pointing out features.

XV. CONCLUSION

- A. Review of performance objectives.
- B. Final questions and answers.
- C. Instructor closing comment(s).