

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 23 Organized Crime and Fraud
HOURS:	.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: <ul style="list-style-type: none">2.11.23.1 Identify examples of the following property-related crimes:<ul style="list-style-type: none">A. Possession of altered property (A.R.S. §13-2306).2.11.23.2 Identify the elements of, and permissible inferences regarding, the crime of trafficking in stolen property per A.R.S. §§13-2305, 13-2306 and 13-2307.2.11.23.3 Identify the elements of the following property-related crimes:<ul style="list-style-type: none">A. Fraud (A.R.S. §13-2310).

DATE FIRST PREPARED: November 2000

PREPARED BY: SME Committee

REVIEWED – REVISED:	SME Committee	DATE: May 2002
REVIEWED – REVISED:	Sgt. George Sloane, TPD	DATE: August 2002
REVIEWED – REVISED:	AZ POST (Word)	DATE: June 2003
REVIEWED – REVISED:	SME Committee (hours changed)	DATE: October 2006
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REVIEWED – REVISED:	SME Committee	DATE: November 2011
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REVIEWED – REVISED:		DATE:
AZ POST – APPROVAL:	Steve Enteman	DATE: August 2019
AZ POST – APPROVAL:	Mandy Faust	DATE: February 2021
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 23 Organized Crime & Fraud

DATE OF RELEASE TO THE SHARE FILE: August 2023

I. INTRODUCTION

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

II. DEFINITIONS

- A. For the purposes of A.R.S. §§13-2305, 13-2306 and 13-2307:
 - 1. Dealer in property – means any person who buys or sells property as a business.
 - 2. Stolen property – means of another as defined in A.R.S. §13-1801 that has been the subject of any unlawful taking.
 - 3. Traffic – means to sell, transfer, distribute, dispense or otherwise dispose of stolen property to another person or to buy, receive, possess or obtain control of stolen property with the intent to sell, transfer, distribute or otherwise dispose of to another person.
- B. For the purposes of this chapter:
 - 1. Biological agent – means any microorganism, virus, infectious substance or biological product that may be engineered through bio-technology or any naturally occurring or bio-engineered component of any microorganism, virus, infectious substance or biological product that is capable of causing any of the following:
 - a. Death, disease or physical injury to a human, animal, plant or other living organism.
 - b. The deterioration or contamination of air, food, water, equipment, supplies or material of any kind.
 - 2. Communication service provider – has the same meaning as prescribed in A.R.S. §13-3001.
 - 3. Explosive agent – means an explosive as defined in A.R.S. §13-3101 and flammable fuels or fire accelerants in amounts over 50 gallons, but excludes:
 - a. Fireworks as defined in A.R.S. §36-1601.
 - b. Firearms.
 - c. A propellant-actuated device or propellant-actuated industrial tool.

- d. A device that is commercially manufactured primarily for the purpose of illumination.
 - e. A rocket having a propellant charge of less than four (4) ounces.
4. Material support or resources – includes money or other financial securities, financial services, lodging, sustenance, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, disguises and other physical assets, but does not include medical assistance, legal assistance or religious materials.
5. Public establishment – means a structure that is owned, leased or operated by this state or a political subdivision of this state or a health care institution as defined in A.R.S. §36-401.
6. Terrorism – means any felony, including any completed or preparatory offense, that involves the use of a deadly weapon or a weapon of mass destruction or the intentional or knowing infliction of serious physical injury with the intent to either:
- a. Influence the policy or affect the conduct of this state or any of the political subdivisions, agencies or instrumentalities of this state.
 - b. Cause substantial damage to, or substantial interruption of, public communications, communication service providers, public transportation, common carriers, public utilities, public establishments or other public services.
 - c. Intimidate or coerce a civilian population and further the goals, desires, aims, public pronouncements, manifestos or political objectives of any terrorist organization.
7. Toxin – means the toxic material of plants, animals, micro-organisms, viruses, fungi or infectious substances or a recombinant molecule, whatever its origin or method of reproduction, including:
- a. Any poisonous substance or biological product that may be engineered through bio-technology and that is produced by a living organism.
 - b. Any poisonous isomer or biological product, homolog (similar) or derivative of such substance.
8. Vector – means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through bio-technology, that is capable of carrying a biological agent or toxin to a host.

9. Weapon of mass destruction – means:
 - a. Any device or object that is designed, or that the person intends to use, to cause multiple deaths or serious physical injuries through the use of an explosive agent or the release, dissemination or impact of a toxin, biological agent, poisonous chemical or its precursor or any vector.
 - b. Except as authorized and used in accordance with a license, registration or exemption by the radiation regulatory agency pursuant to A.R.S. §30-672, any device or object that is designed, or that the person intends to use, to release radiation or radioactivity at a level that is dangerous to human life.

III. 13-2305 – PERMISSIBLE INFERENCES

P. O. 2.11.23.2

- A. This statute is an explanation of inferences available to law enforcement personnel and a jury when dealing with the crimes of trafficking in stolen property and possession of stolen property.
- B. In an action for trafficking in stolen property:
 1. Proof of possession of property recently stolen, unless satisfactorily explained, gives rise to an inference that the person in possession of the property was aware of the risk that it had been stolen or in some way participated in its theft.
 2. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it was stolen.
 3. Proof of the purchase or sale of stolen property by a dealer in property out of the regular course of his/ her business or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

IV. 13-2306 – POSSESSION OF ALTERED PROPERTY

P. O. 2.11.23.1A

P. O. 2.11.23.2

- A. A person who is a dealer in property and recklessly possesses property wherein the permanent identifying features of which (including serial numbers or labels) have been removed or in any fashion altered is guilty of a felony.
- B. It is a defense to a prosecution under this statute that a person has lawfully obtained a special serial number pursuant to A.R.S. §28-320, lawfully possesses the usual indicia of ownership in addition to mere possession or has obtained consent of the manufacturer of the property.
- C. This section imposes on a dealer in property a duty to make sure property he/she deals in does not have altered numbers or other identifying features.

1. The statute is aimed at pawn shop owners, car dealers or other merchants who assume the functions of a fence by buying and selling stolen property.
2. The term "usual indicia of ownership" presumably refers to a bill of sale from the seller.

V. 13-2307 – TRAFFICKING IN STOLEN PROPERTY

P. O. 2.11.23.2

- A. A person who recklessly traffics in the property of another that has been stolen is guilty of trafficking in stolen property in the second (2nd) degree – this is a felony.
- B. A person who knowingly initiates, organizes, plans, finances, directs, manages or supervises thefts and trafficking in stolen property is guilty of trafficking in stolen property in the first (1st) degree – this is a felony.
- C. Under Section A, the crime of trafficking in stolen property in the second (2nd) degree can be accomplished in two (2) ways.
 1. First, if a person recklessly sells, etc., stolen property to another, he/she is liable.
 2. Second, if he buys, etc., stolen property with intent to distribute that property, he/she is liable.
- D. Section B contains the more serious crime of trafficking in stolen property in the first (1st) degree.
 1. A person commits this crime by directing, managing, etc., the theft of, AND trafficking in, the property of another.
 2. A much higher level of proof is required.

VI. 13-2310 – FRAUDULENT SCHEMES AND ARTIFICES

P. O. 2.11.23.3A

- A. Any person who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a Class 2 felony.
- B. "Proof that the defendant obtained gain from his/her scheme is not essential for conviction under this section, nor need there be any evidence that anyone was actually defrauded."
INSTRUCTOR NOTE: *U.S. v. Gaskill, C.A. Mo 1974, 491 F.2d 981.*
- C. This section is based upon federal mail and wire fraud statutes and is a powerful anti-fraud provision as evidenced by the Class 2 felony designation.

VII. 13-2321 - PARTICIPATING IN OR ASSISTING A CRIMINAL STREET GANG

- A. A person commits participating in a criminal street gang by any of the following:
 - 1. Intentionally organizing, managing, directing, supervising or financing a criminal street gang with the intent to promote or further the criminal objectives of the criminal street gang.
 - 2. Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal street gang.
 - 3. Furnishing advice or direction in the conduct, financing or management of a criminal street gang's affairs with the intent to promote or further the criminal objectives of a criminal street gang.
 - 4. Intentionally promoting or furthering the criminal objectives of a criminal street gang by inducing or committing any act or omission by a public servant in violation of the public servant's official duty.
- B. Criminal street gang member" means an individual to whom at least two of the following seven criteria indicate criminal street gang membership.
 - 1. Self-proclamation.
 - 2. Witness testimony or official statement.
 - 3. Written or electronic correspondence.
 - 4. Paraphernalia or photographs.
 - 5. Tattoos.
 - 6. Clothing or colors.
 - 7. Any other indicia of street gang membership.
- C. A person commits assisting a criminal street gang by committing any felony offense, whether completed or preparatory for the benefit of, at the direction of or in association with any criminal street gang.
- D. Participating in a criminal street gang is a class 2 felony.
- E. Assisting a criminal street gang is a class 3 felony.
- F. Use of a common name or common identifying sign or symbol shall be admissible and may be considered in proving the existence of a criminal street gang or membership in a criminal street gang.

VIII. CONCLUSION

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