

COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING BASIC ACADEMY

Functional Area:
Legal Matters

Lesson Title:
Major Crimes LM.06

Duration:
1.5 Hour

Revised: September 2007; July 2004

LEARNING GOAL(S): The student will know Oklahoma's major felony crimes and the "elements of offense" of each.

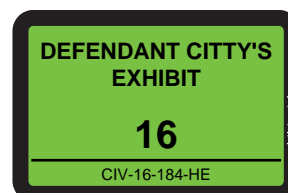
ASSESSMENT AND STANDARDS: Successful completion of this **FUNCTIONAL AREA** is achieved when the student has performed all practical tasks and exercises to the satisfaction of the instructional staff and, when tested against the PERFORMANCE OBJECTIVES by multiple choice exam(s), a score of 70% or higher is attained.

PERFORMANCE OBJECTIVES:

- LM.06.01 Given the description of a commonly committed major felony offense listed in Title 21, the student will identify the title of the crime that is most likely to have been violated.
- LM.06.02 Given the name of a major felony crime, the student will identify the requisite "elements of offense" applicable to that crime.
- LM.06.03 Having read a criminal statute, the student will identify its elements of offense.

TRAINING AIDS REQUIRED:

1. Student Reference Guide
2. Title 21



I. INTRODUCTION

What does the term "elements of the offense" mean? Violation of the law is similar to hitting a home run. You must not only hit the ball over the fence, you must also step on all the bases. Think of the 'elements' as the bases.

The elements of an offense are all the requirements that must be met in order for the violation (offense) of a given law to have occurred.

P. O. [LM.06.01] Given the description of a commonly committed major felony offense listed in Title 21, the student will identify the title of the crime that is most likely to have been violated.

P. O. [LM.06.02] Given the name of a major felony crime, the student will identify the requisite "elements of offense" applicable to that crime.

P. O. [LM.06.03] Having read a criminal statute, the student will identify its elements of offense.

II. PRELIMINARY PROVISIONS (Title 21 O.S. § 1 – 20.4.)

A. Title "Penal Code of the State of Oklahoma"

B. Classification of Crimes

1. Felony - punishable by death or state penitentiary
2. Misdemeanor - every other crime

C. "Crime" defined - act or omission must be set out in Code

D. Attempt (not specifically addressed) - §41

1. Any overt act
2. Definition -See §44
 - a. Acting with the culpability required for crime
 - b. Engages in conduct which would constitute the crime if attendant circumstances were as he believes them to be, or
 - c. Does anything with the purpose of causing or with the belief that it will cause such result

III. HOMICIDE (Title 21 O.S., §691-733)

A. Definition (§ 691)

Killing of one human being by another

B. Classification (§692)

- Homicide is either:
- Murder;
- Manslaughter;
- Excusable homicide; or,
- Justifiable homicide.

C. Murder (§701 - 705)

1. 1st Degree with malice aforethought

- a. death of a human
- b. death was unlawful
- c. caused by the defendant
- d. caused with malice aforethought

(deliberate intention to take away the life of a human being. It must be formed before the act and must exist at the time a homicidal act is committed. No particular length of time is required.)

2. First degree by felony murder

- a. death of a human
- b. as a result of an act or event which happened in the defendant's commission or attempted commission of:

-forcible rape

-robbery with a dangerous weapon

-kidnapping

-escape from lawful custody

-eluding an officer

-first degree burglary or arson

-murder of a person other than the deceased

-shooting with intent to kill a person other than the deceased

-intentional discharge of a firearm into a (public) building

-unlawful distributing or dispensing of CDS

-trafficking in illegal drugs

3. First Degree by Death of Child

a. death of a child under eighteen

b. death resulted from willful or malicious using of unreasonable force

c. which was willfully caused or procured

d. by the defendant.

e. who was responsible for the child's health or safety

4. First Degree by Soliciting Another to Commit

a. soliciting

b. another

c. to kill a human by an act of murder in the first degree

d. with the intent that the murder be committed

Aggravating Circumstances (§ 701.12)

a. prior felony involving use or threat of violence

b. during the commission, knowingly created a great risk of death to more than one person

c. committed for remuneration or the promise of remuneration

d. especially heinous, atrocious, or cruel

e. committed for the purpose of avoiding arrest or prosecution

f. committed while serving a sentence of imprisonment for felony

g. victim was a peace officer or guard and in the performance of official duty

h. a probability the defendant is a continuing threat to society.

Anger or Voluntary Intoxication no defense (§704)

D. Second Degree

1. By Imminently Dangerous Conduct

a. death of a human

b. caused by conduct which was imminently dangerous

(conduct that creates what a reasonable person would realize as an immediate and extremely high degree of risk to another person)

c. conduct was that of the defendant

d. conduct evinced a depraved mind in extreme disregard of human life

(engages in imminently dangerous conduct with contemptuous and reckless disregard of, and in total indifference to, the life and safety of others)

2. By Felony Murder

a. death of a human

b. as the result of an act or event which happened in the commission of a felony

c. by the defendant while in the commission of a felony

(or a person engaged with the defendant in the act)

E. Manslaughter (§711 - 716)

1. 1st Degree Manslaughter by Misdemeanor

a. death of a human

b. occurring as a direct result of an event which happened in the commission of a misdemeanor

c. caused by the defendant while in the commission of a misdemeanor

(or a person engaged with the defendant in the act)

2. 1st degree Manslaughter - Heat of Passion

a. death of a human

b. caused by the defendant

c. not excusable or justifiable

d. inflicted in a cruel and unusual manner

OR by means of a dangerous weapon

e. when performing the conduct which caused the death, the defendant was in a heat of passion

f. requirements for heat of passion

-adequate provocation

-passion or emotion such as fear, terror, anger, rage, or resentment

-the homicide occurred while the passion still existed, and before there was a reasonable time for the passion to cool.

-a causal connection between the provocation, the passion, and the homicide.

3. 2nd Degree Manslaughter

a. death of a human

b. the death was unlawful

c. caused by the culpable negligence of the defendant.

IV. ASSAULT AND BATTERY (Title 21 O.S., §641 - 650.1)

A. Assault - elements

1. willful

2. unlawful

3. attempt or offer (threat) with force or violence to do bodily harm

4. to another person

B. Battery - elements

1. willful

2. unlawful

3. Use of force or violence

3. Upon another person

C. Assault / Battery upon Peace Officer -21 O.S. §649(A)

1. an assault or assault and battery

2. upon a police officer

(sheriff / deputy sheriff / highway patrolman / corrections personnel / state peace officer)

3. known by the defendant to be a police officer

4. without justifiable or excusable cause

5. committed while the police officer was in the performance of his or her duties as a police officer

D. Assault and Battery upon Police Dog or Horse - 21 O.S. §649.1

1. Any person
2. Wilfully
 - a. Beating, injuring, or otherwise mistreating, or
 - b. Interfering with the lawful performance of
3. A dog or horse
4. Owned or in the service of law enforcement
 - a. Is guilty of a misdemeanor.
 - b. If during the commission of a crime is guilty of a felony.

F. Escape or Attempt to Escape from Arrest or Detention - 21 O.S. §444

1. Any person
2. Lawfully detained or arrested
3. Who attempts or escapes
 - a. If originally in custody for a misdemeanor is guilty of a misdemeanor
 - b. If originally in custody for a felony is guilty of a felony.

V. ROBBERY (Title 21 O.S., §791 - 801)

A. Definition - elements

1. wrongful
2. taking
3. carrying away
4. Personal property
3. of another
4. by means of force or fear

("Force" - degree immaterial - "Fear" - immediate or future to the victim, his relative, or anyone in the presence of the victim at time of robbery

B. Degrees

1. 1st Degree – when, in the course of the robbery
 - a. defendant inflicted serious bodily injury upon the other person
 - OR
 - b. defendant threatened a person with serious bodily injury
 - OR
 - c. defendant intentionally put a person in fear of immediate bodily injury
 - OR
 - d. defendant committed or threatened to commit a felony upon the other person

2. 2nd Degree

Any other manner, such as fear that is not immediate. (Second degree robbery is a lesser included offense of first degree robbery.)

VI. LARCENY (Title 21, O.S., § 1701-1737)

A. Definition - elements

1. taking
2. carrying away
3. personal property
4. of another
5. without consent ("fraud or stealth")
6. with intent to deprive

B. Degrees

1. Grand Larceny - felony
 - Property exceeds \$500 in value
 - OR
 - Taken from the person of another, without regard to value

3. Petit Larceny - Misdemeanor

VII. BURGLARY (Title 21 O.S., §1431-1442)

A. Elements

1. breaking
2. entering
3. a dwelling
4. of another
5. with intent to commit some crime therein

B. 1st Degree Burglary

1. human being present at time
2. by forcible breaking

OR

- breaking in any other manner while armed with a dangerous weapon

OR

-breaking in any other manner while assisted by one or more confederates

OR

-using false key or picking the lock or lifting a latch or opening a window

C. 2nd Degree Burglary

All others (example: building, automobile, etc.)

VIII. KIDNAPPING (Title 21, O.S., §741-747)

A. Elements

1. unlawful
2. forcible seizure and confinement (or inveiglement)
3. of another
4. with intent to confine secretly

OR

-send out of State

OR

-sell as a slave

OR

-hold to service

5. against the person's will

IX. ARSON (Title 21, O.S., §1401-1404)

A. Definition - elements

1. Willful

2. Malicious

3. Burning

OR

-use of explosive device

OR

-manufacturing a controlled dangerous substance

B. Degrees

1. 1st Degree

a. Dwelling house or building

b. Occupied by one or more persons

c. structure or contents or person

2. 2nd Degree

a. Uninhabited house or building

b. structure or contents

3. 3rd Degree

a. Personal property (examples: car, boat, crop, etc.)

b. Not less than \$50 in value

4. 4th Degree

- a. Attempt to burn
- b. use explosive device
- c. Counsel or procure a burning

X. RAPE (Title 21, O.S., §1114-1123)

A. Definition – elements

Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

1. Where the victim is under sixteen (16) years of age;
2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit;
5. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape;
7. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim; or
8. Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is

eighteen (18) years of age or older and is an employee of the same school system.

- B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.
- C. No person can be convicted of rape or rape by instrumentation on account of an act of sexual intercourse with anyone over the age of fourteen (14) years, with his or her consent, unless such person was over the age of eighteen (18) years at the time of such act.